

CALIFORNIA COASTAL COMMISSION

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Item Th 4a & 4b

Staff: AM-SF
Staff Report: March 21, 2003
Hearing Date: April 10, 2003

STAFF RECOMMENDATIONS AND FINDINGS FOR CEASE AND DESIST AND RESTORATION ORDER

RESTORATION ORDER:	CCC-03-RO-03
CEASE AND DESIST ORDER:	CCC-03-CD-02
RELATED VIOLATION FILE:	V-4-01-044
PROPERTY LOCATION:	955 Cold Canyon Road, Monte Nido, Los Angeles County
DESCRIPTION OF PROPERTY	An approximately 2.85 acre lot, west of Cold Canyon Road, located in the Malibu/Cold Creek Resource Management Area of the Santa Monica Mountains (Lot 5 of Tract 33873 – APN No. 4456-039-006).
PROPERTY OWNER and PERSON SUBJECT TO THIS ORDER:	Nasser and Elizabeth Teherani
VIOLATION DESCRIPTION:	Unpermitted development, including 1) grading and fencing, 2) clearance of vegetation, 3) construction of a horse corral, 4) construction of a path/road from a previously permitted horse corral to the new, unpermitted horse corral, and 5) construction of railroad tie retaining walls.
RESTORATION SOUGHT	1) Removal of all unpermitted fencing, horse corral, retaining walls, and fill used for the path/road leading to the unpermitted horse corral, 2) restoration of all areas within the enclosed unpermitted horse corral and graded pathway, and 3) revegetation of all disturbed areas with oak woodland-savannah and riparian native plant species of the Santa Monica Mountains.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permits P-81-7701
2. Coastal Development Permit 5-83-290
3. Coastal Development Permit 4-94-157
4. Coastal Development Permit 5-91-409
5. Malibu/Santa Monica Mountains Land Use Plan
6. Background Exhibits 1-12

CEQA STATUS:

Exempt (CEQA Guidelines (CG) §§ 15060(c)(2) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308 and 15321).

I. SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve Cease and Desist and Restoration Orders (as described below) to remove unpermitted development at 955 Cold Canyon Road (Lot 5 of Tract 33873) ("subject property") and to restore the impacted area to its pre-violation condition. The unpermitted development includes grading and fencing, clearance of vegetation, construction of a horse corral, construction of a path/road from a previously permitted horse corral to the new, unpermitted horse corral (Respondents refer to this pathway as a "feeder trail" as it connects the upper portion of the property to the unpermitted corral and public equestrian/hiking trail), and construction of railroad tie retaining walls, all of which are located in or adjacent to an area designated as Environmentally Sensitive Habitat Area (ESHA).

In order to issue a Cease and Desist Order under Section 30810 of the Coastal Act, the Commission must find that the activity that is the subject of the order has occurred either without a required coastal development permit (CDP) or in violation of a previously granted CDP. In order to issue a Restoration Order under section 30811 of the Coastal Act, the Commission must find that development:

- 1) has occurred without a coastal development permit;
- 2) is inconsistent with Chapter 3 of the Coastal Act and
- 3) is causing continuing resource damage.

The unpermitted development activity that has occurred on the subject property meets the definition of "development" set forth in Section 30106 of the Coastal Act. The development was undertaken without a coastal development permit, in violation of Public Resources Code 30600.

The unpermitted development and the ongoing maintenance of it are inconsistent with the California Coastal Act, including Sections 30230 (Marine Resources), 30231 (Biological Productivity/Water Quality), 30240 (ESHA), 30251 (Scenic Resources and Alteration of Landforms), and 30253 (Minimization of Adverse Impacts) of the Public

Resources Code (as fully discussed below). The unpermitted development is also causing continuing resource damage, as defined by Section 13190 of the Commission's regulations.

The unpermitted development has impacted the marine resources, water quality, habitat values, and biological productivity of the subject property, the adjacent seasonal stream, and Cold Creek, a perennial blue line stream (an identified ESHA). As discussed in the following Sections of this staff report, Cold Creek supports a variety of oak woodland and riparian habitat as well as a number of avian, mammal, fish, and invertebrate species. The impacts caused by the unpermitted development meet the definition of damage provided in Section 13190(b) of the Commission's administrative regulations (Title 14, Division 5.5, California Administrative Code (CCR)): "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." The unpermitted development will lead to increased erosion and the sedimentation of Cold Creek, impacts to mature oak trees and riparian habitat.

The subject property is located within the Malibu/Cold Creek Resource Management Area. In addition, the western and southern portions of the subject property (where the unpermitted development was constructed) are located in oak woodlands/savannah and riparian habitat, which is considered an ESHA. In addition, the Commission certified Malibu/Santa Monica Mountains Land Use Plan designates this area as ESHA. Since this time, Commission staff (including Commission staff biologist, John Dixon) has reviewed the subject area and has determined that the riparian and oak woodlands/savannah habitat is an ESHA as defined in Section 30107.5 of the Coastal Act.

A seasonal stream flows from east to west along the southern border of the subject property and is a tributary to Cold Creek, which is located adjacent to and on the western portion of the property. After monitoring water quality within the Malibu Creek Watershed, Heal the Bay has found that "Cold Creek and the Cold Creek subwatershed has consistently had the best water quality within the Malibu Creek Watershed". Through this monitoring, Heal the Bay also found that there is a "marked difference in water quality between [their] reference site higher up on Cold Creek and [their] outlet site at the bottom of Cold Creek just before it flows into Malibu Creek." The subject property is located between these two reference sites, within the area where the water quality decreases. The State Regional Water Quality Control Board has also placed Cold Creek on the Clean Water Act section 303(d) list as an impaired water body.

The impacts from the unpermitted development remain at the subject property. In addition, the continued presence of the unpermitted development, as described above, will create adverse impacts to water quality, marine resources, sensitive habitat, and will create and/or contribute to erosion of the site and fill and alteration of Cold Creek. Horses continue to use the unpermitted path and corral, which causes increased erosion, compaction of soil around a mature oak tree, and contamination of Cold Creek

from horse waste. Thus, the unpermitted development on the subject property is causing continuing resource damage, as defined in Section 13190 of the Commission's regulations.

II. HEARING PROCEDURES

The procedures for a hearing on a proposed Cease and Desist Order and Restoration Order are set forth in section 13185 and 13195 of the Commission's regulations. The Cease and Desist Order and Restoration Order hearing procedure are similar in most respects to the procedures that the Commission uses for permit and Local Coastal Program matters.

For a Cease and Desist and Restoration Order hearing, the Chair shall announce the matter and request that all alleged violators or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any person, other than the violator or its representative. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in CCR section 13185, 13186, and 13195, incorporating by reference sections 13185, 13186 and 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Restoration Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the order.

III. STAFF RECOMMENDATIONS

Staff recommends that the Commission adopt the following two motions:

1.A. Motion

I move that the Commission issue Cease and Desist Order No. CCC-03-CD-02 pursuant to the staff recommendation.

1.B. Staff Recommendation of Approval

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

1.C. Resolution to Issue Cease and Desist Order

The Commission hereby issues Cease and Desist Order number CCC-03-CD-02, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit.

2.A. Motion

I move that the Commission issue Restoration Order No. CCC-03-RO-03 pursuant to the staff recommendation.

2.B. Staff Recommendation of Approval

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Restoration Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

1.C. Resolution to Issue Restoration Order

The Commission hereby issues Restoration Order number CCC-03-RO-03, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit, the development is inconsistent with the Coastal Act, and the development is causing continuing resource damage.

**IV. RECOMMENDED FINDINGS FOR CEASE AND DESIST ORDER
CCC-03-CD-02 AND RESTORATION ORDER CCC-03-RO-03**

Staff recommends the Commission adopt the following findings of fact in support of its action.

A. History of Commission Actions on Subject Property

On August 28, 1978, the Commission denied a request by Ben Johnson's Estates to divide an 85 acre parcel located along and adjacent to Cold Canyon Road into 17, approximately 5-acre lots and the grading of the lots for building pads. The Commission found that the proposed project was inconsistent with water quality and habitat policies of the Coastal Act and found that the proposed project was not consistent with the surrounding development and could not be accommodated by existing utility services.

Subsequent to the Commission's denial of P-78-3468, the applicant revised the project description to include a dedication of 56 acres for open space and public recreation and to reduce the number of lots from 17 to 10. On June 11, 1981, the Commission approved P-81-7701 with a requirement to dedicate a public access trail within a 60-foot dedicated easement and required either 9 Transfer Development Credits (TDCs) adjacent to Cold Creek or participation in a Coastal Conservancy lot retirement program.¹

In the ensuing 7 years the applicant for the subdivision submitted 6 extension requests (5-83-290 E1 through E6²). On June 11, 1988, the Commission granted to Cold Creek Associates Coastal Development Permit 5-83-290-E6 for the division of 85 acres into 10 residential lots and one 56-acre open space lot, grading for building pads and roads, and utilities. The coastal development permit was issued on November 22, 1988.

On November 14, 1991, the Commission approved a request by Nasser and Elizabeth Teherani (CDP No. 5-91-409) for the construction of a 6,070 square foot single family home, garage, pool, driveway, and 2,430 cubic yards of grading on Lot 5 of Tract 33873 (955 Cold Canyon Road), which is one of the lots created by CDP No. 5-83-290. The Teheranis' did not commence development within 2 years; and therefore the permit expired after two years from the date of the Commission vote on 5-91-409.³

On December 14, 1994, the Commission granted to Nasser and Elizabeth Teherani Coastal Development Permit 4-94-157. The permit (issued on March 27, 1995) authorized the construction of a 4,900 square foot single family home, swimming pool, horse corral, septic system, and 120 cubic yards of grading located on Lot 5 of Tract 33873 (955 Cold Canyon Road). The authorized development was located on a

¹ The access trail required under CDP No. P-81-7701 was the only trail approved or required by the Commission within this subdivision for either public or private use.

² A new system of numbering permits was established approximately halfway through 1981 when the regional Commissions were disbanded. When "older" permits (prior to the new system in 1981) are amended or extended they are typically given a new permit number with the appropriate suffix. In this case 5-83-290 E was the permit number given to Coastal Development Permit P-81-7701 when the applicants for the subdivision requested permit extensions; and therefore 5-83-290 is identical to permit P-81-7701.

³ Title 14, § 13156(g) of the California Code of Regulations

previously graded pad area (approved under 5-83-290) immediately adjacent to Cold Canyon Road. No development was authorized on the descending slopes below the flat pad, within the dedicated easement area, or anywhere on the property other than the pre-existing graded pad that was approved under the Coastal Development Permit for the 10-lot subdivision (5-83-290), which is located at the top of a cut/fill pad on the property, furthest from Cold Creek, and in an area not designated as ESHA.

Coastal Development Permit No. 4-94-157 was approved with 5 Special Conditions. Special Condition No. 3 of CDP No. 4-94-157 required the Teherani's to record a "Future Development" Deed Restriction. The deed restriction on the subject property (recorded 3/15/95 as instrument No. 95-386345 in the County of Los Angeles) states:

Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction, 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. 4-94-157; and that any future additions or improvements to the property, including clearing of vegetation and grading will require an amendment to Permit No. 4-94-157 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The removal of vegetation consistent with Fire Department requirements is permitted. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property, and shall be recorded free of prior liens.

B. History of Violation

Commission staff first learned of the alleged violation on the subject property on May 11, 2001. Since that time, staff has attempted to resolve this matter with Nasser and Elizabeth Teherani administratively as an alternative to commencement of formal enforcement proceedings. On October 24, 2001 Commission staff sent a "Notice of Violation" letter to the Teheranis regarding the unpermitted development on the subject property. The letter pointed out that such development without a coastal development permit is a violation of the Coastal Act. The letter requested that the Teheranis complete a coastal development permit application by November 26, 2001, for either removal of the unpermitted development and restoration of the site or authorization to retain the unpermitted development "after-the-fact". At this time, the Commission's enforcement staff recommended that the Teheranis submit a permit application for the removal of the unpermitted development and restoration of the site because staff believed that the unpermitted development did not appear to be consistent with the Chapter 3 policies of the Coastal Act.

In a telephone conversation on November 5, 2001, Mr. Teherani informed Commission staff of his intention to file a permit application to retain all the unpermitted development and to request an extension for filing a CDP application from November 26, 2001 to

January 10, 2002. Staff agreed to a deadline of January 10, 2002, to submit a complete permit application. The Teheranis did not submit a CDP application by this deadline.

On January 16, 2002, the Teheranis authorized The Land & Water Company to act as representative "to submit permit applications on [their] behalf, and to bind [them] in all matters concerning these applications." In a letter dated April 16, 2002, Lynn Heacox of The Land & Water Company stated that the site was developed "in a manner consistent with the approved Coastal Plans and consistent with the protection of significant natural resources".

As of this date, a permit application has not been submitted to the Commission's South Central Coast District.

Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings

On November 15, 2002, the Commission's statewide enforcement unit sent a *Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings* (NOI) to Nasser and Elizabeth Teherani.

The NOI states:

*In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense (SOD) form. **The SOD form must be returned to the Commission's San Francisco office, directed to the attention of Aaron McLendon, no later than December 5, 2002.***

On November 26, 2002, Commission staff received a letter from Lynn Heacox, representative of the Teherani's, stating that the December 5, 2002 deadline gives him an insufficient amount of time to adequately respond and requesting a minimum 90-day extension of time to submit the SOD form. On November 27, 2002, the Executive Director granted a 30-day extension of time to submit the SOD, extending the deadline to January 6, 2003. Mr. Heacox responded in a December 9, 2002 letter (received by Commission staff on December 12, 2002) stating that this still does not give him sufficient time to obtain and study permit files. The letter states, "If all files are received in a timely manner I should be able to have an SOD completed for review by my client's attorney and sent to your office by February 6, 2003". On December 19, 2002, Commission staff responded to this request via a voicemail message to Mr. Heacox and granted an additional extension to submit the SOD form until February 3, 2003. In this message, Commission staff also notified Mr. Heacox that the Cease and Desist and Restoration Orders would be scheduled on the March 2003 Commission hearing. On January 29, 2003 Commission staff received a third request by Mr. Heacox to extend

the time for submittal of the SOD form until mid-March. The Executive Director denied this request and reaffirmed the February 3, 2003 deadline. In a voicemail message to Commission staff on February 3, 2003 (the deadline for submittal of the SOD form) followed by a February 4, 2003 letter (received by Commission staff on February 6, 2003), Mr. Heacox stated that he had not received all the requested files that he ordered and that he was unable to complete the SOD form. Mr. Heacox also requested an extension until mid-March to submit the SOD form. On February 6, 2003, Commission staff sent, via regular mail and facsimile, a letter stating that the deadline for submittal had passed and the Commission staff's intentions to schedule the Cease and Desist and Restoration Order hearing for March 2003. Mr. Heacox again sent, via facsimile on February 7, 2003, a request to extend the submittal of the SOD form until mid-March. The request states, in part, "There is no reason to delay our request. We are not trying to delay this matter and our request is reasonable. I have requested several files in order to study this matter and have yet to receive an important file on the subdivision itself (5-83-290).... If a hearing is necessary it can be scheduled in Santa Barbara in April 2003".

In a February 7, 2003 voicemail message, Commission staff explained that CDP No. 5-83-290 was included in CDP file P-81-7701 (which had previously been provided to Mr. Heacox for his review).⁴ At this time, Commission staff granted an extension until February 12, 2003 (later extended to February 13, 2003 in staff's February 12, 2003 letter).

In addition, while Mr. Heacox repeatedly claimed he was not provided 5-83-290E, Commission records indicate that he was provided this file for review. On December 11, 2002 and January 9, 2003, respectively, the South Central Coast District office sent 5-83-290E and P-81-7701 (among several other permit files) to Tri-Co Blueprint and Supply at the request of Mr. Heacox (Exhibit #11). Permit file 5-83-290E and P-81-7701 contain all relevant documents relating to the subdivision on which the subject property lies.

In summary, the original deadline for submittal of the SOD form was December 5, 2002. After several requests by Mr. Heacox, this deadline was extended four times, with a final deadline of February 13, 2003, 70 days after the first deadline and 90 days after the NOI was sent to the Teheranis'. Commission records also indicate that Mr. Heacox was provided all relevant documents by the South Central Coast District office for his review by January 9, 2003, over one month from the final deadline for submittal of the SOD.

⁴ CDP No. 5-83-290 was the permit number given to CDP No. P-81-7701 when the applicants for the subdivision requested permit extensions. Therefore, CDP No. 5-83-290 is identical to CDP No. P-81-7701.

C. Description of Unpermitted Development

The unpermitted development, which is the subject matter of this Restoration Order, consists of grading and fencing, 2) clearance of vegetation, 3) construction of a horse corral, 4) construction of a path/road from the previously permitted horse corral to the new, unpermitted horse corral, and 5) construction of railroad tie retaining walls. The unpermitted development lies within riparian, oak tree, and coastal sage/chaparral habitat, an identified Environmentally Sensitive Habitat Area (ESHA). In addition, the unpermitted horse corral and associated fencing was constructed partially within a 60-foot wide access easement, approximately 20 feet from Cold Creek (a perennial blue line stream), and approximately 10 feet from the banks of Cold Creek.

Vegetation was cleared within the horse corral area on the lower portion of the subject property. This area contains oak woodland and riparian habitat and is located approximately 20 feet from Cold Creek and approximately 10 feet from the banks of Cold Creek. A pathway was constructed down a relatively steep slope from the upper portion of the lot (the graded residential building pad was authorized under CDP No. 5-83-290) to the lower portion of the lot (much of this portion of the lot is designated as ESHA). The pathway was constructed by grading an approximately 6-foot deep cut (at its deepest point), constructing railroad tie retaining walls, and backfilling behind the retaining walls to provide an approximately 10-foot wide pathway. Horses use this pathway to walk from the upper, approved corral to the lower, unpermitted corral, which is located in ESHA.

D. Basis for Issuance of Cease and Desist Order

The statutory authority for issuance of this Cease and Desist Order is provided in §30810 of the Coastal, which states, in relevant part:

- (a) *If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.*
- (b) *The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...*

E. Basis for Issuance of Restoration Order

The statutory authority for issuance of this Restoration Order is provided in §30811 of the Coastal, which states, in relevant part:

In addition to any other authority to order restoration, the commission... may, after a public hearing, order restoration of a site if it finds that [a] the development has occurred without a coastal development permit from the commission... [b] the development is inconsistent with this division, and [c] the development is causing continuing resource damage.

The following paragraphs set forth the basis for the issuance of the Cease and Desist and Restoration Order by providing substantial evidence that the development meets all of the required grounds listed in Section 30810 and 30811 for the Commission to issue a Cease and Desist and Restoration Order.

i. Development Has Occurred without a Coastal Development Permit ("CDP")

The unpermitted development activity that is the subject of this Restoration Order satisfies the definition of "development" contained in Section 30106 of the Coastal Act. This definition includes but is not limited to: 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 or change in the density or intensity of the use land. In this case, grading and fencing, clearance of vegetation, removal of limbs from mature oak trees, construction of a horse corral, construction of a path/road from the previously permitted horse corral to the new, unpermitted horse corral, and construction of railroad tie retaining walls are all "development" as defined by Section 30106.

Pursuant to Section 30600(a) of the Coastal Act, "development" requires a coastal development permit. In this case, no coastal development permit has been applied for or issued for the subject unpermitted development.

The subject unpermitted development is not exempt from the Coastal Act's permitting requirements. The subject unpermitted development does not qualify for any exemption from permit requirements under section 30610 of the Coastal Act because the development is not an improvement to an existing single family home or other structure, is not a repair and maintenance activity, and even if it was, it would have a potential for significant adverse effects on coastal resources in one or more of the respects identified in Sections 13250 and 13252 of the Commission's regulations.

In addition, Special Condition No. 3 of CDP No. 4-94-157 required the Teherani's to record a "Future Development" Deed Restriction. The deed restriction on the subject property (recorded 3/15/95 as instrument No. 95-386345 in the County of Los Angeles) states:

Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction, 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. 4-94-157; and that any future additions or improvements to the property, including clearing of vegetation and grading will require an amendment to Permit No. 4-94-157 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The removal of vegetation consistent with Fire Department requirements is permitted. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property, and shall be recorded free of prior liens.

The Teheranis recorded this deed restriction on their property on March 15, 1995. The project description and the approved final plans for Coastal Development Permit No. 5-94-157 do not describe or show any of the subject unpermitted development. Therefore, even if the unpermitted development qualified for an exemption under 30610 of the Coastal Act, pursuant to Section 13250(b)(6) of the commission's regulations such development would still require a Coastal Development Permit because of the "future development" deed restriction recorded on the property by the Teheranis.

ii. Unpermitted Development is Inconsistent with the Coastal Act

The unpermitted development meets the definition of "development" which requires a Coastal Development Permit (CDP). A CDP may be approved only when development is consistent with the resource protection policies contained in Chapter 3 of the Coastal Act. The unpermitted development is not consistent with the following Chapter 3 policies of the Coastal Act: Sections 30230, 30231, 30240, 30251, and 30253.

a) Environmentally Sensitive Habitat Area

Section 30107.5 of the Coastal Act states:

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

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act States:

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

Section 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.

The subject property consists of an upper graded pad with a single family home, motor court, horse corral, and landscaping (approved under CDP No. 5-83-290 and 4-94-157). The lower portion of the property is at an elevation approximately 60 feet below the upper graded pad. A seasonal stream is located on the southern portion of the property. This seasonal stream flows into Cold Creek, designated as a perennial blue line stream by the USGS. Cold Creek is located adjacent to and on the western portion of the property. Cold Creek is lined with a lush variety of riparian plant species. In addition, thick assemblages of riparian/coastal sage/savannah plant species are growing in and adjacent to the seasonal stream. Finally, oak woodland species line Cold Creek throughout this area. The unpermitted, graded pathway was cut along the slope between the upper portions of the lot and the lower portions (above the seasonal stream) and the unpermitted horse corral was constructed in the lower portions of the lot adjacent to both Cold Creek and the seasonal stream as well as within and adjacent to oak woodland/savannah and riparian habitat.

The Commission-certified Malibu/Santa Monica Mountains Land Use Plan (LUP) designates the subject property as Environmentally Sensitive Habitat Area (ESHA).⁵

⁵ The Malibu/Santa Monica Mountains Land Use Plan (LUP) was certified by the Commission on December 11, 1986. While the LUP provides guidance for the Commission's interpretation of the relevant policies of the Coastal Act, the standard of review for development in this location continues to be the Chapter 3 policies of the Coastal Act. The LUP was certified over 17 years ago and is undergoing revision. In this case, the relevant Chapter 3 policy of the Coastal Act is Section 30240, which requires the protection of ESHA. Oak woodlands/savannah and riparian habitat are designated as ESHA. Such habitat has been found on the subject site and the subject unpermitted development has disrupted these habitat values.

The subject property is also located within the Malibu/Cold Creek Resource Management Area. A seasonal stream is located on the southern portion of the subject property and Cold Creek, designated as a perennial blue line stream by the United States Geological Service (USGS), is located adjacent to and on the western portion of the property. In addition, the LUP designates the western and southern portions of the subject property as oak woodlands and savannahs. Cold Creek, a designated blue line stream, and oak woodlands/savannah and riparian habitat are all designated as ESHA. Commission staff biologist, John Dixon, has also reviewed the subject area and has determined that the riparian and oak woodland habitat is an ESHA.

ESHAs play a valuable role in an ecosystem. They produce connectivity among habitats, which are essential for many species of birds, mammals, and other groups of wildlife. ESHAs provide unrestricted wildlife movement among habitats, support populations of rare species, and prevent the erosion of steep slopes, which protects riparian corridors and streams.

As previously mentioned, a seasonal stream flows along the southern portion of the property. This stream flows into Cold Creek, which is designated as a perennial blue line stream by the USGS. Cold Creek and the adjacent riparian habitat are located on and adjacent to the western portion of the subject property. The unpermitted horse corral lies within and adjacent to this sensitive riparian habitat.

Such oak woodlands/savannah and riparian habitat form an important ecological connection between inland areas and the coast. These ecosystems contain a myriad of plant and animal species and are extremely sensitive due to their narrow linear structure. Animal species typical to this ecosystem include acorn woodpeckers, western screech owls, mule deer, gray foxes, cougar, bobcat, raptors such as white-tailed kite, northern harrier, sharp-shinned hawk, Cooper's hawk, red-shouldered hawk, red-tailed hawk, golden eagle, and prairie falcon, and the federally endangered steelhead trout and tidewater goby.⁶

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,

⁶ Faber, P.A., E. Keller, A. Sands and B.M. Massey. 1989. The ecology of riparian habitats of the southern California coastal region: a community profile. U.S. Fish and Wildlife Service Biological Report 85(7.27) 152pp.

Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

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

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

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

As stated above, oak trees, oak woodlands, and associated habitat areas have an intrinsic aesthetic, environmental, and ecological value. Oak trees provide shade, help to stabilize soil on steep slopes, minimize noise, deflect wind, and filter dust and pollutants from the air. Oak woodlands also provide habitat for a wide range of wildlife species and corridors to maintain genetic diversity between wildlife populations. Over 300 species of vertebrates and numerous species of birds, amphibians, reptiles, and

mammals utilize oak woodlands⁷. Species such as the western bluebird and violet-green swallow, for example, depend on tree cavities to build their nests. Oak woodlands harbor more wildlife species than any other major habitat type in California⁸.

Oak trees and oak woodlands are becoming increasingly rare, however, due to increased direct and indirect impacts from development and other factors, such as "Sudden Oak Death," a pathogen that threatens the lives of oak trees and that has become epidemic in California⁹. Over the past 200 years, human activities have dramatically changed the complexion of oak woodlands and vast acreages have been removed for intensive agriculture, forage production, fuel wood, and urban and residential development¹⁰. The publication, "A Planner's Guide for Oak Woodlands," states:

It is clearly recognized that the future viability of California's oak woodland resources is dependent to a large extent on the maintenance of large scale land holdings or on smaller multiple holdings that are not divided into fragmented, non-functioning biological units.... Today, research suggests that residential development from California's growing human population is the single largest threat to the state's oak woodlands.

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

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

That publication goes on to state:

Oaks are easily damaged and very sensitive to disturbances that occur to the tree or in the surrounding environment. The root system is extensive but surprisingly shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the

⁷ *A Planner's Guide for Oak Woodlands*, University of California, Integrated Hardwood Range Management Program, 1993, page 5.

⁸ *Id.*

⁹ *Tracking a Mysterious Killer, The Relentless Spread of Sudden Oak Death*, California Coast & Ocean, Winter 2001-02, Elizabeth F. Cole, page 3.

¹⁰ *A Planner's Guide for Oak Woodlands*, University of California, Integrated Hardwood Range Management Program, 1993, page 2.

canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases.

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

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

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

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

Development within an area maintaining these root systems of oak trees, can eliminate the exchange of water, nutrients, air, and other gases, thereby harming or killing the oak trees. Further, development of the subject site, particularly within the sensitive areas or on steep slopes could potentially increase erosion on the site, which could adversely impact the surrounding oak tree resources and ESHA by interfering with the interchange of air and water to the root zones of the oak trees.

Equestrian traffic has been found to compact soils and can have detrimental impacts on those oak trees whose driplines are located in or adjacent to equestrian facilities. In an observation of a horse facility in the Santa Monica Mountains Doug McCreary, Program Manager for the University of California Cooperative Extension Integrated Hardwood Range Management Program states:

"...my observations are that horses are the worst in causing compaction in a confined situation. Six horses over 2 acres seems like an extremely high density to me (here at the SFREC we have about one cow per 20 acres) and I would guess that after a year, there would be little or no ground vegetation left in the pasture and there would be a risk of heavy compaction during wet periods."

McCreary also states:

"I have observed places where horses totally girdle oak trees by chewing away the bark. I visited a ranch (where) dozens of large trees (8-16 inches in diameter) were completely stripped of their bark from the ground to over 6 feet high. The horses weren't underfed -- just apparently bored. I've also heard it suggested that horses will do this when they have a potassium deficiency."

In addition, the Commission finds that, in the case of soil compaction, it can frequently take many years before damage to oak trees becomes apparent.

In sum, the environmental significance, increasing rarity, and susceptibility to disturbance from human activities, as detailed above, is the reason why oak woodlands are designated as environmentally sensitive habitat area, as defined by Section 30107.5 of the Coastal Act. The oak tree habitat on the subject site is particularly significant, in part, due to the fact that Cold Creek traverses the site and provides for a rich riparian habitat. As stated previously, Cold Creek, including the channel and riparian vegetation on site, is designated as an ESHA by the certified LUP. In addition, the United States Geologic Service has designated Cold Creek as a perennial blueline stream.

The property owner has cut an approximately 10-foot wide and approximately 6-foot deep (at its highest point) private path from a permitted horse corral (4-94-157) down a steep hillside to a relatively flat area adjacent to Cold Creek. Aerial photographs taken in 1994 show a thick swath of vegetation along Cold Creek and its tributaries, graded pads approved under P-81-7701/5-83-290-E6, and a worn hiking trail along Cold Creek (the site of the Commission-approved public access trail). Aerial photographs taken in 2001 show the approved home, driveway and horse corral on the upper portion of the property at 955 Cold Canyon Road (5-94-157). The photograph also shows the unpermitted trail from the approved horse corral, down a steep slope, leading into a mature oak grove.

Commission staff has visited the site on several occasions (9/4/01, 5/9/02, 6/14/02, and 2/4/03). During these site visits, Commission staff photographed and documented site conditions at the subject property. The unpermitted horse corral is located adjacent to the Commission approved public access trail and within a 60-foot wide dedicated access easement (as required in P-81-7701/5-83-290-E6). Wood fencing has enclosed the unpermitted corral, which is accessed by the property owners by an unpermitted pathway cut into the slope.

At the time of the site investigations, horses were seen occupying the horse corral. The soil located within the area of the corral had been compacted and denuded of all vegetation, with the exception of mature oak trees and small willows. Photographs submitted by the Respondents that were taken in 1994 show a lush, pristine setting. Tall grasses were flourishing under mature oak trees, no equine facilities were constructed (including fenced horse corrals) and a small hiking/horseback-riding trail

was in use along Cold Creek (as required in P-81-7701/5-83-290-E6). Photographs taken by Commission staff on 9/04/01 and 5/09/02 show a deep cut and fill across the sloped portion of the subject property for the construction of an unpermitted path. This path leads from the approved upper horse corral to the unpermitted lower horse corral.

The unpermitted path and horse corral was constructed without benefit of a coastal development permit within a designated ESHA. The corral was constructed under the dripline of several mature oak trees and adjacent to Cold Creek, designated as a perennial blueline stream by the United States Geologic Service. As indicated above, oak woodland and riparian habitat are sensitive ecosystems with significant resource values. The unpermitted development was constructed within the sensitive area and has disrupted the resource values. The Commission finds that the horse corral has impacted mature oak trees by allowing horses to compact the soil under the oak dripline, allowing horses to girdle the oak trees, and the unpermitted development has disrupted these sensitive resources by

Therefore, the habitat values of the ESHA were disrupted and the unpermitted development was not sited and designed to prevent impacts, which would significantly degrade the ESHA. In addition, the unpermitted development is not found compatible with the continuance of such habitat areas. Therefore, the unpermitted development is found to be inconsistent with Section 30240 of the Coastal Act.

b) Water Quality and Marine Resources

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.

Non-point source pollution is the pollution of coastal waters (including streams and underground water systems), by numerous sources that are difficult to identify on an individual basis. Non-point source pollutants include suspended solids, coliform bacteria and nutrients. These pollutants can originate from many different sources such as overflow septic systems, storm drains, runoff from roadways, driveways, rooftops and horse facilities.

Confined animal facilities are one of the most recognized sources of non-point source pollutants since these types of developments entail areas which are cleared of vegetation and have concentrated sources of animal wastes. The subject site generates horse wastes, which includes manure, urine, waste feed, and straw, shavings and/or dirt bedding which can be significant contributors to pollution. In addition, horse wastes contain nutrients such as phosphorous and nitrogen as well as microorganisms such as coliform bacteria which can cause eutrophication and a decrease in oxygen levels resulting in clouding, algae blooms, and other impacts affecting the biological productivity of coastal waters.

When the pollutants are swept into coastal waters by storm water or other means, they 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 that provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and human diseases such as hepatitis and dysentery. 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.

These types of pollutants are particularly significant here since Cold Creek has been placed on the state's list of impaired water bodies (Clean Water Act 303(d) list). Cold Creek is tributary to Malibu Creek, which is also listed as an impaired water body by the Los Angeles Regional Water Quality Control Board (LARWQCB). Malibu Creek outlets into Malibu Lagoon and Surfrider Beach, which is consistently one of the most polluted regions within the Santa Monica Bay¹¹. The LARWQCB is developing a Total Maximum Daily Load (TMDL) for bacteria at Santa Monica Bay Beaches, including the Malibu beach area, which would include Cold Creek and Malibu Creek. Therefore, the discharge of additional pollutants into Cold Creek detracts from the efforts being made by LARWQCB to restore this water body and further degrades an already impaired stream.

The unpermitted horse corral is located approximately 20 feet from Cold Creek and approximately 10 feet from the banks of Cold Creek. In addition, the unpermitted horse

¹¹ Data taken from Heal the Bay's Beach Report Card, weekly water testing between 6/01/98 and 2/25/03

corral is located adjacent to a seasonal stream, which is a tributary to Cold Creek. This corral has no means of preventing horse manure, urine, and other waste from either entering the seasonal stream or Cold Creek, itself.

The unpermitted development does not maintain, enhance, and restore marine resources in a manner that will sustain the biological productivity of all species of marine organisms in coastal waters, and does not maintain and restore biological productivity and water quality of coastal waters (in this case Cold Creek) by controlling polluted runoff, so as to make it consistent with Section 30230 and 30231 of the Coastal Act.

c) Soil Erosion/Protective Devices

Section 30253 of the Coastal Act States, in part:

New development shall:

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

The subject property consists of a flat upper pad with a single family home, a steep, descending slope below the upper pad, and a gently sloping area leading to Cold Creek. Drainage across the lower property (steep descending slope and gently sloping area leading to Cold Creek) is via sheet flow runoff. Currently, because of the construction and use of the unpermitted horse corral, the area within the unpermitted corral is void of all vegetation with the exception of a mature oak tree and small willows. In addition, the unpermitted pathway cut into the sloped area will likely accelerate water runoff, thereby increasing erosion of the subject property.

During rainfall or nuisance flow runoff there is also the likelihood of severe erosion across the subject property and into Cold Creek. The unpermitted horse corral is located approximately 20 feet away from Cold Creek and approximately 10 feet away from the banks of Cold Creek. As discussed in the *Water Quality and Marine Resources* Section above, the discharge of pollutants, including sediment, can cause significant negative impacts to streams; in this case Cold Creek.

Section 30253 states that new development shall neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The unpermitted development has substantially altered the slope between the upper graded pad and the lower riparian habitat by grading a pathway, supported by a railroad tie retaining wall (protective device). Also, the unpermitted horse corral has resulted in the removal of all vegetation

(with the exception of a mature oak and small willows), which will lead to uncontrolled erosion across the subject property and into Cold Creek.

Therefore, the Commission finds that the unpermitted development is not consistent with Section 30253 of the Coastal Act.

d) Scenic 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 the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas.

The Respondents have submitted photographs showing the area of the subdivision prior to the construction of horse corral facilities. The photographs depict a lush riparian environment, oak trees, and a public access trail. The subject unpermitted development has removed riparian habitat and replaced it with a horse corral denuded of nearly all vegetation. The coastal development permit for the subdivision specifically clustered the development on 23 acres above the descending slopes, canyons, and riparian areas to protect the ESHA located in and adjacent to Cold Creek and the tributaries within the side canyons. Section 30251 of the Coastal Act was designed to protect the views to and of scenic locations. In this particular case those scenic locations include a perennial flowing stream lined with oak and riparian habitat. Currently, the area is fenced and denuded of vegetation and a graded path has been cut into the descending slope.

Section 30251 of the Coastal Act also requires the alteration of natural landforms shall be minimized as it impacts the scenic resources. The unpermitted development includes cutting a path into a slope and adding fill and retaining walls. This development does not minimize the alteration of natural landforms.

Therefore, the Commission finds that the unpermitted development is not consistent with Section 30251 of the Coastal Act.

iii. Unpermitted Development is Causing Continuing Resource Damage

The unpermitted development is causing continuing resource damage, as defined by §13190 of the Commission's regulations.

a) Definition of Continuing Resource Damage

The term "continuing" is defined by Section 13190(c) of the Commission's regulations as follows:

'Continuing', when used to describe 'resource damage', means such damage, which continues to occur as of the date of issuance of the Restoration Order.

The unpermitted development remains on the subject property and is being maintained by the property owner. Horse corral fencing allows the area to function as a horse facility. Horse continue to use the cut pathway with retaining structures to travel from the upper, approved horse corral to the lower, unpermitted corral, which is located in riparian/oak woodland habitat. Horse activity continues to denude the area of vegetation and increases the potential for erosion. Therefore, soil continues to erode across the subject property and impacts to sensitive habitat are continuing. As described below, such unpermitted development is causing impacts to resources protected by the Coastal Act that continue to occur as of the date of this proceeding and damage to resources is "continuing" for purposes of Section 30811 of the Coastal Act.

Section 13190(a) of the Commission's regulations defines the term "resource" as it is used in Section 30811 of the Coastal Act as follows:

'Resource' means any resource that is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.

The term "damage" in the context of Restoration Order proceedings is provided in Section 13190(b) as follows:

'Damage' means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.'

In this case, the damage is the continuing degradation of environmentally sensitive habitat caused by the cut path in the slope area and the presence of horse activity in the enclosed, unpermitted horse corral. The damage caused by the development, which is described in the above paragraphs, satisfies this regulatory definition.

b) Description of Continuing Resource Damage on the subject property

The unpermitted development is causing the ongoing adverse impacts to coastal resources that are described in subsection ii. above. As long as the landowner continues to maintain the horse corral and the cut in the slope for a pathway, these

impacts will continue to occur. The unpermitted development has taken place adjacent to and in an ESHA located at 955 Cold Creek Road, Los Angeles County.

F. California Environmental Quality Act (CEQA)

The Commission finds that issuance of a restoration order to compel the removal of the unpermitted development and restoration of the property to the conditions that existed prior to the unpermitted development is exempt from any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the meaning of CEQA. The Restoration Order is exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(2) and (3), 15061(b)(2), 15307, 15308 and 15321 of CEQA Guidelines.

G. Allegations

1. Nasser and Elizabeth Teherani are the owners of 955 Cold Canyon Road (APN No. 4456-039-006). The subject property is located within the Malibu/Cold Creek Resource Management Area and is partially within the Cold Creek Environmentally Sensitive Habitat Area.
2. Nasser and Elizabeth Teherani have undertaken development, as defined by Coastal Act Section 30106, at the subject property, including grading and fencing, clearance of major vegetation, construction of a horse corral and railroad tie retaining walls, and grading (cut and fill) of a path/road leading from the previously authorized corral to the new unpermitted corral, without benefit of a coastal development permit.
3. No exemption from the permit requirements of the Coastal Act applies to the unpermitted development on the property.
4. In a letter dated November 15, 2002, Commission staff informed Mr. and Mrs. Teherani that grading and fencing, clearance of significant vegetation, removal of limbs from mature oak trees; and construction of a horse corral, a path/road leading from the previously authorized corral to the new unpermitted corral, and railroad tie retaining walls on the subject property required a CDP, and that failure to obtain a CDP prior to such activities constituted a violation of the Coastal Act; and that the unpermitted development is inconsistent with Sections 30210, 30213, 30223, 30230, 30231, 30233, 30236, 30240, 30251, and 30253 of the Coastal Act. The letter dated December 6, 2002 informed Mr. and Mrs. Teherani that pursuant to California Code of Regulations, Title 14, Section 13181 (a) and 13191(a), the Commission intended to initiate cease and desist and restoration order proceedings to remove the unpermitted development, restore the violation, and outlined steps in the cease and desist and restoration order process.

H. Violators' Defenses and Commission's Response

Lynn Heacox, on behalf of the Teherani's, submitted a Statement of Defense (SOD), which was received by the Commission staff on February 13, 2003, and is included as Exhibit #10. The following paragraphs describe the defenses contained in the SOD and set forth the Commission's response to each defense.

The following are the statements made by Lynn Heacox as representative to Mr. and Mrs. Teherani ("Respondents").

The Respondents do not admit to any of the allegations and deny all allegations.

1. The Statement of Defense includes a 2½ page introductory section entitled *Background Information and Discussion*, which contains statements addressing his opinions concerning the underlying subdivision (CDP No. 5-83-290E6), the Commission-approved single family home at 955 Cold Canyon Road (4-94-157), and Coastal Development Permit processes. In this introductory section several defenses are made. The following are pertinent excerpts and summaries of these defenses followed by Commission staffs' responses.

a. The Teheranis' Defense:

"The Coastal Development Permit process is significantly different today than in the late 1970's and early 1980's.... The Commission staff also advised applicants that an approval of a project implied the approval of ancillary development commonly associated with the specifically approved development. Plans for projects submitted to the Commission almost never included details of [certain types of development]. As a result Coastal Permits approved in 1980 should not be rigorously examined for compliance in the same manner as permits issued today because the standards required for approval of development were different...."

Commission's Response:

While the Coastal Zone is dynamic and constantly changing, the California Coastal Act (California Public Resources Code 30000 et seq), enacted by the Legislature in 1976, has remained the law that those seeking to develop in the Coastal Zone must follow. Once the Commission authorizes development, the Coastal Act allows for certain categories of development to be exempt (P.R.C. § 30610 and Title 14, California Code of Regulations §§ 13250, 13252, and 13253). However, in this case below, rather than being unspecific as asserted by Respondents, the coastal development permit for the existing single family home explicitly made the exemptions of Coastal Act Section 30610 inapplicable to further construction of the site, stating, "the subject permit is only for the development described in the coastal development permit No. 4-94-157; and that any future additions or improvements to the property, including clearing of vegetation

and grading will require an amendment to Permit No. 4-94-157 or will require an additional coastal development permit....”

Even if Coastal Development Permit 4-94-157 did not include such a “future development deed restriction”, the subject unpermitted development would not qualify for any exemption from permit requirements under section 30610 of the Coastal Act because the development is not an improvement to an existing single family home or other structure, is not a repair and maintenance activity, and, even if it was, would have a potential for significant adverse effects on coastal resources in one or more of the respects identified in Sections 13250 and 13252 of the Commission’s regulations.

b. The Teheranis’ Defense:

“Most of the lots in the subdivision included graded building sites at the higher elevations and level equestrian area at the lower elevations along the creeks. The subdivision also included trails along the creek and feeder trails for each building site that led down the slope to the equestrian areas and regional trail system.... The trails approved by the Commission were not useful until they were cleared and/or graded.... All trail improvements were an implied part of the project and completed by the subdivider.... The trails are an integral part of the subdivision and were discussed in the subdivider’s sales brochure which advertised that the ‘Cold Creek Ranch homesites are connected by equestrian and hiking trails to thousands of acres of state and federal park land’.... The evidence indicates that it was understood the subdivision would include improvements commonly found in an equestrian oriented subdivision.”

Commission’s Response:

The project description for Coastal Development Permit No. 5-83-290 states, “Subdivision of an 85 acre parcel into 10 residential lots totaling 26 acres and one additional lot to be set aside as a recreational use and trail easement totaling 59 acres.

The coastal development permit for the subdivision authorized the 11-lot subdivision, grading for residential building pads, and utilities. In addition, the permit as conditioned required the dedication of a recreational access trail over the dedicating’s real property for public hiking and equestrian access. Coastal Development Permit 5-83-290 did not approve feeder trails or level equestrian areas at the lower elevations along the creeks. In fact, the Commission’s findings for 5-83-290 states, in part:

“[T]he Commission has required a 50 to 100 foot setback from all streams. The applicant’s project sets all residential pads back 100 feet from Cold Creek, a perennial stream. The stream course is part of the recreation easement over the property. This prevents any future development impacting this habitat area. In addition, the project is clustered over 26 acres of the parcel and avoids any

alteration of the side canyons which contain seasonal flows. Other significant canyon flows are located on the portion of property set aside for recreational use and will be permanently protected" (Emphasis added).

It is clear from these findings that the protection of the ESHA was paramount to the decision by the Commission to approve the 11-lot subdivision. It was not only the dedication of the 56-acre open space lot, but also the dedication of the recreational public access easement over the property that the Commission relied upon in authorizing 10 residential lots in an Environmentally Sensitive Habitat Area. The project description submitted by the applicant for the subdivision and the Commission actions in approval of the Coastal Development Permit did not include, discuss, or imply the construction of equestrian facilities on the lower levels of the subdivided lots or private access paths graded into the slopes. The Commission found the project consistent with Section 30240 of the Coastal Act because the residential pads were set back 100 feet (or more in most cases) from Cold Creek and because the project avoided the alteration of the side canyons (where many of the private "feeder trails" would have been located in order to connect the upper portions of the site to the public equestrian/hiking trail).

In addition, the Commission's adopted findings for a previous request for a 17-lot subdivision (CDP application P-78-3468), which was denied, states, in part:

"The applicant intends that the parcels would be sold as 'mini-horse-ranches'. The Los Angeles Engineering Department has prepared a report for the SCAG 208 Plan... that indicates that Cold Creek could not meet the required standards as the coliform counts are much above the minimum standard.... The report concludes, 'The water quality degradation in Cold Creek is obviously due to the Monte Nido Community, but the relationship to septic tank use and performance is unclear. Some of these water quality problems may be due, for example, to domestic animals....'

The adopted findings for the denial of CDP application P-78-3468 continue by stating:

"Since Cold Creek is already experiencing water quality degradation from septic tanks and/or domestic animals then creation of more parcels especially for use of horse ranches would create individual and cumulative impacts on water quality as prohibited by Sections – 30250(a) and 30231 of the Coastal Act."

When the applicants resubmitted a request for the 10-lot residential subdivision with an additional 56-acre lot for open space (CDP No. P-81-7701/5-83-290), there was no indication that the lots would be "mini-horse ranches". After review of the Commission files for CDP P-81-7701 (later changed to CDP No. 5-83-290), Commission staff has found no supporting evidence in the record that supports the claim that the "evidence indicates that it was understood the subdivision would include improvements commonly found in an equestrian oriented subdivision", with the exception of the required dedicated public equestrian and hiking access way across the subdividers real property.

In fact, the evidence suggests that the developer purposefully removed any proposal to use these lots as horse ranches to avoid a denial of the CDP.

Respondents assert that a trail system was an integral part of the subdivision and that the subdividers sales brochure advertised that the 'Cold Creek Ranch homesites are connected by equestrian and hiking trails to thousands of acres of state and federal park land'. A public hiking and equestrian trail easement was recorded across the Commission approved 10-lot subdivision. This trail, the continuation of the Stunt High Trail, intersects the Calabasas – Cold Creek Trail, and eventually leads to the Backbone Trail, which runs from Topanga State Park to Ventura County. These trails are located in County parklands and Topanga State Park. Thus, the sales brochure is accurate. The subdivided lots included public trails that lead to other trails, but this does not suggest that private feeder trails were part of the subdivision. A sales ploy by a real estate agent does not support the Respondents claim that the private "feeder trails" and unpermitted horse corrals were authorized by the Commission. Furthermore, even if the sales brochure were misleading, the CDP is quite clear that such private "feeder trails" were not authorized.

In conclusion, there is no evidence that supports the Respondents' claim that private "feeder trails" and equestrian facilities were authorized by the underlying coastal development permit for the subdivision (CDP No. P-81-7701/5-83-290).

c. The Teheranis' Defense:

"Fencing was installed by the subdivider on parcels fronting Cold Creek and in various locations throughout the subdivision.... The approved corral fencing has been referenced in previous Coastal Permits [CDP 4-96-047]. Photographs of corral fencing and new trails within the subdivision were taken by Coastal staff as early as March 13, 1994. Also a letter dated April 30, 1982 from the representative of the subdivider to the Executive Director of the Commission indicated that the developer 'had spent many hours working on these horse trails' and would like to construct 'white horse fencing for the trail along the creek and some feeder trails, as long as the money lasts.'... The evidence indicates that it was understood the subdivision would include improvements commonly found in an equestrian oriented subdivision."

Commission's Response:

As discussed previously, the coastal development permit for the subdivision authorized the 11-lot subdivision, grading for residential building pads, and utilities. In addition, the permit as conditioned required the dedication of a recreational access trail over the dedicator's real property for public hiking and equestrian access. The Commission did not authorize the construction of horse corral fencing.

Photographs that were submitted with the Respondents' Statement of Defense show a lush, undisturbed riparian habitat. Some of the photographs show the dedicated public horse and hiking trail without fencing. One photograph (the location of the photograph is not indicated) shows a wooden fence located between the dedicated access trail and Cold Creek. Whether the property owner or the subdivider constructed this fence, the Commission did not authorize any fencing in the coastal development permit for the subdivision. The photographs do not show fencing for equestrian facilities.

In addition, the letter dated April 30, 1982 from the representative of the subdivider to Nancy Lucast is irrelevant. This letter did not bind the Commission in authorizing fencing and the applicant did not submit an amendment application or request an exemption from permit requirements to construct fencing. Also, Coastal Development Permit No. 5-83-290 was not issued until November 22, 1988, 6½ years after the above-mentioned letter was sent. There is no indication in the coastal development permit demonstrating that the Commission authorized horse fencing along Cold Creek and the "feeder trails".

In conclusion, there is no "evidence [that] indicates that it was understood the subdivision would include improvements commonly found in an equestrian oriented subdivision."

d. The Teheranis' Defense:

The Coastal Commission did not impose conditions on the original subdivision which would have prohibited future improvements to the corral fencing or trails, or restrict repair and maintenance activities....

[I]mprovements to the corral fencing and maintenance of trails have been completed on all of the developed properties within the tract, and continues to be completed by members of the public within the trail easement that are adjacent to the creek. The improvements were an implied part of the original Coastal Permit and are not violations of the Coastal Act."

Commission's Response:

As noted in response to the Respondents' previous defenses, it is clear that the Commission, in its approval of the 10-lot subdivision, did not authorize corral fencing and private trails connecting the graded residential building pads to the public trail and riparian area. Therefore, regardless of the whether the Commission imposed restrictions on maintenance or future development activity, the fencing and private, graded trails are unpermitted; and such unpermitted development is not exempt under the Coastal Act. Furthermore, the Commission did impose a deed restriction requiring a CDP for all future additions and improvements to the subject property.

The Respondents' claim implies that since other properties contain corral fencing and trails (such development appears to be inconsistent with previous coastal development

permits and inconsistent with the Chapter 3 policies of the Coastal Act after an initial review by Commission staff of the other residential lots in this subdivision), then the coral fencing and private "feeder trail" is not a violation of the Coastal Act. Alleged unpermitted development throughout the subdivision does not constitute a waiver of consistency with the requirements of the Coastal Act and does not grant a violator of these requirements the ability to further maintain unpermitted development.

e. The Teheranis' Defense:

"The subdivision and improvements are depicted on Exhibit 1 (Subdivision Map)."

Commission's Response:

This statement implies that Exhibit 1 to Respondents SOD (as seen in the Statement of Defense – Exhibit #10) is the Commission approved subdivision map for Coastal Development Permit 5-83-290. The Land and Water Company (the Respondents' representative) and Bedrock Engineering produced this map on December 20, 2002. The Commission did not approve this depiction of the subdivision in Coastal Development Permit No. 5-83-290. In fact, the map created by The Land and Water Company and Bedrock Engineering further substantiates the presence of unpermitted development on the site. In no way does this interpretation of the subdivision represent what the Commission approved in Coastal Development Permit No. 5-83-290.

f. The Teheranis' Defense:

"The Commission clearly recognized that the subdivision which concentrated development along the east side of the creek, 'would mitigate any impacts that the increased number of lots would have on the creek and habitat (Finding in CDP No. 81-7701).'"

Commission's Response:

The Commission's findings for 5-83-290 states, in part:

"[T]he Commission has required a 50 to 100 foot setback from all streams. The applicant's project sets all residential pads back 100 feet from Cold Creek, a perennial stream. The stream course is part of the recreation easement over the property. This prevents any future development impacting this habitat area. In addition, the project is clustered over 26 acres of the parcel and avoids any alteration of the side canyons which contain seasonal flows. Other significant canyon flows are located on the portion of property set aside for recreational use and will be permanently protected" (Emphasis added).

Therefore, while the Commission did recognize that concentrating the development on the east side of the creek would mitigate the impacts on the creek and riparian habitat, the Commission also noted that setting back the pads 100 feet from Cold Creek and requiring the access easement would prevent "any future development impacting this habitat area". In addition, the Commission found that the subdivision is clustered over 26 acres of the site and avoids any alteration of the side canyons.

The subject unpermitted development is located in the areas that the Commission clearly identified as being protected. The unpermitted horse corral is located partially within the access easement and completely within a designated ESHA. Also, the unpermitted, graded access path was constructed above and along a side canyon, which contains seasonal flows.

g. The Teheranis' Defense:

"When [955 Cold Canyon Road] was purchased the lot consisted of a flat building pad, drainage improvements, corral fencing adjacent to the creek, a lower pad for equestrian use, and trails around the building site and down to the equestrian area and regional trail system. All improvements to the property are within the fuel modification zone and, with the exception of the corral fencing, are over 100' in distance from riparian habitat. The corral fencing does not increase brush clearance requirements or affect riparian habitat...."

Commission's Response:

As previously mentioned, Coastal Development Permit 5-83-290 authorized the subdivision of an 85-acre parcel, grading for residential building pads, and utilities. In addition, the permit as conditioned required the dedication of a recreational access trail over the dedicating's real property for public hiking and equestrian access. Coastal Development Permit 5-83-290 did not approve feeder trails or level equestrian areas at the lower elevations along the creeks.

The Respondents' allege that all improvements to the property are located within the fuel modification zone. Nasser and Elizabeth Teherani submitted a Landscape and Fuel Modification Plan dated 11/25/94, as required in Special Condition No. 4 of Coastal Development Permit 4-94-157. The Executive Director and the Los Angeles County Fire Department approved this Plan. The fuel modification zone encompasses a majority of the site. The outer 100 feet of the fuel modification plan requires the property owner to "clear all dead wood and debris annually". There is no mention of clearing live growth or grading.

The cause of the continuing resource damage to oak woodland and riparian habitat is not due to the Teherani's compliance with the fuel modification plan, but rather from the presence and use of an unpermitted horse corral and graded pathway leading to the

coral. While the corral fencing does not necessitate further brush clearance for fuel modification purposes, it does allow for the enclosure of an equestrian facility, which has been shown to impact oak tree/riparian habitat and water quality of Cold Creek, as well as increased erosion across the property and into a designated ESHA.

2. Construction/Grading a Horse Corral and Corral Rail Fencing

a. The Teheranis' Defense:

"We did not grade a corral. The lower level equestrian area was level when the lot was purchased and has not been altered. The Corral area will continue to be used for horses whether it is fenced or not fenced."

Commission's Response:

USGS topographical maps indicates that the area adjacent to Cold Creek contains level contours in the area of the subdivision, likely due to the historic flooding of the Creek, creating a naturally flat area. Even if the flat area adjacent to Cold Creek and below the building pad occurred naturally and did not require grading, the placement of a horse corral and clearance of vegetation is development that requires a coastal development permit.

The lower area continues to be altered by the presence of horses in this area. As addressed in Section ii. of this staff report, the presence of horses in oak woodland/riparian habitat has impacted and continues to impact sensitive resources on the subject property.

b. The Teheranis' Defense:

"Staff concludes that the construction of corral fencing by the property owner is a violation of the Coastal Act. We disagree. Corral fencing along the creek and trails were originally constructed by the subdivider. The fencing was destroyed by the fire of 1996 and was reconstructed by Mr. Teherani in the same location. Additional improvements to the fencing were made by adding return fencing around the lower level equestrian area and adding fencing along an existing feeder trail from the upper pad to the lower pad.... The fencing that Mr. Teherani constructed was replacement fencing that was destroyed by natural disaster and improvements to that fencing approved under the original subdivision permit. Both are exempt under Section 30610(b)&(g) of the Coastal Act unless the improvement involves a risk of adverse environmental effect as discussed in Coastal Regulation Section 13253."

Commission's Response:

As previously stated, corral fencing was not authorized in the approval for the subdivision or the single family home on the subject property. Unpermitted development does not benefit from the disaster relief exemption of Section 30610(g) of the Coastal Act. Any reconstruction of unpermitted development would further constitute development as defined by Section 30106. Such development has been found to be inconsistent with the Chapter 3 policies of the Coastal Act. In addition, the Respondents recorded a deed restriction on their property making the exemptions otherwise provided in Public Resources Code §30610 (a) and (b) not applicable to the entire parcel.

The Respondents state, "Additional improvements to the fencing were made by adding return fencing around the lower level equestrian area and adding fencing along an existing feeder trail from the upper pad to the lower pad." Therefore, the Respondents admit to constructing fencing around an equestrian area. The Respondents did not obtain a coastal development permit for this fencing and a deed restriction recorded on the property made the exemptions otherwise provided for in the Coastal Act not applicable to the entire parcel.

c. The Teheranis' Defense:

"Projects that require permits include improvements on a beach or in a designated scenic area, include significant alteration of land forms or are within as (sic) an environmentally sensitive habitat area. None of these provisions are applicable and all improvements to the fencing conform to Coastal Commission regulations."

Commission's Response:

The above defense refers to the Commission's regulations governing improvements and indicates situations in which improvements require a coastal development permit. The construction of a horse corral and graded pathway ("feeder trail") are not improvements to existing single-family homes or structures other than single-family homes. A horse corral and graded (cut/fill) pathway are not structures directly attached to a single family home or structure, are not normally associated with a single family home, and does not include landscaping on the lot (§13250(a) (1-3) & (§13253(a) (1-2))). Even if the unpermitted development were improvements they would not qualify for exemptions because, pursuant to Section 13250(b)(6) of the Commission's regulations. Such development would still require a Coastal Development Permit because of the "future development" deed restriction recorded on the property by the Teherani's, which requires a CDP or amendment to the existing CDP for all improvements.

d. The Teheranis' Defense:

"Mr. Teherani has always believed that horse corral fencing was part of the original subdivision and not new development. Also, corral fencing does not require County Building Permits. It does not make any sense to approve an equestrian oriented subdivision and restrict corral fencing."

Commission's Response:

Regardless of who performed the development, the persistence of the unpermitted development remains a continuing violation of the Coastal Act and a continuing public nuisance that the current owners are liable for correcting. The Coastal Act represents a legislative declaration that acts injurious to the state's natural resources constitute a public nuisance. (*Leslie Salt Co. v. San Francisco Bay Conservation etc. Com.* (1984) 153 Cal. App.3d 605, 618; *CREED v. California Coastal Zone Conservation Com.* (1974) 43 Cal.App.3d 306, 318.) The Coastal Act is a "sensitizing of and refinement of nuisance law." (*CREED*, at 319.)

The Teheranis are liable for actions of previous owners who may have created some of the public nuisances on the subject property based on Civil Code 3483, which states:

Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefore in the same manner as the one who first created it.

In addition, in *Leslie Salt* (p. 622), the court held that:

"whether the context be civil or criminal, liability and the duty to take affirmative action [to correct a condition of noncompliance with applicable legal requirements] flow not from the landowner's active responsibility for [that] condition of his land...or his knowledge of or intent to cause such [a condition] but rather, and quite simply, from his very possession and control of the land in question."

Thus, even if the prior owner constructed certain unpermitted development, the Teheranis' maintenance of that development without a permit constitutes a continuing violation of the Coastal Act.

Whether corral fencing requires County Building Permit or not is irrelevant. The construction of a horse corral meets the definition of development under Section 30106 of the Coastal Act. The coastal development permit for the subdivision authorized the division of an 85-acre parcel into 10 residential lots and one open space lot, grading for flat building pads, and the installation of utilities. The permit did not authorize the construction of horse corral facilities nor did it establish an "equestrian oriented" subdivision.

3. Grading and Construction of a Path/Road with Retaining Walls

a. The Teheranis' Defense:

“Staff concludes that the property owner graded a horse trail from the upper pad area to the lower level equestrian area located next to the public trail easement. We disagree. The original subdivision was an equestrian oriented project that included trails from each of the building sites down to the regional trail system that traverses the Santa Monica Mountains. It does not make any sense to approve an equestrian oriented subdivision and not include trails to gain access to the system.”

Commission's Response:

As stated throughout this staff report, Coastal Development Permit 5-83-290 authorized the subdivision of an 85-acre parcel, grading for residential building pads, and utilities. In addition, the permit as conditioned required the dedication of a recreational access trail over the dedicator's real property for public hiking and equestrian access. Coastal Development Permit 5-83-290 did not approve feeder trails or level equestrian areas at the lower elevations along the creeks.

The project plans that the Teheranis submitted with their Coastal Development Permit application 4-94-157 included a grading and drainage plan, site plan, floor plan, and a fuel modification and grading plan. The Commission approved Coastal Development Permit 4-94-157 on December 14, 1994. The permit was issued and Commission staff signed the approved plans on March 23, 1995. The approved final plans show the single-family residence, pool, motor court, and horse corral located on the upper, level portion of the subject property. A small trail is shown leading from the residence to the authorized horse corral. The plans also show the public hiking and equestrian trail in the 60-foot access easement, located in the riparian/oak woodland habitat at the lower portion of the subject property. The plans submitted by the Teheranis and approved by the Commission do not show a lower horse corral, corral fencing, or a graded path leading to the lower portion of the subject property. The approved grading plans submitted by the Teheranis show a consistent, downward sloping gradient with no indication of graded cut for a path or written marks specifying a trail location.

Therefore, there is no indication that the coastal development permit for the subdivision or the coastal development permit for the Teheranis single family residence and upper horse corral authorized the construction of trails to the lower portions of the subject property or horse corrals in the oak woodland/riparian habitat.

b. The Teheranis' Defense:

“The entire area has been extensively graded as a result of the subdivision and the implementation of the mini-ranch concept by the subdivider.”

Commission's Response:

Coastal Development Permit 5-83-290 authorized the subdivision of an 85-acre parcel, grading for residential building pads, and utilities. The Commission approved no grading other than the approved graded pads.

The Commission's findings for 5-83-290 states, in part:

"[T]he Commission has required a 50 to 100 foot setback from all streams. The applicant's project sets all residential pads back 100 feet from Cold Creek, a perennial stream. The stream course is part of the recreation easement over the property. This prevents any future development impacting this habitat area. In addition, the project is clustered over 26 acres of the parcel and avoids any alteration of the side canyons which contain seasonal flows. Other significant canyon flows are located on the portion of property set aside for recreational use and will be permanently protected" (Emphasis added).

The Commission clearly recognized that the subdivision and permitted grading for residential building pads would not encroach into the ESHA.

The Teheranis' Defense:

"The approval of feeder trails is not an unusual concept. In 1986 the Coastal Commission certified a Coastal Plan that encouraged such trails to be installed. Policy 32 is as (sic) an encouragement to, 'Provide a safe trail system throughout the mountain and seashore that can achieve the following'; 'Provide connections with populated areas; Provide for and be designed to accommodate multiple use (walking, hiking, equestrian) wherever appropriate; [and] Facilitate linkages to community trail systems.' The existing feeder trails accomplish these purposes. The Coastal Commission approved a similar feeder trail on the adjacent property down the hillside from the upper level to a lower level in the same subdivision (CDP 4-99-083), in conformance with this policy, where an existing trail was not adequate.... Feeder trails were as an important part of the subdivision and are necessary to gain access to the regional trail system. Without the feeder trails property owners would be denied access. The subject feeder trail has been maintained by the owner to accomplish multiple uses in a safe manner and is necessary to link the property to the community trail system."

Commission's Response:

Policy 32 of the Commission certified Land Use Plan for the Malibu/Santa Monica Mountains portion of Los Angeles County as well as the Public Access and Recreation sections of the Coastal Act (§§ 30210 – 30224) provide for the protection and establishment of public recreation facilities and access. Nothing in Policy 32 or the

Public Access and Recreation policies of the Coastal Act provide, protect, or require private access facilities to public trails and recreation facilities.

The Respondents state that the Commission approved a similar feeder trail on an adjacent property. This statement is not accurate. Findings for 4-99-083 state, in part:

"The original project proposal by the applicants included a two story, 4,600 sq. ft. single family residence with septic system on the existing building pad and a corral, riding area, and shelter on the lower level of the parcel adjacent to Cold Creek. The building pad was constructed under a previous coastal development permit. In addition, a second smaller residential unit was proposed adjacent to Cold Creek Road to be used as a primary residence until the main residence was completed. Staff expressed concerns with the proposed equestrian facilities next to the creek because of issues related to protection of environmentally sensitive habitat areas and coastal waters. The equestrian facilities and principal unit were eliminated from the project proposal."

The Commission's findings for this CDP reaffirm that horse corral facilities should not be located in ESHA. In this case, the facilities proposed in the lower portions of the property were eliminated. The applicant for Coastal Development Permit No. 4-99-083 did not vest his permit within two years of the Commission's approval; and therefore, the permit has expired. Aerial photographs taken in 2001 do not show a trail graded from the flat residential pad to the lower property. This lot has not been developed and no coastal development permits exist for its development.

The removal of the "feeder trail" will not deny the Teheranis access to the public equestrian and hiking trail. There are several public access points to the trail system. The closest public access point to the Stunt High and Calabasas – Cold Creek Trail is located between lots 1 and 4 of the 10-lot tract (Tract No. 33873) along cold Canyon Road. This access point is approximately 500 feet south of the subject property.

d. The Teheranis' Defense:

"Ongoing repair and maintenance activities to the feeder trail, approved in the original subdivision, have been successful in keeping it level and safe for use. To accomplish this task the owner has installed short garden walls on the down slope portion of the feeder trail to keep them level. These garden walls do not require County Building Permits."

Commission's Response:

Unpermitted development does not benefit from the repair and maintenance exemptions of the Coastal Act. Any reconstruction of unpermitted development would further constitute development as defined by Section 30106. Such development has been found to be inconsistent with the Chapter 3 policies of the Coastal Act. In addition, the

Respondents recorded a deed restriction on their property making the exemptions otherwise provided in Public Resources Code §30610 (a) and (b) not applicable to the entire parcel.

The Respondents state, "Ongoing repair and maintenance activities to the feeder trail, approved in the original subdivision, have been successful in keeping it level and safe for use. To accomplish this task the owner has installed short garden walls on the down slope portion of the feeder trail to keep them level." Therefore, the Respondents admit to repairing and maintaining the private, graded trail and to constructing retaining walls along the trail. The Respondents did not obtain a coastal development permit for this development and a deed restriction recorded on the property made the exemptions otherwise provided for in the Coastal Act not applicable to the entire parcel. Even if the Respondents applied for a coastal development permit, it has been found that such development is inconsistent with the Chapter 3 policies of the Coastal Act (see Section ii. of this staff report).

e. The Teheranis' Defense:

"The trail is within 100' of the building pad and located entirely within the Fuel Modification Zone.... The only work completed on the trail is 'Repair and Maintenance' activities that are exempt from the Coastal Act. Only extraordinary methods of repair and maintenance require Coastal Permits. These include 'Any repair or maintenance to facilities or structures or work located in as (sic) an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams (Coastal Commission Regulations Section 13252)'. The feeder trails are located outside of all environmentally sensitive habitat area, are more than 20' from the stream and have no other impacts on coastal resources."

Commission's Response:

As previously stated, the feeder trail was not authorized in the approval for the subdivision or the single family home on the subject property. Unpermitted development does not benefit from the repair and maintenance exemptions of the Coastal Act. Any reconstruction of unpermitted development would further constitute development as defined by Section 30106. Such development has been found to be inconsistent with the Chapter 3 policies of the Coastal Act. In addition, the Respondents recorded a deed restriction on their property making the exemptions otherwise provided in Public Resources Code §30610 (a) and (b) not applicable to the entire parcel.

The cause of the continuing resource damage on the subject property is not the Teheranis' compliance with the fuel modification plan, but rather the presence and use of an unpermitted horse corral and graded pathway leading to the coral. The

unpermitted graded path is located in a designated ESHA. The unpermitted path allows horses to enter into the lower portion of the subject property. This area provides habitat for oak woodlands/savannah and riparian plant species as well as several species of birds, mammals, and invertebrates. The enclosure of an equestrian facility has been shown to impact oak tree/riparian habitat and water quality of Cold Creek, as well as increase erosion across the property and into a designated ESHA. The area within the horse corral is denuded of vegetation (with the exception of an oak tree and willows) and all ground cover has been either eaten or trampled by the presence of horse activity.

4. The Removal of Significant Habitat

a. The Teheranis' Defense:

"Staff concludes that the property owner has removed significant oak tree habitat. We disagree. The fuel modification zone encompasses the home and extends down the hillside and includes all of the lower level equestrian facilities. The owner has removed vegetation in total compliance with the approved Fuel Modification Plan. Some oak tree branches were removed by the Fire Department in 1996. A letter dated December 7, 2002 from the County Fire Department describes those activities.... All clearance on slopes has been completed by hand. The existing feeder trails have facilitated hand clearance of vegetation. No oak trees or riparian vegetation has been adversely affected by these activities and no violations of the Coastal Act have occurred."

Commission's Response:

The Respondents' allege, "The fuel modification zone encompasses the home and extends down the hillside and includes all of the lower level equestrian facilities. The owner has removed vegetation in total compliance with the approved Fuel Modification Plan." Nasser and Elizabeth Teherani submitted a Landscape and Fuel Modification Plan dated 11/25/94, as required in Special Condition No. 4 of Coastal Development Permit 4-94-157. The Executive Director and the Los Angeles County Fire Department approved this Plan. The fuel modification zone encompasses a majority of the site. The outer 100 feet of the fuel modification plan requires the property owner to "clear all dead wood and debris annually". The unpermitted horse corral, horse corral fencing, and a majority of the unpermitted graded trail are located in the outer 100 feet of the fuel modification plan. The fuel modification plan does not provide for clearing live growth or grading within the outer 100 feet.

The cause of the continuing resource damage to oak woodland and riparian habitat is not due to the Teheranis' compliance with the fuel modification plan, but rather from the presence and use of an unpermitted horse corral and graded pathway leading to the coral. While the corral fencing does not necessitate further brush clearance for fuel

modification purposes, it does allow for the enclosure of an equestrian facility, which has been shown to impact oak tree/riparian habitat and water quality of Cold Creek, as well as increase erosion across the property and into a designated ESHA. The area within the horse corral is denuded of vegetation (with the exception of an oak tree and willows). All ground cover has been either eaten or trampled by the presence of horse activity.

Therefore, the construction of unpermitted horse corral, horse corral fencing, and a graded path down a steep hillside is inconsistent with the resource policies of the Coastal Act.

5. Statute of Limitations

a. The Teheranis' Defense:

“The Coastal Commission staff cannot continue to state that Mr. Teherani is guilty of violations of the Coastal Act in light of the information listed above. If staff insists on this position the Coastal Act provides in Section 30805.5 that ‘Any action pursuant to Sections 30805 or 30822 to recover civil fines or penalties under this chapter shall be commenced not later than three years from the date on which the cause of action for the recovery is known or should have been known.’ This time has lapsed because staff has been aware of corral fencing and trail construction throughout the subdivision both before and after the fire of 1996. Mr. Teherani purchased his property in 1991 and was cited on October 24, 2001 which is well beyond the provisions prescribed by law.”

Commission's Response:

Commission staff first became aware of the unpermitted development on May 11, 2001. A fire in the area of the subdivision did not alert Commission staff of unpermitted development on the subject property. Further, Commission staff was not aware of the unpermitted development when the Teheranis purchased the subject property. Coastal Development Permit 4-94-157, which authorized the construction of a single-family home, upper-level horse corral, and motor court on the subject property, did not include the lower horse corral, fencing, or a graded path to access a lower-level horse corral.

In addition, the Coastal Act's limitation provision in Section 30805.5 does not on its face apply to the issuance of the CDO or RO. Rather, it applies only to actions to recover civil fines and penalties. The Commission is issuing this Cease and Desist and Restoration Order to remedy a series of violations of the permit requirements and resource policies of the Coastal Act, not to collect fines and penalties.

6. The Respondents have submitted defenses in response to Commission staff's allegations that the unpermitted development is inconsistent with the resource

protection policies of the Coastal Act and that such unpermitted development is causing continuing resource damage.

a. **The Teheranis' Defense:**

“Section 30230 & 30231 (Marine resources, biological productivity and water quality); - The Coastal Commission anticipated potential impacts to these resources when approving the subdivision and horse trails. The Commission determined that the subdivision was on balance more protective of significant resources by concentrating development along the east side of the creek and providing permanent open space on the west side. Also, discussions with the Mountains Restoration Trust (recipients of the open space easement) and the Malibu Trails council indicate that there have been no obvious or reported violations of water quality standards as a result of equestrian use within the area. The development of this site has not adversely affected water quality.”

Commission's Response:

The Commission has found that horse corrals and equestrian activity located adjacent to a perennial blue line stream would have severe impacts to the biological productivity and water quality of the stream as further described in Section ii.a. and ii.b. of these findings.

b. **The Teheranis' Defense:**

“Section 30253 (Geologic and flood hazards, erosion and natural landform alteration along bluffs and cliffs); - Most of the Coastal approved trail system, which was cleared &/or graded, is along the creek and will be affected by flood hazards. The owner of the property has done nothing to increase the risk of life and property as a result of the improvements nor has he altered natural landforms along bluffs and cliffs. The property does not contain any identifiable bluffs or cliffs. The upper portion of the feeder trail on the owner's property is adjacent to a fill slope constructed during the grading of the subdivision. All structures suitable for human habitation are relatively safe from hazards.”

Commission's Response:

As discussed in Section ii.c. of this staff report, the presence of the unpermitted horse corral and graded path will create and contribute significantly to erosion across the property and into Cold Creek via storm water or nuisance flow runoff. This erosion has the potential to increase sedimentation of Cold Creek and alter its functionality. Therefore, as mentioned in Section ii.c. of this staff report, the unpermitted development is inconsistent with Section 30253 of the Coastal Act.

c. The Teheranis' Defense:

"Section 30240 (Environmentally Sensitive Habitat areas or ESHA); - The ESHA area are completely beyond the corral areas. The 50' setback required in the Coastal Plan Policy P79 was not imposed when the subdivision was approved. Corral fencing is more than 50' from the creek but not 50' from riparian vegetation. Brush clearance requirements do not require ant clearance of riparian habitat."

Commission's Response:

The Certified Land Use Plan for the Los Angeles County portion of the Santa Monica Mountains designates the entire site as ESHA. The subject property is located within the Cold Creek Management Area, Oak Woodlands and Savannah habitat, and adjacent to a USGS perennial blue line stream. Commission staff biologist, John Dixon has reviewed the subject property and concurs that the unpermitted development is located within an ESHA. As discussed in detail in Section ii.a. above, the unpermitted development is inconsistent with Section 30240 of the Coastal Act.

d. The Teheranis' Defense:

"Section 30251 (Scenic and Visual qualities); - The development has no impact on the scenic qualities of the area. All improvements to the property are consistent with the original equestrian concept."

Commission's Response:

The Respondents have submitted photographs showing the area of the subdivision prior to the construction of horse corral facilities. The photographs depict a lush riparian environment, oak trees, and an unfenced public access trail. The subject unpermitted development has removed riparian habitat and replaced it with a horse corral denuded of nearly all vegetation. The coastal development permit for the subdivision clustered the development on 23 acres above the descending slopes, canyons, and riparian areas. The recreational experience walking, biking, or horseback riding along the public trail should consist of viewing a scenic location filled with oak trees, savannah, and riparian habitat. Currently, the area is fenced and denuded of vegetation and a graded path has been cut into the descending slope. This unpermitted development is inconsistent with the scenic and visual qualities of this area.

I. Actions in Accordance with Authority Granted to Commission and Staff

The statutory authority for issuance of this Cease and Desist Order is provided in Section 30810 of the Coastal, which states, in relevant part:

- (a) *If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.*
- (b) *The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...*

The Commission's authority to take action on Restoration Orders is provided for in Section 30811 of the Coastal Act, which states the following:

In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... the development is inconsistent with this division, and the development is causing continuing resource damage.

The procedures for the issuance of Cease and Desist and Restoration Orders are described in the Commission's regulations in Sections 13180 through 13188 and 13190 through 13197 of the California Code of Regulations, Title 14. Section 13196(e) of the Commission's regulations states the following:

Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred.

Accordingly, the purpose of this Cease and Desist and Restoration Order is to order removal of unpermitted development and restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described below.

Staff recommends that the Commission issue the following Cease and Desist and Restoration Order:

CEASE AND DESIST ORDER

Pursuant to its authority under Public Resource Code §30810, the California Coastal Commission hereby orders and authorizes Nasser and Elizabeth Teherani, their agents, contractors and employees, and any person acting in concert with any of the foregoing (hereinafter referred to as "Respondents") to cease and desist from maintaining on the subject property any structures or other development constructed or erected without a Coastal Development Permit. Accordingly, all persons subject to this order shall, within 30 days of its issuance, fully comply with paragraphs A, B and C as follows.

- A. Remove all fencing on the subject property that 1) encloses the lower horse corral facility and 2) is located along the pathway from the upper corral area to the lower corral area.
- B. Remove all retaining walls and backfilled soil behind the retaining walls that support the pathway leading from the upper permitted horse corral to the lower unpermitted horse corral.
- C. Remove all other elements associated with the horse corral facility including, but not limited to, feeder/water troughs, bedding material, or waste disposal features.

Within 30 days of the issuance of this order, Commission staff will conduct a site visit to confirm compliance with the terms and conditions of the order.

RESTORATION ORDER

Pursuant to its authority under Public Resource Code §30811, the California Coastal Commission hereby orders and authorizes Nasser and Elizabeth Teherani, their agents, contractors and employees, and any person acting in concert with any of the foregoing (hereinafter referred to as "Respondents") to restore the subject property to the extent provided below and further detailed in Appendix A to the condition it was in prior to the undertaking of the unpermitted development described in Section III. of this order.

Accordingly, the Coastal Commission hereby authorizes and orders the following:

- A. Within 30 days of issuance of this Restoration Order, Respondents shall submit for the review and approval of the Executive Director of the Commission a Restoration, Revegetation and Monitoring Plan. The Executive Director may extend this time for good cause.

The Restoration, Revegetation and Monitoring Plan (hereinafter referred to as the "Restoration Plan") shall be prepared by a qualified restoration ecologist and a qualified geologist, and possibly a qualified soils scientist, as described in section (d) of Appendix A attached hereto and shall include the elements described in Appendix A:

- B. Within 30 days of the approval by the Executive Director of the documents submitted under paragraph A, or within such additional time as the Executive Director may grant for good cause, Respondents shall complete the following actions, in compliance with the plans approved under paragraph A:
1. Restore the topography as described in paragraph A.
 2. Submit to the Executive Director a report documenting the restoration of the topography. This report shall include photographs that show the restored site. This report shall include a topographic plan that is prepared by a licensed surveyor, shows two-foot contours, and represents the topographic contours after removal of the development and grading to achieve restoration of the topography to the maximum extent possible, as described in paragraph A.
- C. Within 15 days of the approval by the Executive Director of the documents submitted under paragraph B2, or within such additional time as the Executive Director may grant for good cause, revegetate the disturbed areas with native plants, following the specifications of the Restoration Plan approved by the Executive Director, pursuant to paragraph A above.
- D. In accordance with the schedule set forth in the Restoration Plan, approved by the Executive Director pursuant to paragraph B above, submit to the Executive Director monitoring reports.
- E. After approval of the monitoring reports by the Executive Director, implement within such timeframe as the Executive Director may specify all measures specified by the Executive Director to ensure the health and stability of the restored areas, as required by the Restoration Plan.
- F. For the duration of the restoration project, including the monitoring period, all persons subject to this order shall allow the Executive Director of the Commission, and/or his/her designees to inspect the subject property to assess compliance with the Restoration Order, subject to twenty-four hours advance notice.

I. Persons Subject to the Orders

Nasser and Elizabeth Teherani, and their agents, contractors and employees, and any persons acting in concert with any of the foregoing.

II. Identification of the Property

The property that is subject to this Restoration Order is described as follows:

An approximately 2.85 acre lot, west of Cold Canyon Road, located in the Malibu/Cold Creek Resource Management Area of the Santa Monica Mountains (Lot 5 of Tract 33873 – APN No. 4456-039-006).

III. Description of Unpermitted Development

The development that is the subject of this Cease and Desist and Restoration Order consists of 1) grading and fencing, 2) clearance of vegetation, 3) removal of limbs from mature oak trees, 4) construction of a horse corral, 5) construction of a path/road from the previously permitted horse corral to the new, unpermitted horse corral, and 6) construction of railroad tie retaining walls.

IV. Effective Date and Terms of the Orders

The effective date of the orders is the date the order is signed by the Executive Director after approval by the Commission. This order shall remain in effect permanently unless and until modified or rescinded by the Commission.

V. Findings

The orders are issued on the basis of the findings adopted by the Commission at the April 2003 hearing, as set forth in the attached document entitled "Recommended Findings for Cease and Desist Order CCC-03-CD-02 and Restoration Order CCC-03-RO-03".

VI. Compliance Obligation

Strict compliance with the orders by all parties subject thereto is required. Failure to comply strictly with any term or condition of the orders including any deadline contained in the orders will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists, in addition to any other penalties authorized under Section 30820.

VII. Deadlines

Deadlines may be extended by the Executive Director for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.

VIII. Appeal

Pursuant to Public Resources Code Section 30803(b), any person or entity against whom the orders are issued may file a petition with the Superior Court for a stay of this order.

Executed in _____ on _____, on behalf of the California Coastal Commission.

Peter Douglas, Executive Director

By: _____

**CCC-03-CD-02 and CCC-03-RO-03
Exhibit List**

**Exhibit
Number Description**

1. Site Map and Location
2. Los Angeles County Assessor Parcel Map
3. Santa Monica Bay Watershed Map
4. Site plan for Commission approved single-family home at 955 Cold Canyon Road
5. Location of Cold Creek Management Area, Oak Woodlands and Savannahs, and
Blueline Streams
6. CDP No 4-94-157.
7. Deed Restriction on Teherani's property
8. CDP No. 5-83-290
9. NOI to Commence Cease and Desist and Restoration Orders
10. Statement of Defense Form submitted by Lynn Heacox
11. Work Order for to copy Commission files, 12/11/02 and 1/9/03
12. Letter from Heal the Bay in regards to Cold Creek, 2/4/02

Appendix A

a) Restoration Objectives. Section A of the Restoration Plan shall present the following goals of the Restoration and Revegetation Project:

1. Restoration of the property to the condition that existed prior to the unpermitted development through restorative grading of the topography in the areas impacted by the unpermitted development. Restorative grading plans should include sections showing original and finished grades, and quantitative breakdown of grading amounts (cut/fill), drawn to scale with contours that clearly illustrate the original topography of the subject site prior to any grading disturbance. The location for any excavated material to be removed from the site as a result of the restoration of the impacted areas shall be identified. If the dump site is located in the Coastal Zone and is not an existing sanitary landfill, a Coastal Development Permit shall be required.
2. Revegetation of all graded areas and areas impacted by the removal of major vegetation so that disturbed areas have a similar plant density, total cover and species composition as that typical of undisturbed chaparral vegetation in the surrounding area within 5 years from the initiation of revegetation activities.
3. Measures shall be taken to aerate the soil in the lower portions of the subject property impacted by the unpermitted development. Erosion control measures shall be implemented consistent with Section e. below.
4. Eradication of non-native vegetation within the areas subject to revegetation and those areas which are identified as being subject to disturbance as a result of the restoration and revegetation activities.
5. Measures shall be taken to prevent erosion and dispersion of sediments across the subject property via rain, nuisance flow runoff, or wind. Such measures shall be provided at all times of year.
6. Minimization of the amount of artificial inputs such as watering or fertilizers that shall be used to support the revegetation of the impacted areas. The Restoration and Revegetation Project will not be successful until the revegetated areas meet the performance standards for at least three years without maintenance or remedial activities other than nonnative species removal.

7. Stabilization of soils so that soil is not exported off the subject property or into the oak woodland/savannah or riparian habitat and so that slumping, gullyng, or other surficial instability does not occur.
 8. Section A of the Restoration Plan shall also include specific ecological and erosion control performance standards that relate logically to the restoration and revegetation goals. Where there is sufficient information to provide a strong scientific rationale, the performance standards shall be absolute (e.g., specified average height within a specified time for a plant species).
 9. Where absolute performance standards cannot reasonably be formulated, clear relative performance standards will be specified. Relative standards are those that require a comparison of the restoration site with reference sites. The performance standards for the plant density, total cover and species composition shall be relative. In the case of relative performance standards, the rationale for the selection of reference sites, the comparison procedure, and the basis for judging differences to be significant will be specified. Reference sites shall be located on adjacent areas vegetated with oak woodland/savannah and riparian species undisturbed by development or vegetation removal, within 2000 feet of the subject property with similar slope, aspect and soil moisture. If the comparison between the revegetation area and the reference sites requires a statistical test, the test will be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted. The design of the sampling program shall relate logically to the performance standards and chosen methods of comparison. The sampling program shall be described in sufficient detail to enable an independent scientist to duplicate it. Frequency of monitoring and sampling shall be specified for each parameter to be monitored. Sample sizes shall be specified and their rationale explained. Using the desired statistical power and an estimate of the appropriate sampling variability, the necessary sample size will be estimated for various alpha levels, including 0.05 and 0.10.
- b) Restoration and Revegetation Methodology. Section B of the Restoration Plan shall describe the methods to be used to stabilize the soils and revegetate the impacted areas. Section B shall be prepared in accordance with the following directions:
1. The plan shall minimize the size of the area and the intensity of the impacts from disturbances caused by the restoration of the impacted areas. Other than those areas subject to revegetation activities, the areas of the site and surrounding areas currently undisturbed shall not

be disturbed by activities related to this restoration project. Prior to initiation of any activities resulting in physical alteration of the subject property, the disturbance boundary shall be physically delineated in the field using temporary measures such as stakes or colored tape.

2. Specify that the restoration of the site shall be performed using hand tools wherever possible, unless it can be demonstrated to the satisfaction of the Executive Director that heavy equipment will not contribute significantly to impacts to resources protected by the Coastal Act, including, but not limited to geological instability, minimization of landform alteration, erosion and impacts to native vegetation and the stream.
3. Specify that the topography of the areas impacted by the unpermitted development shall be restored to the original condition the property was in prior to the unpermitted that is the subject of this Restoration Order.
4. The qualified geologist and restoration ecologist or soil scientist shall specify the methods to be used after restoration to stabilize the soil and make it capable of supporting native vegetation. Such methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid or similar materials. Any soil stabilizers identified for erosion control shall be compatible with native plant recruitment and establishment. The plan shall specify the erosion control measures that shall be installed on the project site prior to or concurrent with the initial grading operations and maintained until the impacted areas have been revegetated to minimize erosion and transport of sediment outside of the disturbed areas. The soil treatments shall include the use of mycorrhizal inoculations of the soil, unless it can be demonstrated to the satisfaction of the Executive Director that such treatment will not likely increase the survival of the plants to be used for revegetation.
5. Describe the methods for revegetation of the site. Include the methods used to aerate the compacted soil caused by the unpermitted development. All plantings shall be the same species, or sub-species, if relevant, as those documented as being located in the reference sites. The planting density shall be at least 10% greater than that documented in the reference sites, in order to account for plant mortality. All plantings shall be performed using native plants that

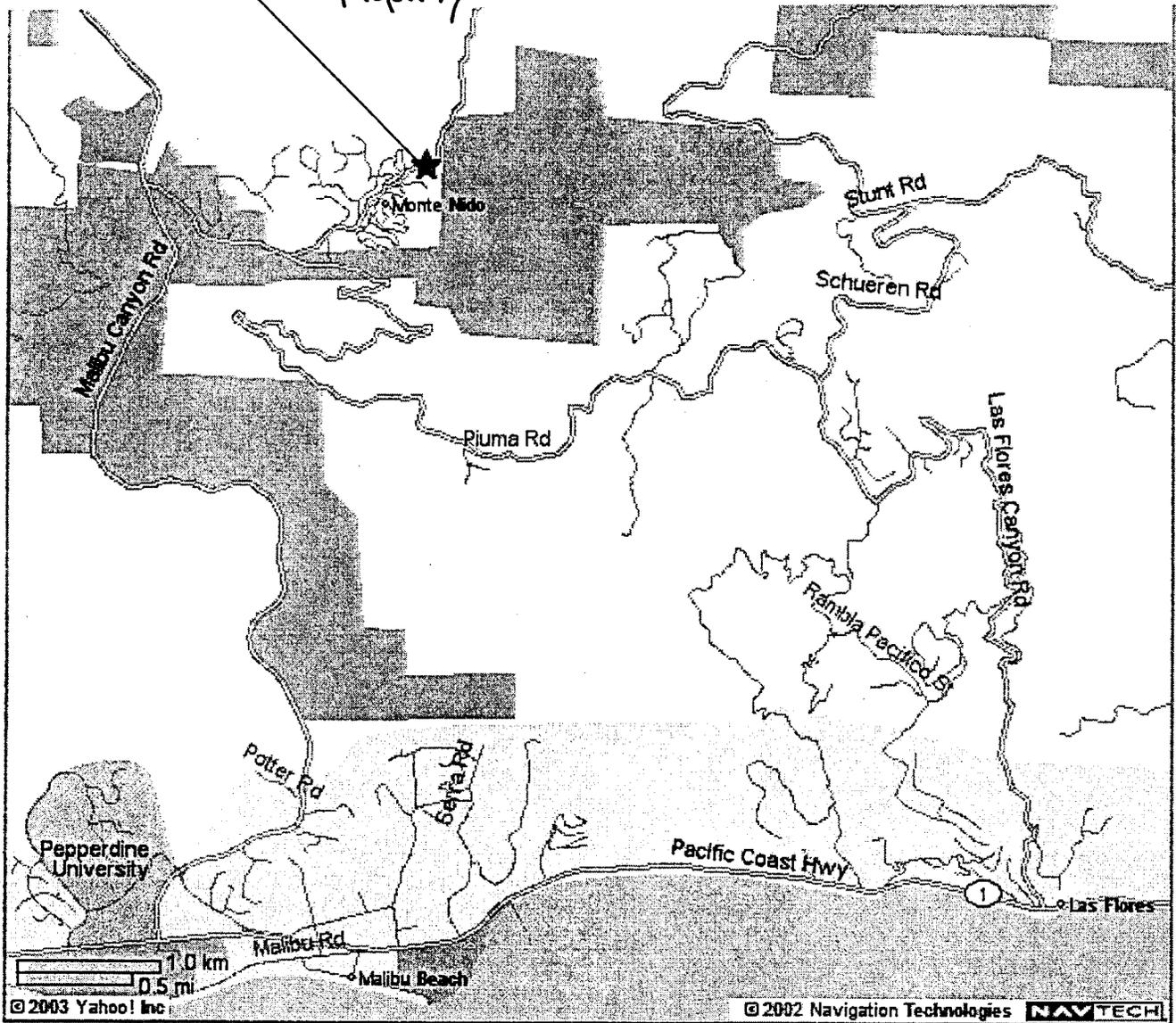
were propagated from plants as close as possible to the subject property, in order to preserve the genetic integrity of the flora in and adjacent to the revegetation area.

6. Describe the methods for detection and eradication of nonnative plant species on the site. Herbicides shall only be used if physical and biological control methods are documented in peer-reviewed literature as not being effective at controlling the specific nonnative species that become established in the revegetation area. If herbicides are to be used in the revegetation area, specify the precautions that shall be taken to protect native plants and workers, consistent with all applicable laws and regulations.
 7. Describe the use of artificial inputs, such as watering or fertilization that shall be used to support the plantings becoming established. Specify that only the minimal necessary amount of such inputs shall be used.
 8. Specify the measures that will be taken to identify and avoid impacts to sensitive species. Sensitive species are defined as: (a) species which are listed by state or federal agencies as threatened or endangered or which are designated as candidates for such listing; (b) California species of special concern; (c) fully protected or "special animal" species in California; and (d) plants considered rare, endangered, or of limited distribution by the California Native Plant Society.
- c) Monitoring and Maintenance. Section C of the Restoration Plan shall describe the monitoring and maintenance methodology and shall include the following provisions:
1. The Respondent shall submit, on an annual basis for a period of five years (no later than December 31st each year) a written report, for the review and approval of the Executive Director, prepared by a qualified restoration ecologist and qualified geologist, evaluating compliance with the performance standards. The annual reports shall include further recommendations and requirements for additional restoration activities in order for the project to meet the goals and performance standards specified in the Restoration Plan. These reports shall also include photographs taken from pre-designated locations (annotated to a copy of the site plans) indicating the progress of recovery in the area of each item of denied development.

2. During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the restoration of the project site. If any such inputs are required beyond the first three years, then the monitoring program shall be extended by an amount of time equal to that time during which inputs were required after the first three years, so that the success and sustainability of the restoration of the project site are ensured.
 3. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the approved performance standards, the applicant shall be required to submit a revised or supplemental plan to compensate for those portions of the original program that were not successful. The Executive Director will determine if the revised or supplemental restoration plan must be processed as a CDP, a new Restoration Order, or modification of Restoration Order CCC-03-RO-03.
- d) Appendix A of the Restoration Plan shall include a description of the education, training and experience of the qualified geologist, restoration ecologist and soil scientist, if relevant, who shall prepare the Restoration Plan. A qualified restoration ecologist for this project shall be an ecologist, arborist, biologist or botanist who has experience successfully completing restoration or revegetation of oak woodlands/savannah and riparian habitats. If this qualified restoration ecologist does not have experience in creating the soil conditions necessary for successful revegetation of oak woodlands/savannah and riparian vegetation, a qualified soil scientist shall be consulted to assist in the development of the conditions related to soils in the Revegetation and Monitoring Plan. A qualified soil scientist for this project shall be a soil scientist who has experience in assessing, designing and implementing measures necessary to create soil conditions to support revegetation and prevent instability or erosion. A qualified geologist for this project shall be a geologist who has experience evaluating and designing soil stabilization projects in the Santa Monica Mountains area.
- e) Submit interim erosion control plans for the review and approval of the Executive Director. The Interim Erosion Control Plan shall be prepared by a qualified restoration ecologist and shall include the following:
1. The Interim Erosion Control Plan shall demonstrate that:

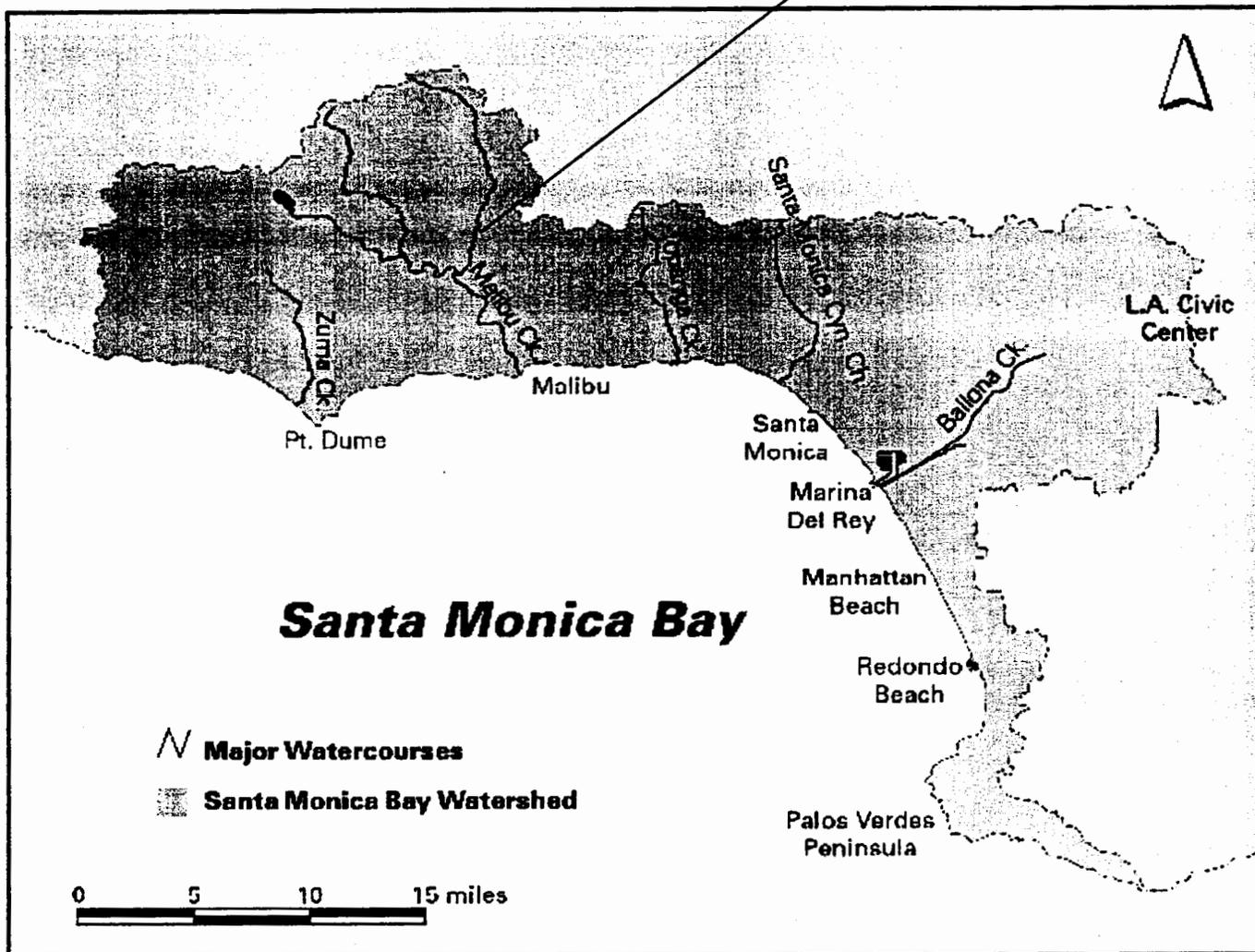
- a. Erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and the oak woodlands/savannah and riparian habitats.
 - b. The following temporary erosion control measures shall be used during construction including, but not limited to: installation of temporary sediment basins (including debris basins, desilting basins or silt traps), installation of temporary drains and swales, sand bag barriers, hay bales, and silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, and installation of geotextiles or jute matting on all cut or fill slopes.
2. The Interim Erosion Control Plan shall include, at a minimum, the following components:
- a. A narrative report describing all temporary runoff and erosion control measures to be used and any permanent erosion control measures to be installed for permanent erosion control.
 - b. A detailed site plan showing the location of all temporary erosion control measures.
 - c. A schedule for installation and removal of temporary erosion control measures, in coordination with the long-term restoration, revegetation and monitoring plan discussed below.

Subject Property

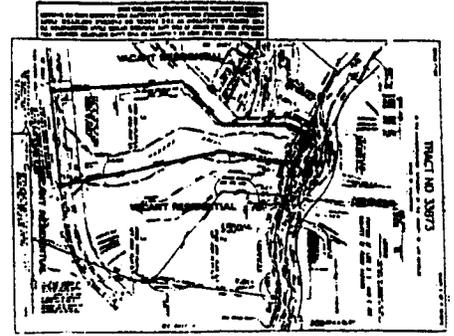


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(Teherani)

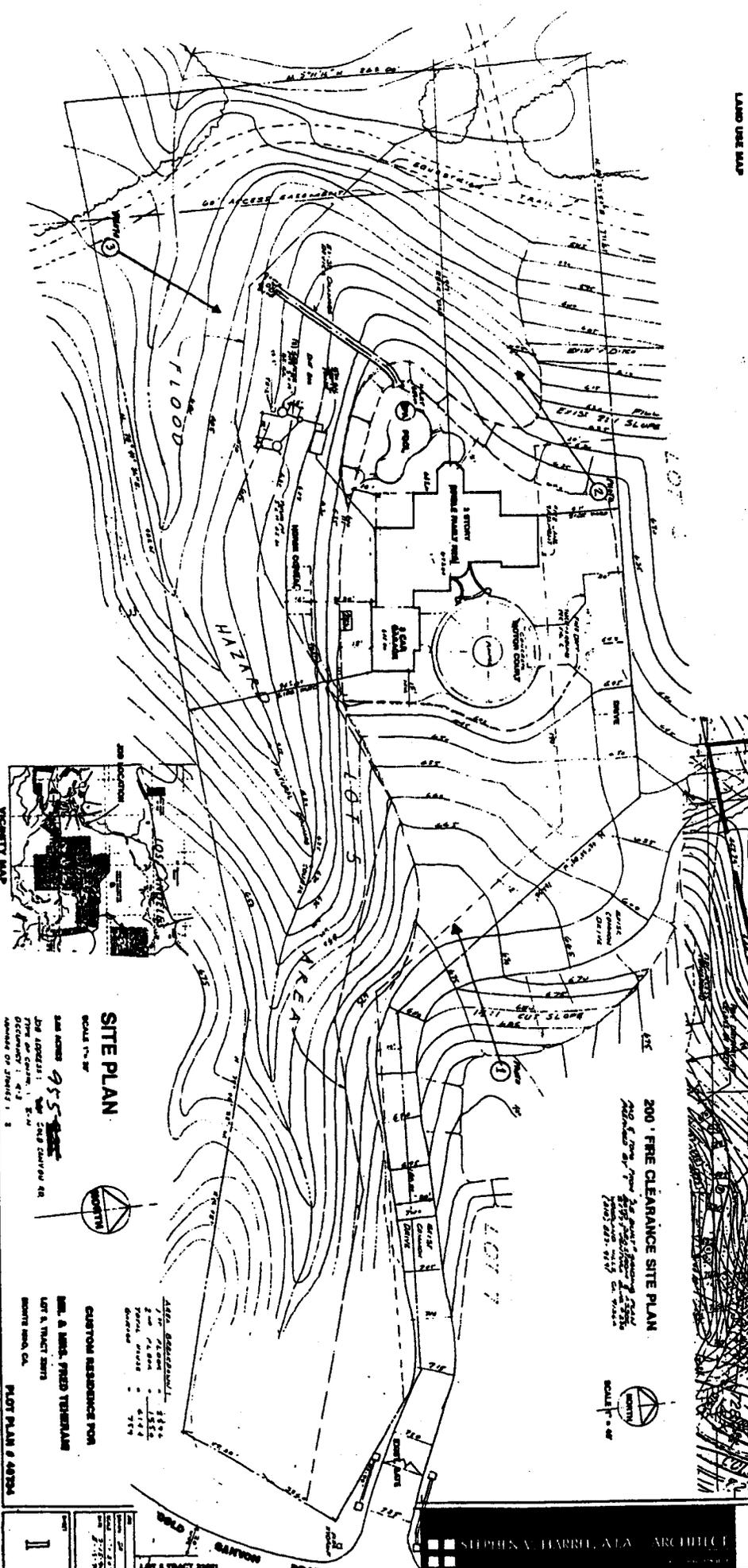
Subject Property



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CCC-03-CD-02 & CCC-03-RO-03
(Teherani)



- GENERAL NOTES:**
1. The owner shall be responsible for obtaining all necessary permits and approvals from the appropriate agencies.
 2. The owner shall be responsible for obtaining all necessary easements and rights-of-way from the appropriate agencies.
 3. The owner shall be responsible for obtaining all necessary utility easements and rights-of-way from the appropriate agencies.
 4. The owner shall be responsible for obtaining all necessary floodplain permits and approvals from the appropriate agencies.
 5. The owner shall be responsible for obtaining all necessary wetland permits and approvals from the appropriate agencies.
 6. The owner shall be responsible for obtaining all necessary historic preservation permits and approvals from the appropriate agencies.
 7. The owner shall be responsible for obtaining all necessary archaeological permits and approvals from the appropriate agencies.
 8. The owner shall be responsible for obtaining all necessary cultural resource permits and approvals from the appropriate agencies.
 9. The owner shall be responsible for obtaining all necessary paleontological permits and approvals from the appropriate agencies.
 10. The owner shall be responsible for obtaining all necessary biological resource permits and approvals from the appropriate agencies.
 11. The owner shall be responsible for obtaining all necessary geotechnical permits and approvals from the appropriate agencies.
 12. The owner shall be responsible for obtaining all necessary seismic permits and approvals from the appropriate agencies.
 13. The owner shall be responsible for obtaining all necessary fire safety permits and approvals from the appropriate agencies.
 14. The owner shall be responsible for obtaining all necessary energy efficiency permits and approvals from the appropriate agencies.
 15. The owner shall be responsible for obtaining all necessary accessibility permits and approvals from the appropriate agencies.
 16. The owner shall be responsible for obtaining all necessary environmental permits and approvals from the appropriate agencies.
 17. The owner shall be responsible for obtaining all necessary air quality permits and approvals from the appropriate agencies.
 18. The owner shall be responsible for obtaining all necessary noise permits and approvals from the appropriate agencies.
 19. The owner shall be responsible for obtaining all necessary traffic permits and approvals from the appropriate agencies.
 20. The owner shall be responsible for obtaining all necessary public works permits and approvals from the appropriate agencies.



SITE PLAN
 SCALE: 1" = 40'
 DATE: 05-20-2023
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

CUSTOM RESIDENCE FOR
 MR. & MRS. FRED TEHERANI
 LOT 6, TRACT 2873
 SOUTH CANYON, CA.

PLOT PLAN # 44734

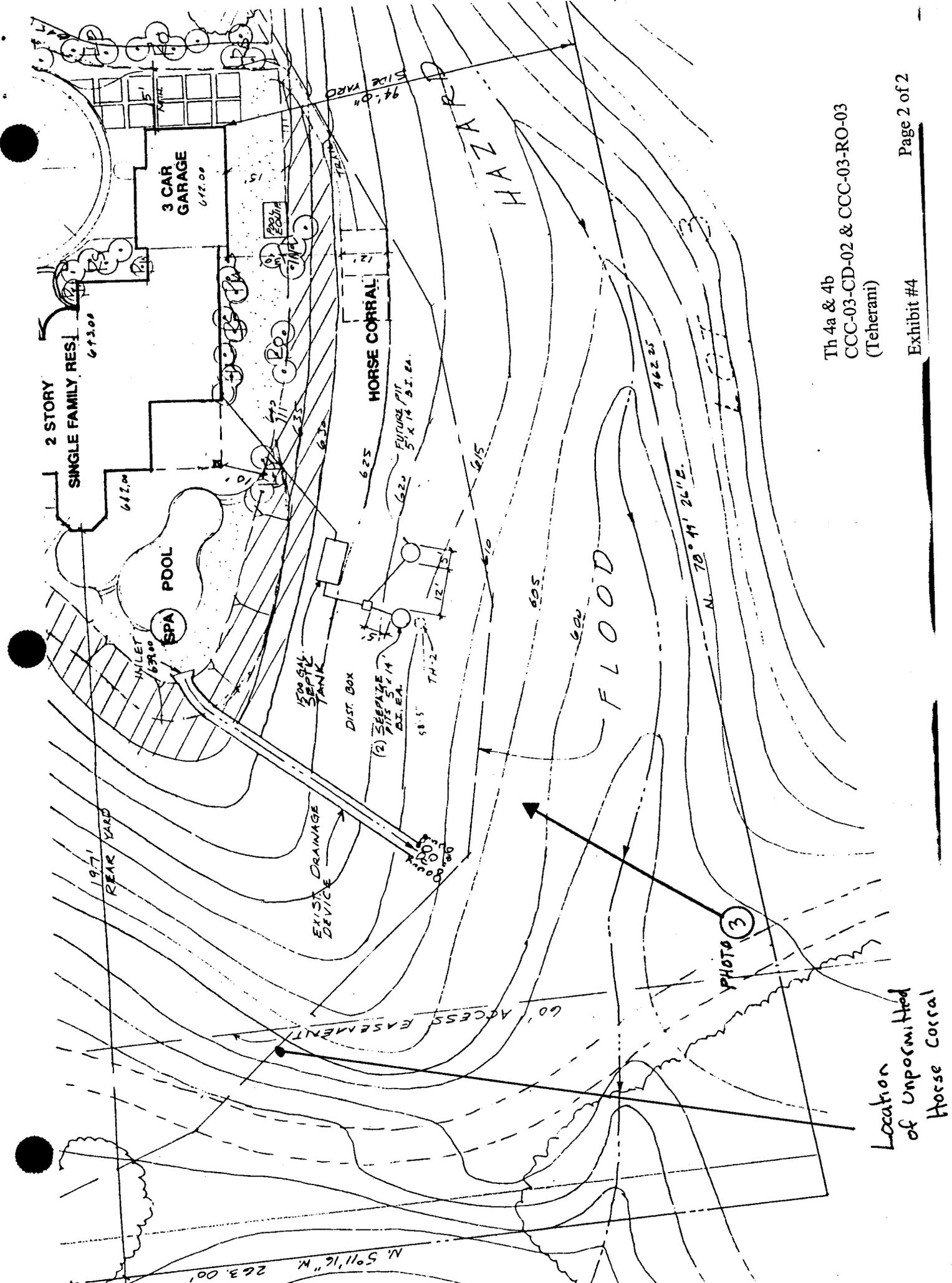
Th 4a & 4b
 CCC-03-CD-02 & CCC-03-RO-03
 (Teherani)

Exhibit #4

Page 1 of 2

Teherani

STEPHEN A. HARRIS, AIA ARCHITECT



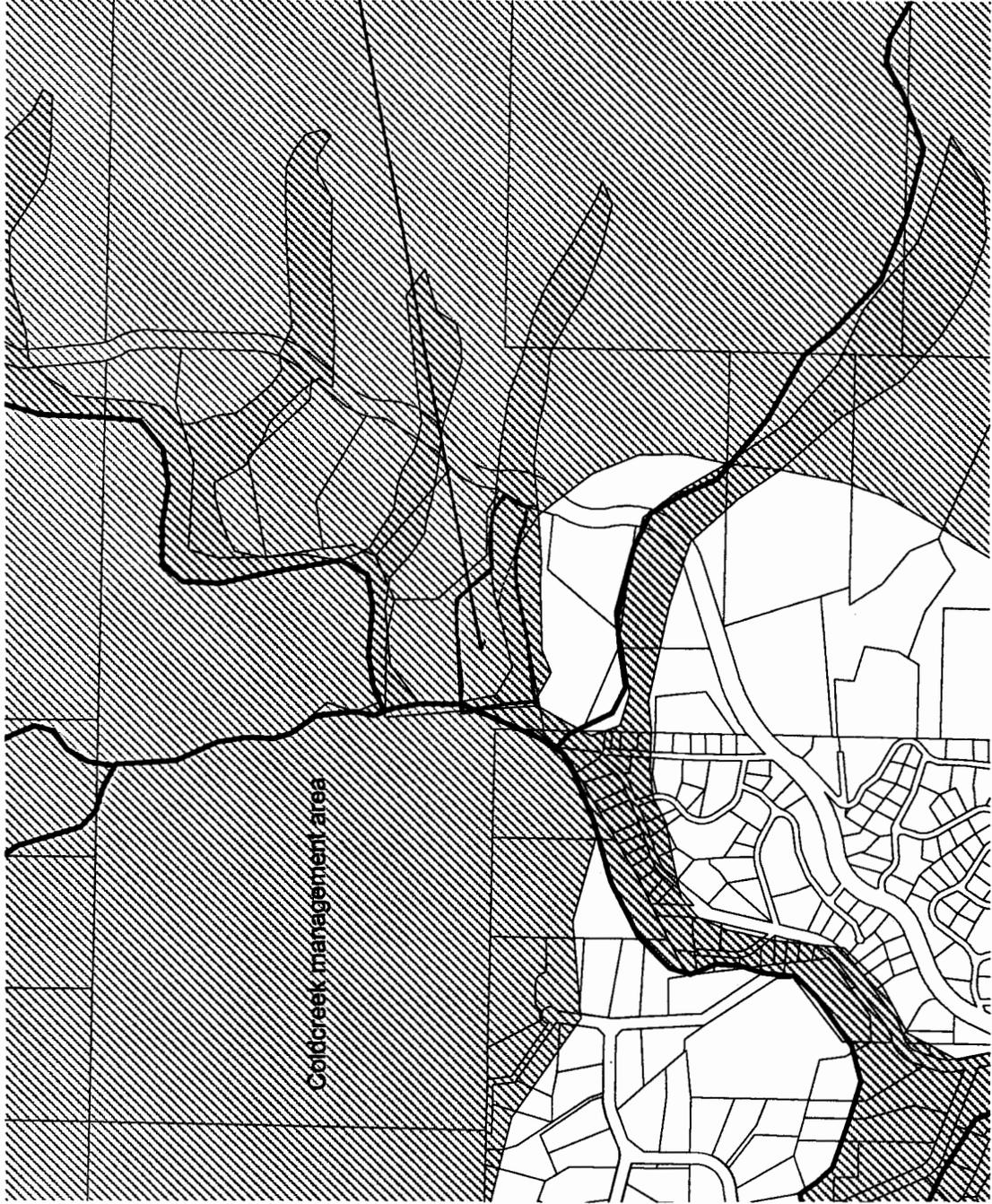
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 (Teherani)

Location
 of Unpermitted
 Horse Corral

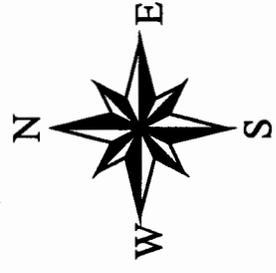
ENVIRONMENTALLY SENSITIVE RESOURCES

Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

Exhibit #5 Page 1 of 1



-  Coldcreek management area
-  oak woodlands and savannahs
-  Blueline Streams



CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 9 SOUTH CALIFORNIA ST., 2ND FLOOR
 VENTURA, CA 93001
 (805) 641-0142

Page 1 of 4
 Date: March 27, 1995
 Permit No. 4-94-157

COASTAL DEVELOPMENT PERMIT

On December 14, 1994, the California Coastal Commission granted to:

Nasser and Elizabeth Teherani this permit subject to the attached Standard and Special conditions, for development consisting of:

Construct 4,900 sq. ft. two story single family residence, swimming pool, driveway, horse corral and septic system on an existing graded pad, with an additional 120 cubic yards of grading (60 cu. yds. cut, 60 cu. yds. fill), more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 935 Cold Canyon Road, Monte Nido.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
 Executive Director

By: Melanie Hale
 Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

 Date

A6: 4/88

 Signature of Permittee

Th 4a & 4b
 CCC-03-CD-02 & CCC-03-RO-03
 (Teherani)

Exhibit #6

Page 1 of 4

COASTAL DEVELOPMENT PERMIT

Page 2 of 4
Permit No. 4-94-157

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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions 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 project during its development, 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.

SPECIAL CONDITIONS:

1. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

2. Plans Conforming to Geologic Recommendations

All recommendations contained in the Final Soils Engineering Report dated March 19, 1991, prepared by Pacific Soils Engineering, Inc., and in the Geotechnical

Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

COASTAL DEVELOPMENT PERMIT

Page 3 of 4
Permit No. 4-94-157

Comments & Update prepared October 6, 1994, prepared by Pacific Soils Engineering, Inc., shall be incorporated into all final design and construction including foundations, grading and drainage and all plans must be reviewed and approved by the consultant prior to commencement of development. Prior to issuance of the coastal development permit the applicant shall submit evidence to the Executive Director of the consultant's review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal development permit.

3. Future Development.

Prior to the issuance of the coastal development permit, 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. 4-94-157; and that any future additions or other development as defined in Public Resources Code section 30106 will require an amendment to Permit No. 4-94-157 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property.

4. Landscaping and Grading Plan

Prior to the issuance of a coastal development permit, the applicant shall submit a landscaping plan prepared by a licensed landscape/architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or 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 Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated January 20, 1992. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

COASTAL DEVELOPMENT PERMIT

Page 4 of 4
Permit No. 4-94-157

- (b) Should grading take place during the rainy season (November 1-March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from run-off waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- (c) Cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native species using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within 90 days and shall be repeated, if necessary, to provide such coverage.
- (d) Vegetation within 50 feet of the proposed house may be removed to mineral earth. Vegetation within a 200 foot radius of the main structure may be selectively thinned to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The 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.

5. Drainage and Erosion Control Plans.

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a run-off control plan designed by a licensed engineer which assures that no increase in peak run-off rate from the site would result from the construction of the proposed project as a result of a ten-year, six-hour rainstorm. The run-off control plan shall include, but not be limited to, a system which collects run-off from the roof, patios, and all impervious surfaces and directs it to on-site detention/desilting basins. This plan shall include a gravel filtration system designed to filter out household pollutants from the runoff resulting from the project. The plan shall include a subdrain system for the horse corral which percolates runoff through the septic or other system and permeable paving for the motorcourt area. Should any erosion result from the drainage from the project, the applicant shall be responsible for any necessary repairs and restoration.

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Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

Exhibit #6

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reference; and

VI. WHEREAS, the Permit was subject to the terms and conditions including, but not limited to, the following condition(s):

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, 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. 4-94-157; and that any future additions or improvements to the property, including clearing of vegetation and grading, will require an amendment to Permit No. 4-94-157 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The removal of vegetation consistent with Fire Department requirements is permitted. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property, and shall be recorded free of prior liens.

VII. WHEREAS, the Commission found that but for the imposition of the above condition(s) the proposed development could not be found consistent with the provisions of the California Coastal Act of 1976 and that a permit could therefore not have been granted; and

VIII. WHEREAS, Owner has elected to comply with the condition(s) imposed by the Permit and execute this Deed Restriction so as to enable Owner to undertake the development authorized by the Permit.

//

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CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

1 and b) §402.1 of the California Revenue and Taxation Code or successor
2 statute. Furthermore, this Deed Restriction shall be deemed to constitute
3 a servitude upon and burden to the Property within the meaning of §3712(d)
4 of the California Revenue and Taxation Code, or successor statute, which
5 survives a sale of tax-deeded property.

6 4. RIGHT OF ENTRY. The Commission or its agent may
7 enter onto the Property at times reasonably acceptable to the Owner to
8 ascertain whether the use restrictions set forth above are being observed.

9 5. REMEDIES. Any act, conveyance, contract, or authorization
10 by the Owner whether written or oral which uses or would cause to be used
11 or would permit use of the Property contrary to the terms of this Deed
12 Restriction will be deemed a violation and a breach hereof. The Commission
13 and the Owner may pursue any and all available legal and/or equitable remedies
14 to enforce the terms and conditions of this Deed Restriction. In the event
15 of a breach, any forbearance on the part of either party to enforce the
16 terms and provisions hereof shall not be deemed a waiver of enforcement
17 rights regarding any subsequent breach.

18 6. SEVERABILITY. If any provision of these restrictions is
19 held to be invalid, or for any reason becomes unenforceable, no other
20 provision shall be thereby affected or impaired.

21
22 Dated: 2/17, 1995

23
24 SIGNED: Elizabeth Teherani
25 Elizabeth Teherani
26 PRINT OR TYPE NAME OF ABOVE

SIGNED: Nasser Teherani
Nasser Teherani
PRINT OR TYPE NAME OF ABOVE

27 * * NOTARY ACKNOWLEDGMENT ON THE NEXT PAGE * *

Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

1 STATE OF CALIFORNIA
COUNTY OF Los Angeles

2 On February 17 1995 before me, "Vicki L. McGill", A Notary
3 Public personally appeared NASSER AND ELIZABETH TEHERANI personally
4 ~~known to me~~ (or proved to me on the basis of satisfactory evidence) to be the
5 person(s) whose name(s) ~~is~~/are subscribed to the within instrument and
6 acknowledged to me that he/she/they executed the same in his/her/their
7 authorized capacity(ies), and that by his/her/their signature(s) on the
8 instrument the person(s), or the entity upon behalf of which the person(s)
9 acted, executed the instrument.

10 WITNESS my hand and official seal.



11
12
13 Signature Vicki L. McGill

14
15 STATE OF CALIFORNIA
COUNTY OF _____

16
17 On _____ before me, _____, A Notary
18 Public personally appeared _____, personally
19 known to me (or proved to me on the basis of satisfactory evidence) to be the
20 person(s) whose name(s) is/are subscribed to the within instrument and
21 acknowledged to me that he/she/they executed the same in his/her/their
22 authorized capacity(ies), and that by his/her/their signature(s) on the
23 instrument the person(s), or the entity upon behalf of which the person(s)
24 acted, executed the instrument.

25 WITNESS my hand and official seal.

26
27 Signature _____

Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

1 NOW, THEREFORE, in consideration of the granting of the Permit to the
2 Owner by the Commission, the Owner hereby irrevocably covenants with the
3 Commission that there be and hereby is created the following restrictions
4 on the use and enjoyment of said Property, to be attached to and become a
5 part of the deed to the property.

6 1. COVENANT, CONDITION AND RESTRICTION. The undersigned Owner,
7 for himself/herself and for his/her heirs, assigns, and successors in
8 interest, covenants and agrees that:

9 The subject permit is only for the development described in the coastal
10 development permit No. 4-94-157, and that any future additions or
11 improvements to the property, including clearing of vegetation (except
12 for removal of vegetation consistent with Fire Department requirements)
13 and grading, will require an amendment to Permit No. 4-94-157 or will
14 require an additional coastal development permit from the California
15 Coastal Commission or from its successor agency.

16
17
18 2. DURATION. Said Deed Restriction shall remain in full force
19 and effect during the period that said permit, or any modification or
20 amendment thereof remains effective, and during the period that the
21 development authorized by the Permit or any modification of said development,
22 remains in existence in or upon any part of, and thereby confers benefit
23 upon, the Property described herein, and shall bind Owner and all his/her
24 assigns or successors in interest.

25 3. TAXES AND ASSESSMENTS. It is intended that this Deed
26 Restriction is irrevocable and shall constitute an enforceable restriction
27 within the meaning of a) Article XIII, §8, of the California Constitution;

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(Teherani)

1 This is to certify that the deed restriction set forth above is hereby
2 acknowledged by the undersigned officer on behalf of the California Coastal
3 Commission pursuant to authority conferred by the California Coastal
4 Commission when it granted Coastal Development Permit No. 4-94-157
5 on December 14, 1994 and the California Coastal Commission consents
6 to recordation thereof by its duly authorized officer.

7 Dated: March 9, 1995
8

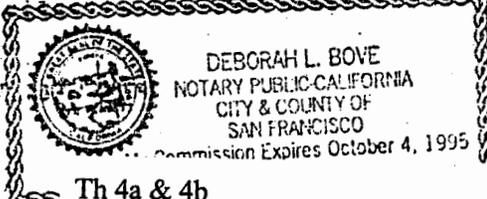
9
10 John Bowers
11 John Bowers, Staff Counsel
12 California Coastal Commission
13

14 STATE OF CALIFORNIA
15 COUNTY OF SAN FRANCISCO

16 On 3/9/95 before me, Deborah L. Bove, A Notary
17 Public personally appeared John Bowers, personally
18 known to me (or proved to me on the basis of satisfactory evidence) to be the
19 person(s) whose name(s) is/are subscribed to the within instrument and
20 acknowledged to me that he/she/they executed the same in his/her/their
21 authorized capacity(ies), and that by his/her/their signature(s) on the
22 instrument the person(s), or the entity upon behalf of which the person(s)
23 acted, executed the instrument.
24

25 WITNESS my hand and official seal.

26
27 Signature Deborah L. Bove


DEBORAH L. BOVE
NOTARY PUBLIC - CALIFORNIA
CITY & COUNTY OF
SAN FRANCISCO
Commission Expires October 4, 1995
Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

Page 1 of 3

Date: November 22, 1988
Permit No. 5-83-290F6



COASTAL DEVELOPMENT PERMIT

On June 11, 1988, the California Coastal Commission granted to

Cold Creek Associates a General Partnership

this permit subject to the attached Standard and Special conditions, for development consisting of:

Subdivision of an 85 acre parcel into 10 residential lots totalling 26 acres and one additional lot to be set aside as a recreational use and trail easement totalling 59 acres.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at North of Monte Nido North Subdivision at 1100 N. Cold Canyon Rd, Malibu, CA.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: *Pamela De...*

Title: Staff Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Nov. 28, 1988
Date

[Signature]
Signature of Permittee

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CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

COASTAL DEVELOPMENT PERMIT

Page 2 of 3
Permit No. 5-83-290E6

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. Compliance. All development must occur in compliance with the proposal as set forth in the application for permit, subject to any special conditions 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 project during its development, 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.

SPECIAL CONDITIONS:

Prior to issuance of permit, applicant shall submit/record:

1. a. Appropriate documents necessary pursuant to Section F of the Malibu Interpretive Guidelines which represent nine (9) transfer of development credits. The form and content of the documents shall be acceptable to the Executive Director.
- b. As an alternative to 1(a) above, the applicant shall participate in the Coastal Conservancy lot retirement program. Prior to issuance of a permit, the Executive Director of the Coastal Conservancy must demonstrate to the satisfaction of the Executive Director of the Commission that nine (9) transfer of development credits can and will be acquired.

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(Teherani)

2. Submit an irrevocable offer to dedicate an access easement to provide for recreational use including hiking and equestrian access. The irrevocable offer shall be of a form and content approved by the Executive Director free of prior encumbrances except for tax liens providing the public the right of recreational use, including pedestrian and equestrian access over dedicator's real property, and shall include a survey showing that specific location of the easement. The offer shall run with the land in favor of the People of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of the recording. This easement will not preclude the construction of a road easement, not to exceed 60' in width, if approved by the Coastal Commission or its successor agency to serve adjoining parcels, consistent with an approved Local Coastal Program.

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Th 4a & 4b
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(Teherani)

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



VIA CERTIFIED MAIL (Article No. 7001 2510 0009 2099 7422) and REGULAR MAIL

November 15, 2002

Nasser and Elizabeth Teherani
955 Cold Canyon Road
Calabasas, CA 91302

Subject: Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings

Violation No.: V-4-01-044

Location: 955 Cold Canyon Road, Monte Nido, Los Angeles County
(APN 4456-039-006)

Violation Description: Unpermitted grading and fencing, clearance of significant vegetation, removal of limbs from mature oak trees; and construction of a horse corral, a path/road leading from the previously authorized corral to the new unpermitted corral, and railroad tie retaining walls. The unpermitted development is located (at its closest point) approximately 30 feet from Cold Creek and partially within a 60-foot wide access easement (as shown on recorded Tract Map No. 33873).

Dear Mr. And Mrs. Teherani:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist Order and Restoration Order for unpermitted development. The unpermitted development consists of grading and fencing, clearance of significant vegetation, removal of limbs from mature oak trees and construction of a horse corral, a path/road leading from the previously authorized corral to the new unpermitted corral, and railroad tie retaining walls. This development is located at 955 Cold Canyon Road in the Monte Nido area of Los Angeles County, APN 4456-039-006 ("subject property"). The subject property is located within the Malibu/Cold Creek Resource Management Area and is partially within the Cold Creek Environmentally Sensitive Habitat Area. Nasser and Elizabeth Teherani own the subject property.

The purpose of these enforcement proceedings is to resolve outstanding issues associated with the unpermitted development activities that have occurred at the subject property. Collectively, the Cease and Desist Order and Restoration Order will direct you to cease and desist from performing or maintaining any development that is subject to the permit requirements of the Coastal Act without a coastal development permit and will compel the removal of unpermitted

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(Teherani)

Exhibit #9

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development and restoration of the areas impacted by the unpermitted development. The Cease and Desist Order and Restoration Order are discussed in more detail in the following sections of this letter.

History of the Violation Investigation

On December 14, 1994, the Coastal Commission granted to Nasser and Elizabeth Teherani Coastal Development Permit 4-94-157. The permit (issued on March 27, 1995) authorized the construction of a 4,900 square foot single family home, swimming pool, horse corral, septic system, and 120 cubic yards of grading. The authorized development was located on a previously graded pad area (approved under 5-83-290).

The Commission staff first learned of the alleged violation on your property on May 11, 2001. Since that time staff has attempted to resolve this matter with you administratively as an alternative to commencement of formal enforcement proceedings. On October 25, 2001 a "Notice of Violation" letter was sent to you regarding the unpermitted development on the subject property. Such development without a coastal development permit is a violation of the Coastal Act. The letter requested that you submit a complete permit application by November 26, 2001, for either removal of the unpermitted development and restoration of the site or seeking authorization of the development "after-the-fact". At this time, the Commission's enforcement staff recommended that you submit a permit application for the removal of the unpermitted development and restoration of the site because staff felt that the unpermitted development did not appear to be consistent with the Chapter 3 policies of the Coastal Act.

On November 5, 2001, Commission staff discussed this matter with you via a telephone conversation. In this conversation, you stated your intentions to file a permit application to retain all the unpermitted development. A deadline of January 10, 2002, was given to you to submit a complete permit application. As of this date, a permit application has not been submitted to Commission's South Central Coast District.

On January 16, 2002, you authorized The Land & Water Company to act as your representative "to submit permit applications on [your] behalf, and to bind [you] in all matters concerning these applications." On April 16, 2002, Commission staff received a letter from Lynn Heacox of The Land & Water Company, which addressed the October 25, 2001 Notice of Violation letter. In this letter, it was stated that the site was developed "in a manner consistent with the approved Coastal Plans and consistent with the protection of significant natural resources". As briefly discussed below, grading and fencing, clearance of significant vegetation, removal of limbs from mature oak trees and construction of a horse corral, a path/road leading from the previously approved corral to the unpermitted corral, and railroad tie retaining walls is not consistent with and not authorized by the underlying permit, does require a coastal development permit, and appears to be inconsistent with the Chapter 3 policies of the Coastal Act. Even if the unpermitted development were consistent with the Chapter 3 policies of the Coastal Act, such activities are clearly included in the definition of "development" (Section 30106 of the Coastal Act), and therefore require a coastal development permit. Again, such development without a permit is a violation of the Coastal Act. In addition, as part of your original permit proceedings, you recorded a "Future Development" deed restriction on the subject property stating, in part,

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(Teherani)

“that any future additions or improvements to the property, including clearing of vegetation and grading, will require an amendment to Permit No. 4-94-157 or will require an additional coastal development permit”.

Cease and Desist Order

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.

The Executive Director of the Commission is issuing this notice of intent to commence Cease and Desist Order proceedings since unpermitted development has occurred at the subject property. This unpermitted development consists of grading and fencing, clearance of significant vegetation, removal of limbs from mature oak trees and construction of a horse corral, a path/road leading from the previously authorized corral to the new unpermitted corral, and railroad tie retaining walls. The above-described unpermitted development is located partially within riparian habitat and within a 60-foot wide access easement (as recorded on Tract Map No. 33873). Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit (CDP). “Development” is defined by Section 30106 of the Coastal Act as follows:

“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...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...

Grading, fencing, the removal of significant habitat and the construction of a horse corral, a path/road leading to the horse corral, and railroad tie retaining walls constitute “development” and therefore requires a CDP. Since this development was performed in the Commission's permit jurisdiction (there is not a certified Local Coastal Program for this section of Los Angeles County), the performance of this development requires a CDP from the Commission.

In addition, the underlying permit that authorized the construction of a 4,900 square foot single family home, swimming pool, horse corral, septic system, and 120 cubic yards of grading (all of which is located on the existing flat grade pad) included a condition (Special Condition No. 3 of CDP No. 4-94-157) to record a “Future Development” Deed Restriction. The deed restriction on the subject property (recorded 3/15/95 as instrument No. 95-386345 in the County of Los Angeles) states, in part, “that the subject permit is only for the development described in the coastal development permit No. 4-94-157; and that any future additions or improvements to the

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(Teherani)

property, including clearing of vegetation and grading, will require an amendment to Permit No. 4-94-157 or will require an additional coastal development permit from the Coastal Commission or from its successor agency." For these reasons, the criteria of Section 30810(a) of the Coastal Act have been met and I am sending this letter to initiate proceedings for the Commission to determine whether to issue a Cease and Desist Order.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to the requirements of the Coastal Act.

Restoration Order

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site in the following terms:

In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... the development is inconsistent with this division, and the development is causing continuing resource damage.

I have determined that the specified activity meets the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development consisting of grading, fencing, the removal of significant habitat and the construction of a horse corral, a path/road leading to the horse corral, and railroad tie retaining walls has occurred on the subject property.
- 2) This development is inconsistent with the resource protection policies of the Coastal Act, including, but not limited to the following:
 - a) Sections 30210 and 30213 (public access),
 - b) Section 30223 (recreation),
 - c) Sections 30230 and 30231 (marine resources, biological productivity and water quality),
 - d) Section 30233 (diking, filling or dredging),
 - e) Section 30236 (substantial alterations of rivers),
 - f) Section 30240 (environmentally sensitive habitat areas or ESHA),
 - g) Section 30251 (scenic and visual qualities), and
 - h) Section 30253 (geologic and flood hazards, erosion and natural landform alteration).
- 3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development has impacted the resources listed in the previous paragraph (item number two). Such impacts meet the definition of damage provided in Section 13190(h): "any degradation or other

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reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." The continuation of the unpermitted horse corral will lead to increased erosion and the sedimentation of the adjacent stream and nearby Cold Creek and potentially lead to increased polluted runoff from horse wastes, including organic matter, ammonia, nutrients, and salts from manure and urine. Such polluted runoff can cause algae blooms and eutrophication, robbing aquatic life of dissolved oxygen. In addition, the continuation of the unpermitted development, as listed above, will create adverse impacts to water quality, marine resources, public access, sensitive habitat areas, the scenic and visual qualities of natural areas, the alteration of natural landforms, and development in a hazardous location. A substantial portion of the impacts from the unpermitted development continues to exist at the subject property; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence a Restoration Order proceeding before the Commission in order to restore the subject property to the condition it was in before the unpermitted development occurred.

The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations. Section 13196(e) of the Commission's regulations states the following:

Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred.

Accordingly, any Restoration Order that the Commission may issue will have as its purpose the restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described above.

In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense (SOD) form. **The SOD form must be returned to the Commission's San Francisco office, directed to the attention of Aaron McLendon, no later than December 5, 2002.**

The Commission staff intends to schedule the hearings for the Cease and Desist Order and Restoration Order during the Commission meeting that is scheduled for January 7-10, 2003 in Los Angeles. If you have any questions regarding this letter or the enforcement case, please call Aaron McLendon at (415) 904-5220 or send correspondence to his attention at the address listed on the letterhead.

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(Teherani)

Sincerely,



Peter Douglas
Executive Director

cc: Aaron McLendon, Headquarters Enforcement Officer
Lisa Haage, Chief of Enforcement
John Bowers, Staff Counsel
Amy Roach, Deputy Chief Counsel
Steve Hudson, Southern California Enforcement Supervisor
Tom Sinclair, South Central Coast District Enforcement Officer
Chuck Damm, Senior Deputy Director, Southern California
Gary Timm, South Central Coast District Coastal Program Manager
Lynn Heacox, Applicant's representative

Enc. Statement of Defense Form for Cease and Desist Order and Restoration Order

STATEMENT OF DEFENSE FORM
Responses to Questionnaire

February 12, 2003 / V-4-01-044 / 955 Cold Canyon Road, Calabasas.

1. We admit to none of the allegations.
2. We intend to deny all of the allegations.
3. None.
4. ALLEGATIONS: Staff is stating that development has occurred on the subject property without a Coastal Development Permit. Violations alleged by Coastal Commission Staff on page four of their letter dated November 15, 2002 consists of; "Grading, fencing, the removal of significant habitat and the construction of a horse corral, a path/road leading to the horse corral, and railroad tie retaining walls.

BACKGROUND INFORMATION AND DISCUSSION:

The 1980 Permit Process;

The Coastal Development Permit process is significantly different today than in the late 1970's and early 1980's. Today the Commission approves plans that have been conceptually approved by a local government agency but which are extremely detailed. During the early 80's the Coastal Commission approved plans that were in their very early stages of planning. They were truly conceptual plans. Projects were approved without the specific detail that the Commission requires today. Homes were approved on the beach with only the benefit of small scale site plans and floor plans. Detailed site plans, elevation plans, seawall plans and roof plans were not required. The Commission staff also advised applicants that an approval of a project implied the approval of ancillary development commonly associated with the specifically approved development. Plans for projects submitted to the Commission almost never included details of motor courts, fencing, storage buildings, details of grading, etc. As a result Coastal Permits approved in 1980 should not be rigorously examined for compliance in the same manner as permits issued today because the standards required for the approval of development were different. The Commission, literally, approved plans in a conceptual form. Today, however, the Commission approves plans that have been conceptually approved by a local government agency but which are extremely detailed.

The 1981 Subdivision (CDP 81-7701);

The subject property is part of a 10 lot equestrian oriented subdivision and a 59 acre open space lot approved by the Coastal Commission in 1981. The subdivision was planned and promoted by the famous TV/Movie cowboy star Ben Johnson. Most of the lots in the subdivision included graded building sites at the higher elevations and level equestrian areas at the lower elevations along the creek. The subdivision also included trails along the creek and feeder trails for each building site that led down the slope to the equestrian areas and regional trail system. Fencing was installed by the subdivider on parcels fronting Cold Creek and in various locations throughout the subdivision. The subdivision and improvements are depicted on Exhibit 1 (Subdivision Map).

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(Teherani)

The Final Recorded Tract Map included a specific metes and bounds survey but Statement of the conceptual grading plans were completed on rough road department topography with 5' contour intervals. Coastal staff reports state that the approved Grading Plan did not include total grading quantities (5-91-409, 5-91-452, etc.). The grading plan also failed to include detailed cross sections of slopes. This is unheard of in today's permit process. A minimum of 2' contour intervals are now required for all grading plans as well as detailed cross sections. As a result, the grading plans for most of the homes approved by the Coastal Commission, after the approval of the subdivision, required different quantities of grading than originally anticipated. Some homes required more and some less.

The trails approved by the Commission were not useful until they were cleared and/or graded. This was contemplated during the approval process and was necessary in order for the easements to be useful. All trail improvements were an implied part of the project and completed by the subdivider. The improvements allowed property owners to gain access from their homes down the slopes to the equestrian areas and trail system, and were also necessary to facilitate public use of the system. The trails are an integral part of the subdivision and were discussed in the subdivider's sales brochure which advertised that the "Cold Creek Ranch homesites are connected by equestrian and hiking trails to thousands of acres of state and federal park land" (Exhibit 2; Sales brochure located in file CDP 4-99-198). The lots continue to be sold and marketed today in the same fashion as when the originally sold (Exhibit 3).

The approved corral fencing has been referenced in previous Coastal Permits (See Exhibit 4; CDP 4-96-047 page 4, fourth paragraph). Photographs of corral fencing and new trails within the subdivision were taken by Coastal staff as early as March 13, 1994 (See Exhibit 5; Color photos; these photos were located in file CDP No. 4-99-198). Also a letter dated April 30, 1982 from the representative of the subdivider to the Executive Director of the Commission indicated that the developer "had spent many hours working on these horse trails" and would like to construct "white horse fencing for the trail along the creek and some of the feeder trails, as long as the money lasts" (Exhibit 6; Letter dated April 30, 1982 to the Executive Director). Brush clearance along the trails and grading was necessary in order for the trails to be useful. Fencing along many of the trails marked their location. The evidence indicates that it was understood the subdivision would include improvements commonly found in an equestrian oriented subdivision.

-If this is an inaccurate statement every home owner in the subdivision is currently in violation of their permit because all of the homes currently constructed include trails and corral fencing-

The Coastal Commission did not impose conditions on the original subdivision which would have prohibited future improvements to the corral fencing or trails, or restrict repair and maintenance activities. As noted above improvements to the corral fencing and maintenance of trails have been completed on all of the developed properties within the tract, and continues to be completed by members of the public within the trail easements that are adjacent to the creek. The improvements

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were an implied part of the original Coastal Permit and are not violations of the Coastal Act. The Commission clearly recognized that the subdivision which concentrated development along the east side of the creek, "would mitigate any impacts that the increased number of lots would have on the creek and habitat (Finding in CDP No. 81-7701)."

The Teherani Property;

Mr. Teherani purchased Lot 5 of this subdivision (Tract Map 33873) in 1990. The Coastal Commission approved CDP 4-94-157 on 12/14/1994. There is nothing in that permit that cancels or supersedes the prior approvals included in the original subdivision of the property. Lot 5 consists of an extensively graded cut and fill pad that was estimated to total 5730 cubic yards. When the property was purchased the lot consisted of a flat building pad, drainage improvements, corral fencing adjacent to the creek, a lower pad for equestrian use, and trails around the building site and down to the equestrian area and regional trail system. All improvements to the property are within the fuel modification zone and, with the exception of the corral fencing, are over 100' in distance from riparian habitat. The corral fencing does not increase brush clearance requirements or affect riparian habitat (It is noted that the Coastal Commission approved the City of Malibu's Coastal Plan which allows equestrian facilities within ESHA if the fuel modification requirements are not increased as a result of the construction).

The Alleged Violations are grouped for discussion as follows;

A. CONSTRUCTING / GRADING A HORSE CORRAL AND CORRAL RAIL FENCING

RESPONSE TO ALLEGATION: We did not grade a corral. The lower level equestrian area was level when the lot was purchased and has not been altered. The corral area will continue to be used for horses whether it is fenced or not fenced. Staff concludes that the construction of corral fencing by the property owner is a violation of the Coastal Act. We disagree. Corral fencing along the creek and trails were originally constructed by the subdivider. The fencing was destroyed by the fire of 1996 and was reconstructed by Mr. Teherani in the same location. Additional improvements to the fencing were made by adding return fencing around the lower level equestrian area and adding fencing along an existing feeder trail from the upper pad to the lower pad. The lower level equestrian area was level and did not require additional improvements. Mr. Teherani has always believed that corral fencing was part of the original subdivision and not new development. Also, corral fencing does not require County Building Permits. It does not make any sense to approve an equestrian oriented subdivision and restrict corral fencing. The fencing that Mr. Teherani constructed was replacement fencing that was destroyed by natural disaster and improvements to that fencing approved under the original subdivision permit. Both are exempt under Section 30610(b)&(g) of the Coastal Act unless the improvement involves a risk of adverse environmental effect as discussed in Coastal Regulation

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Section 13253. Projects that require permits include improvements on a beach or in a designated scenic area, include significant alteration of land forms or are within as an environmentally sensitive habitat area. None of these provision are applicable and all improvements to the fencing conform to Coastal Commission regulations.

B. GRADING AND CONSTRUCTION OF A PATH/ROAD WITH RETAINING WALLS.

RESPONSE TO ALLEGATION: Staff concludes that the property owner graded a horse trail from the upper pad area down to the lower level equestrian area located next to the public trail easement. We disagree. The original subdivision was as an equestrian oriented project that included trails from each of the building sites down to the regional trail system that traverses the Santa Monica Mountains. It does not make any sense to approve an equestrian oriented subdivision and not include trails to gain access to the system. The entire area has been extensively graded as a result of the subdivision and the implementation of the mini-ranch concept by the subdivider. Most of the properties within the subdivision contain feeder trails that were originally installed by the developer (Exhibit 1; subdivision map).

The approval of feeder trails is not an unusual concept. In 1986 the Coastal Commission certified a Coastal Plan that encouraged such trails to be installed. Policy 32 is as an encouragement to,

“Provide a safe trail system throughout the mountain and seashore that can achieve the following”; “Provide connections with populated areas; Provide for and be designed to accommodate multiple use (walking, hiking and equestrian) wherever appropriate; [and] Facilitate linkages to community trail systems.”

The existing feeder trails accomplish these purposes. The Coastal Commission approved a similar feeder trail on the adjacent property down the hillside from the upper level to a lower level in the same subdivision (CDP 4-99-083), in conformance with this policy, where an existing trail was not adequate.

Ongoing repair and maintenance activities to the feeder trail, approved in the original subdivision, have been successful in keeping it level and safe for use. To accomplish this task the owner has installed short garden walls on the down slope portion of the feeder trails to keep them level (See Exhibit Nos. 6; photos of trail). These garden walls do not require County Building Permits.

The trail is within 100' of the building pad and located entirely within the Fuel Modification Zone. In the morning the a covered corral is opened and the horses wander down the trail to the larger lower level arena. The only work completed on the trail is “Repair and Maintenance” activities that are exempt from the Coastal Act. Only extraordinary methods of repair and maintenance require Coastal Permits. These include “Any repair or maintenance to facilities or structures or work located in as an environmentally sensitive habitat area, any sand area, within 50 feet of the

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edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams (Coastal Commission Regulation Section 13252)”. The feeder trails are located outside of all environmentally sensitive habitat areas, are more than 20' from the stream and have no other impacts on coastal resources.

Feeder trails were as an important part of the original subdivision and are necessary to gain access to the regional trail system. Without the feeder trails property owners would be denied access. The subject feeder trail has been maintained by the owner to accommodate multiple uses in a safe manner and is necessary to link the property to the community trail system.

Mr. Teherani has not violated the conditions of his coastal permit nor conditions imposed on the original permit for the subdivision. Mr. Teherani has maintained his property in complete compliance with Section 13252 of the Coastal Commission Regulations.

C. THE REMOVAL OF SIGNIFICANT HABITAT.

RESPONSE TO ALLEGATION: Staff concludes that the property owner has removed significant oak tree habitat. We disagree. The fuel modification zone encompasses the home and extends down the hillside and includes all of the lower level equestrian facilities. The owner has removed vegetation in total compliance with the approved Fuel Modification Plan. Some oak tree branches were removed by the Fire Department in 1996. A letter dated December 7, 2002 from the County Fire Department describes those activities (Exhibit 8; Letter from Fire Department dated 12/7/2002).

All clearance on slopes has been completed by hand. The existing feeder trails have facilitated hand clearance of vegetation. No oak trees or riparian vegetation has been adversely affected by these activities and no violations of the Coastal Act have occurred.

D. STATUTE OF LIMITATIONS.

The Coastal Commission staff cannot continue to state that Mr. Teherani is guilty of violations of the Coastal Act in light of the information listed above. If staff insists on this position the Coastal Act provides in Section 30805.5 that “Any action pursuant to Sections 30805 or 30822 to recover civil fines or penalties under this chapter shall be commenced not later than three years from the date on which the cause of action for the recovery is known or should have been known”. This time has lapsed because staff has been aware of corral fencing and trail construction throughout the subdivision both before and after the fire of 1996. Mr. Teherani purchased his property in 1991 and was cited on October 24, 2001 which is well beyond the provisions prescribed by law.

CONCLUSION:

My study of the files (4-96-047, 4-92-153, 5-91-409, 4-94-157, 4-99-83, 5-91-452, 4-00-213,

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4-99-198, 4-98-073, 4-00-213, 4-98-011 & 81-7701) concludes that the Coastal Commission did approve an equestrian oriented subdivision with corral fencing and horse trails which has been acknowledged by Commission staff both directly and indirectly. The record reflects exactly how matters were deliberated 20 years ago. The subject property is being used consistent with those approvals. Twenty years ago the Coastal Commission was delighted that a developer was willing to donate 59 acres of land in exchange for a subdivision. The Commission staff is now accusing individual property owners of violating the terms of their permits when most of the sites were specifically designed for equestrian use and included improvements common to this type of a subdivision. No violations of the Coastal Act are apparent and no significant impacts have occurred to oak trees, riparian vegetation, natural landforms or water quality as a result of this project. In our opinion there are sufficient facts to resolve this matter in favor of the applicant and to take no further action.

5. Staff is also stating that the existing development is inconsistent with the resource protection policies of the Coastal Act and that continuing resource damage is occurring. The following sections of the Coastal Act have been cited by staff but no evidence has been presented to support the allegation that the development is causing continuing resource damage as defined in Regulation Section 13190;

a) Sections 30210 & 30213 (Public Access); COMMENT - this development has no adverse impact on "Access" or "Lower cost visitor and recreational facilities". The subdivision of the property included provisions for open space and the construction of public horse & hiking trails. The subdivision also included trail linkages to allow property owners the opportunity to utilize the public horse and hiking trails. The improvements on the subject property do not impair public access.

b) Section 30223 (Recreation); COMMENT - This development has not adversely affected the Commission's ability to retain "Upland areas necessary to support coastal recreational uses...". The subdivision includes a public open space area of 59 acres devoted to hiking, horse trails and open space preservation.

c) Sections 30230 & 30231 (Marine resources, biological productivity and water quality); COMMENT - The Coastal Commission anticipated potential impacts to these resources when approving the subdivision and horse trails. The Commission determined that the subdivision was on balance more protective of significant resources by concentrating development along the east side of the creek and providing permanent open space on the west side. Also, discussions with the Mountains Restoration Trust (recipients of the open space easement) and the Malibu Trails Council indicate that there have been no obvious or reported violations of water quality standards as a result of equestrian use within the area. The development of this site has not adversely affected water quality.

d) Section 30233 (Diking, filling or dredging); COMMENT - The development does not

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(Teherani)

include the diking, filling or dredging of open coastal waters, including streams in anyway. Also, the development does not impede the movement of sediment to coastal waters. Nothing has been completed on this property remotely related to this provision of the Coastal Act.

e) Section 30236 (Substantial alterations of rivers); COMMENT - The development of this property has not resulted in the channelization, dams, or other alteration of the stream. The additions to the corral area are located within a future "Road Easement" and are located further away than the corral fencing constructed by the subdivider. The use has had no impact on the stream.

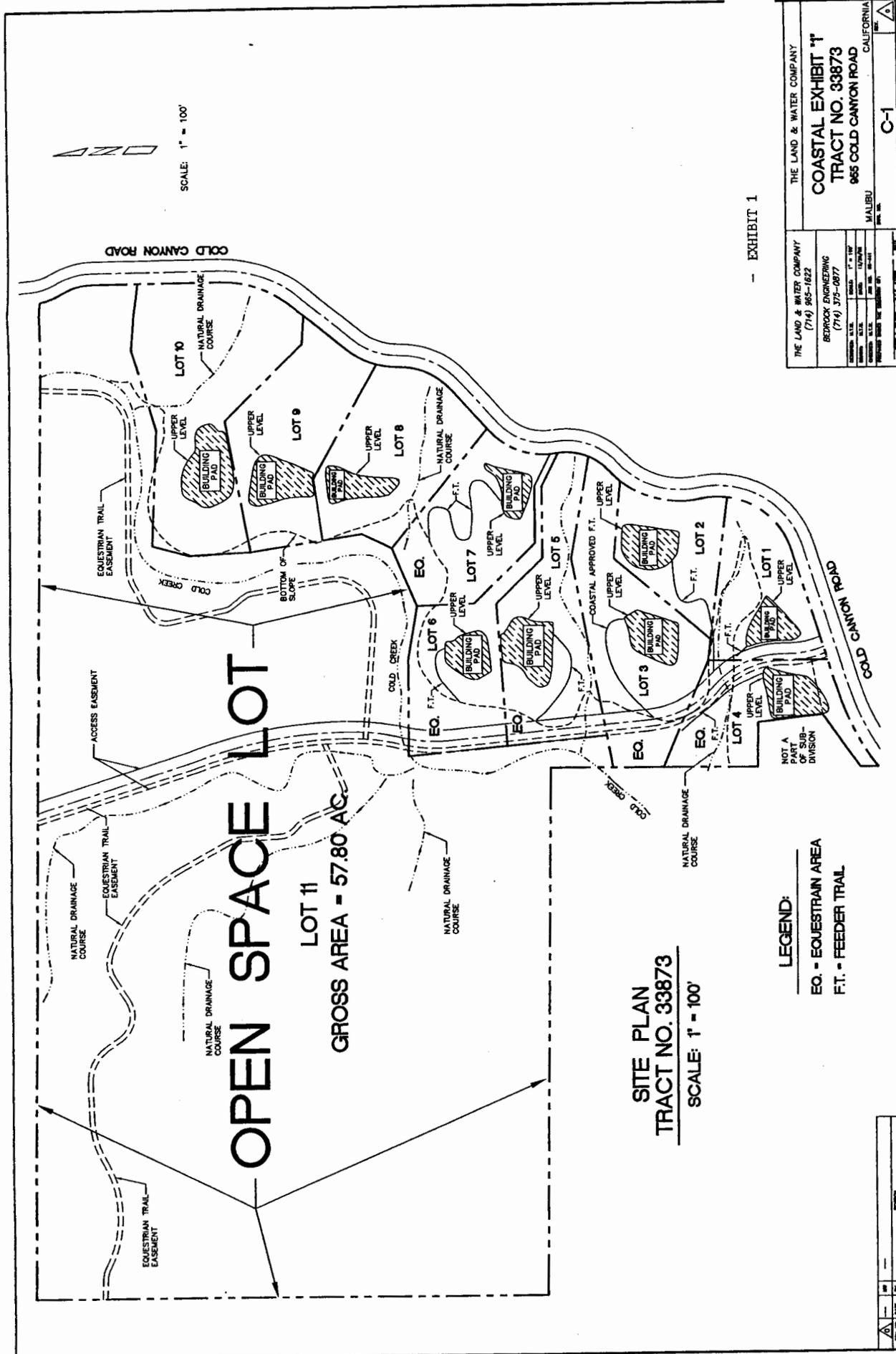
f) Section 30240 (Environmentally Sensitive Habitat areas or ESHA); COMMENT - The ESHA areas are completely beyond the corral areas. The 50' setback required in Coastal Plan Policy P79 was not imposed when the subdivision was approved. Corral fencing is more than 50' from the creek but not 50' from riparian vegetation. Brush clearance requirements do not require any clearance of riparian habitat.

g) Section 30251 (Scenic and visual qualities); COMMENT - The development has no impact on the scenic qualities of the area. All improvements to the property are consistent with the original equestrian concept.

h) Section 30253 (Geologic and flood hazards, erosion and natural landform alteration along bluffs and cliffs); COMMENT - Most of the Coastal approved trail system, which was cleared &/or graded, is along the creek and will be affected by flood hazards. The owner of the property has done nothing to increase the risk to life and property as a result of the improvements nor has he altered natural landforms along bluffs or cliffs. The property does not contain any identifiable bluffs or cliffs. The upper portion of the feeder trail on the owner's property is adjacent to a fill slope constructed during the grading of the subdivision. All structures suitable for human habitation are relatively safe from hazards.

6. No other documents are being presented at this time.

Teherani.7



SCALE: 1" = 100'

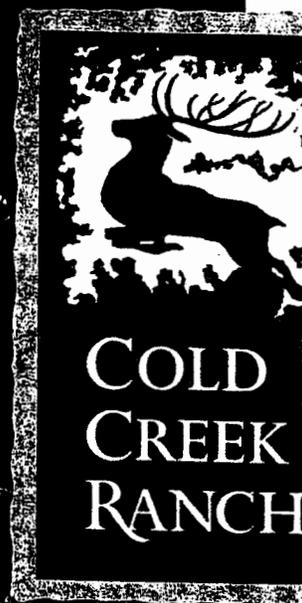
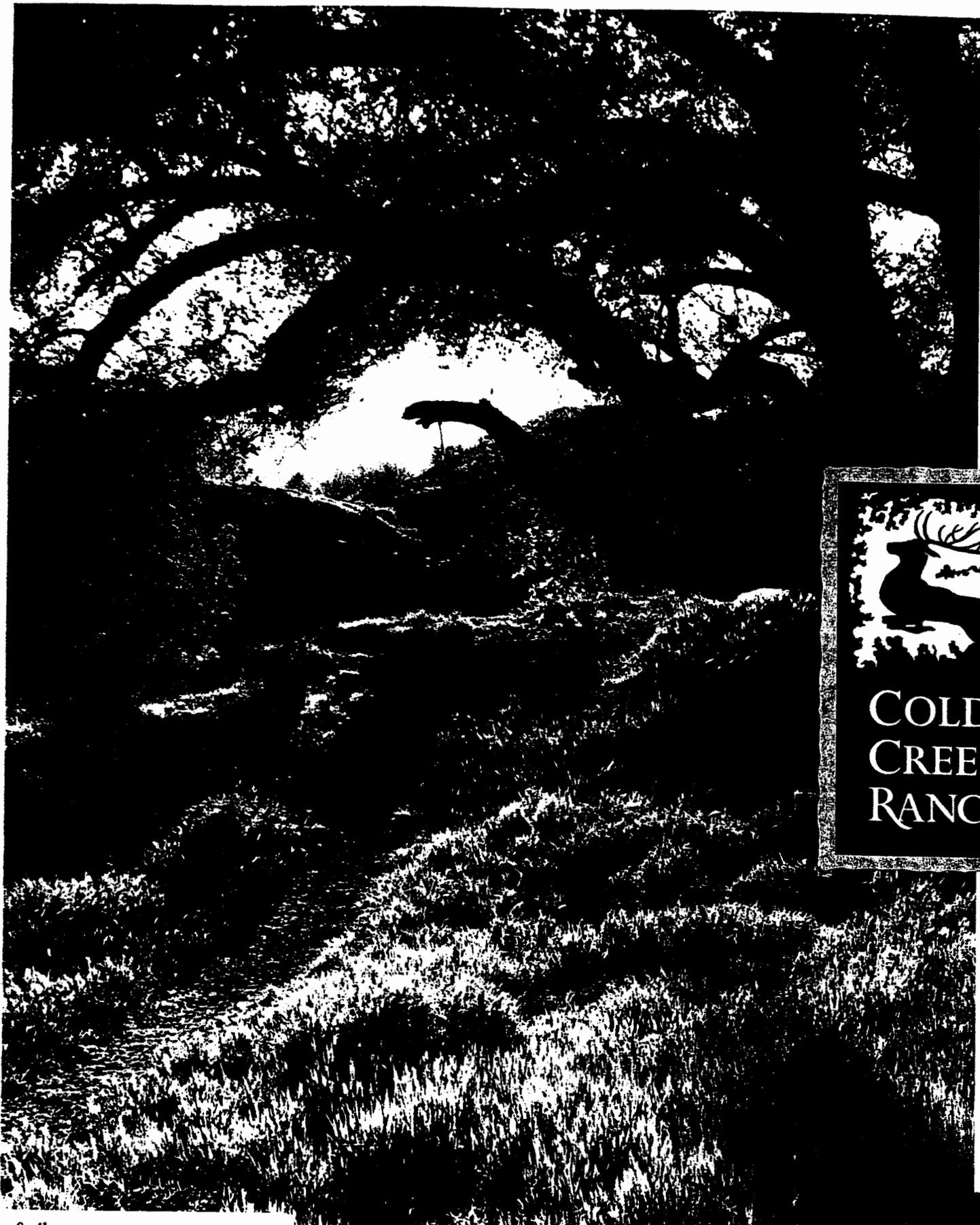
SITE PLAN
TRACT NO. 33873
 SCALE: 1" = 100'

LEGEND:
 EQ. - EQUESTRIAN AREA
 F.T. - FEEDER TRAIL

- EXHIBIT 1

THE LAND & WATER COMPANY (714) 965-1822		THE LAND & WATER COMPANY	
BEDROCK ENGINEERING (714) 375-0877		COASTAL EXHIBIT "1"	
PROJECT NO. 33873		TRACT NO. 33873	
DATE: 12/1/81		965 COLD CANYON ROAD	
DRAWN BY: J. L. BROWN		MALIBU CALIFORNIA	
CHECKED BY: J. L. BROWN		DATE: 12/1/81	
APPROVED BY: J. L. BROWN		SCALE: 1" = 100'	
DATE: 12/1/81		SHEET NO. C-1	

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(Teherani)

EXHIBIT 2 (4 Pages)

Exhibit #10

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Call LARRY, 310 457-6354



So close to Los Angeles . . . it is hard to believe such a place exists. 15 minutes to Warner Center. 10 minutes to Pepperdine and Malibu Beach.

A HIDDEN PLACE

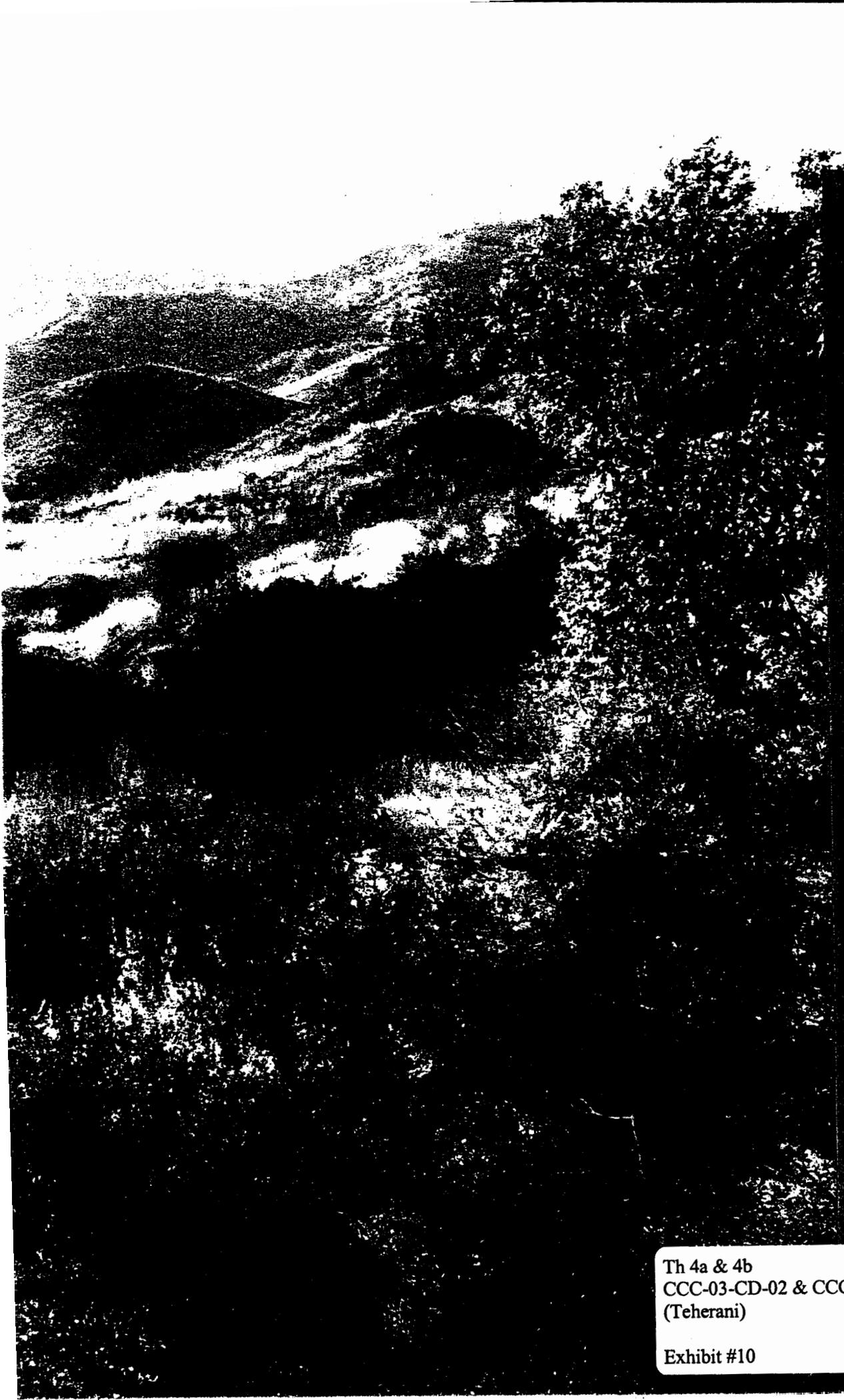
— nestled in the beautiful Monte Nido Valley, Cold Creek Ranch offers you a way of life rarely found in the Los Angeles area.

COMPLETED HOMESITES

— six completed building sites are blessed with spectacular views, sycamores and ancient oaks. Every lot fronts on Cold Creek, which flows year round (with normal rainfall). Lot sizes range from two to sixty three acres with graded pads from 8,000 to 22,000 square feet.

Homesites are sold with all utilities underground including

Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)



natural gas, electricity,
telephone and water. In
every case, these mag-
nificent homesites are
certified for geology
and ready to build.

OPEN SPACE - Fifty-eight
acres of deeded open
space provide the back-
ground for the ranch
sites. Hundreds of
varieties of wild flowers
grow throughout this
peaceful area.

**EQUESTRIAN AND
HIKING TRAILS** - Cold
Creek Ranch homesites
are connected by
equestrian and hiking
trails to thousands of
acres of state and fed-
eral park land. Red
Rock Canyon Park,
Mountain Restoration
Trust, Kay Spensley
Nature Center, Cold
Canyon Preserve, Santa
Monica Mountain Con-
servancy, Malibu Creek
State Park, Paramount

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CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

Exhibit #10

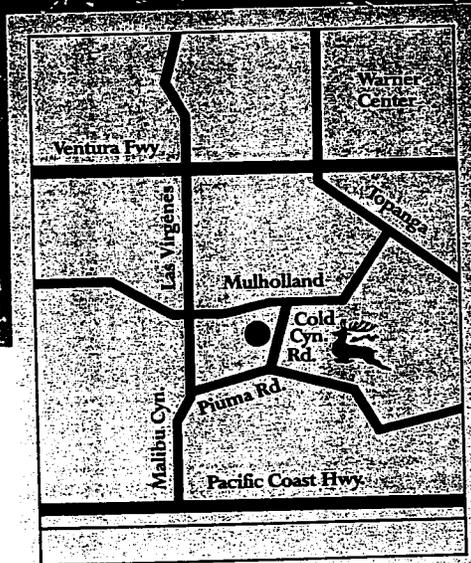
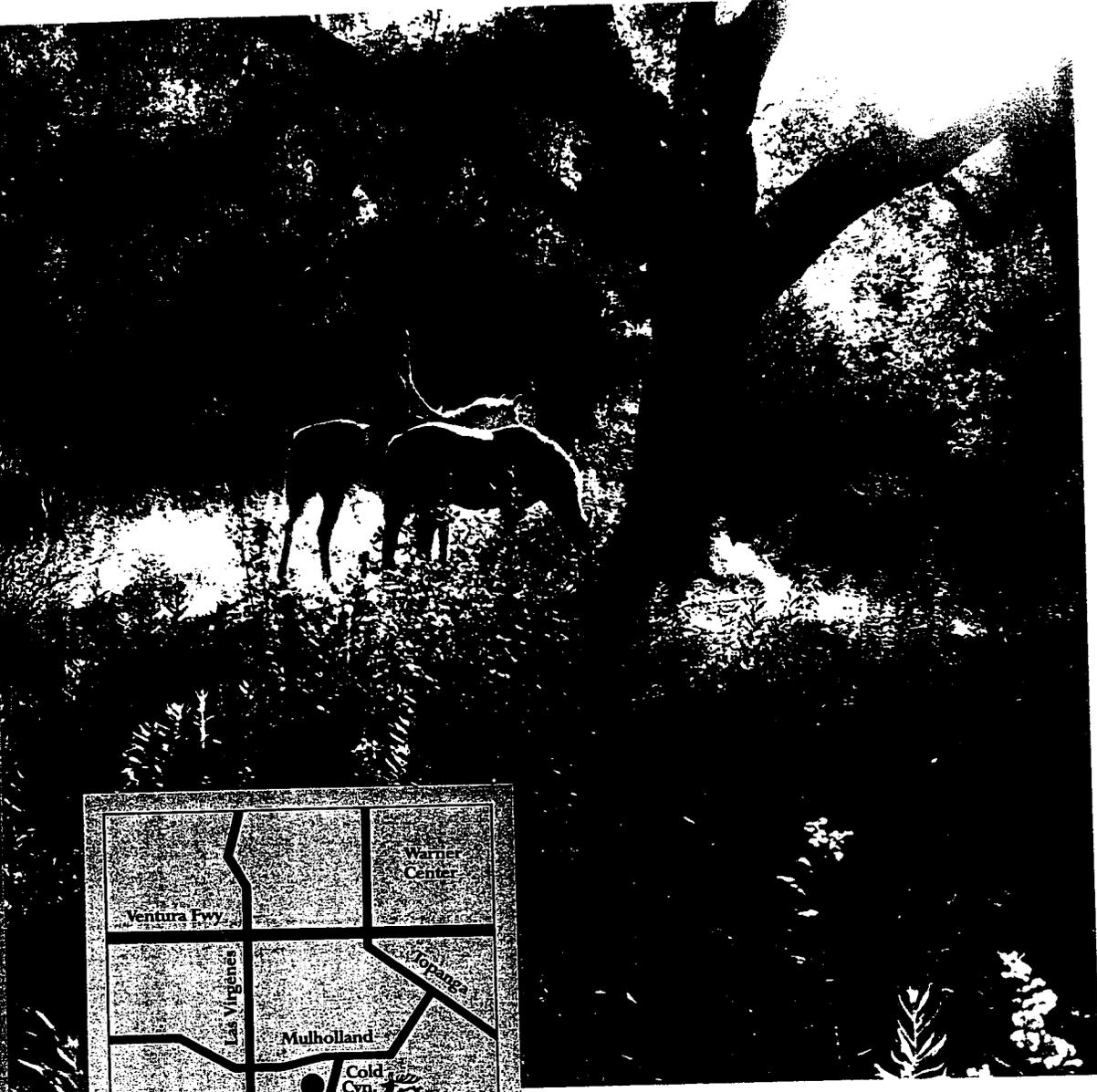
Page 11 of 28

Ranch and Tapia Park are all accessible through the extensive Backbone Trail System.

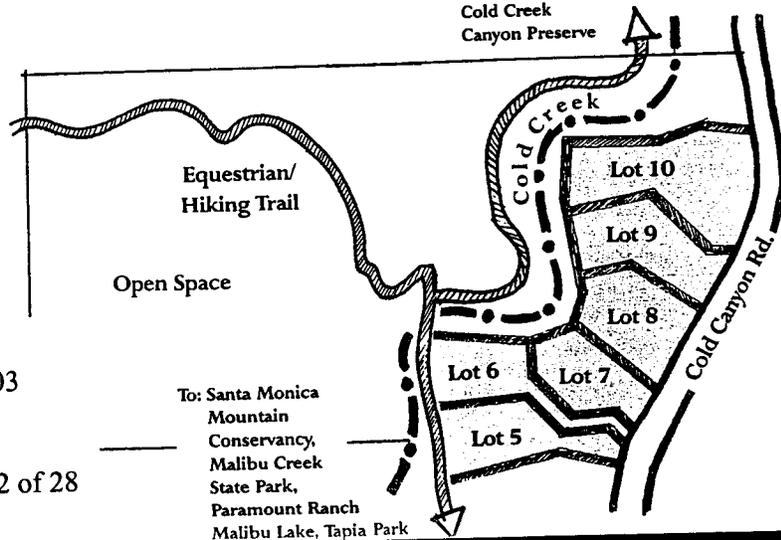
MAGICAL MONTE NIDO

— Monte Nido, meaning Mountain Nest, has long been known for its cohesive, family-oriented community. Growth is limited and the Las Virgenes school system is reputed to be one of the finest in the state.

Monte Nido is known for its ideal family environment due to low crime rate and numerous community activities including Pony Club and Fourth of July parades. The Monte Nido Valley has been called a "micro climate," enjoying cool ocean breezes and clean air throughout most of the summer.



To: Red Rock Canyon Park, Mountain Restoration Trust, Kay Spensley Nature Center, Cold Creek Canyon Preserve



Th 4a & 4b
 CCC-03-CD-02 & CCC-03-RO-03
 (Teherani)

Exhibit #10

FOR SALE

Equestrian Estate Site

3.4 Acres on Cold Creek



- Views of Malibu Creek State Park
- Adjoins open space and horse trails
- Two large graded pads
- Room for equestrian facility
- Septic system installed, great percolation
- Reports and Approvals
- Las Virgenes Schools



Ty Loosmore
800-607-5592 #2222



Th 4a & 4b
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(Teherani)

Exhibit #10

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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Filed: 4/26/96
49th Day: 6/14/96
180th Day: 10/23/96
Staff: JCJ/V JcJ
Staff Report: 5/20/96
Hearing Date: 6/11-14/96
Commission Action:
7296A

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-96-047

APPLICANT: Bob and Sherry DaSilva

PROJECT LOCATION: 975 Cold Canyon Road, Calabasas, Los Angeles County

PROJECT DESCRIPTION: Construct a 4,100 sq. ft. two-story single family residence, attached three car garage, swimming pool and spa, driveway, retaining wall, swale and underground drainage system. Remove portion of existing drainage swale. Finished grading consists of about 330 cubic yards. The property includes a building pad, driveway and drainage swale approved in Coastal Permit P-81-7701.

Lot Area	2.35 acres
Building Coverage	3,570 sq. ft.
Pavement Coverage	4,208 sq. ft.
Landscape Coverage	1,500 sq. ft.
Parking Spaces	3
Zoning	1 du/ 5 acres
Plan Designation	Rural Land II
Project Density	1 du/ 2 acres
Ht abv fin grade	32 feet

LOCAL APPROVALS RECEIVED: Project Approval in Concept, Department of Regional Planning, Los Angeles County, dated 3/7/96; Sewage Disposal Approved, Department of Health Services, Los Angeles County, dated 3/8/96; Geologic Engineering Review Sheet, Los Angeles County Department of Public Works, Materials Engineering Division, dated 4/25/95; Fire Department, Los Angeles County, dated 2/8/96.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan, Los Angeles County; Coastal Permit No. P-81-7701, Western Estates; Coastal Permit 5-83-290, Western Estates; Coastal Permit Nos. 5-91-409 and 4-94-157, Teherani; Coastal Permit No. 4-92-153, Ballard; Coastal Permit No. 4-96-041, Zeluck-Leeds.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed project with four (4) Special Conditions; addressing the consulting geologist's recommendations, a wild fire waiver of liability, a landscaping and fuel modification plan, and a future improvements restriction. The property includes a portion of Cold Creek, a blue line stream, and the Stunt High equestrian trail within the Malibu/Cold Creek Resource Management Area and the Cold Creek Environmentally Sensitive Habitat Area. The project as conditioned will protect these resources and public access.

Th 4a & 4b

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(Teherani)

- EXHIBIT 4 (2 Pages)

- C) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved disposal location.
- (D) Vegetation within 50 feet of the proposed house may be removed to mineral earth. Selective thinning, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. However, in no case should vegetation thinning occur in areas greater than a 200' radius of the main structure. The 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. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the County of Los Angeles Forestry Department.

4. FUTURE DEVELOPMENT RESTRICTION

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, 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. 4-96-047; and that any future additions or improvements to the property, including clearing of vegetation and grading, will require an amendment to Permit No. 4-96-047 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The removal of vegetation consistent with Special Condition three (3) of this permit 4-96-047 is permitted. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property, and shall be recorded free of prior liens.

Th 4a & 4b

CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

IV. Findings and Declarations.

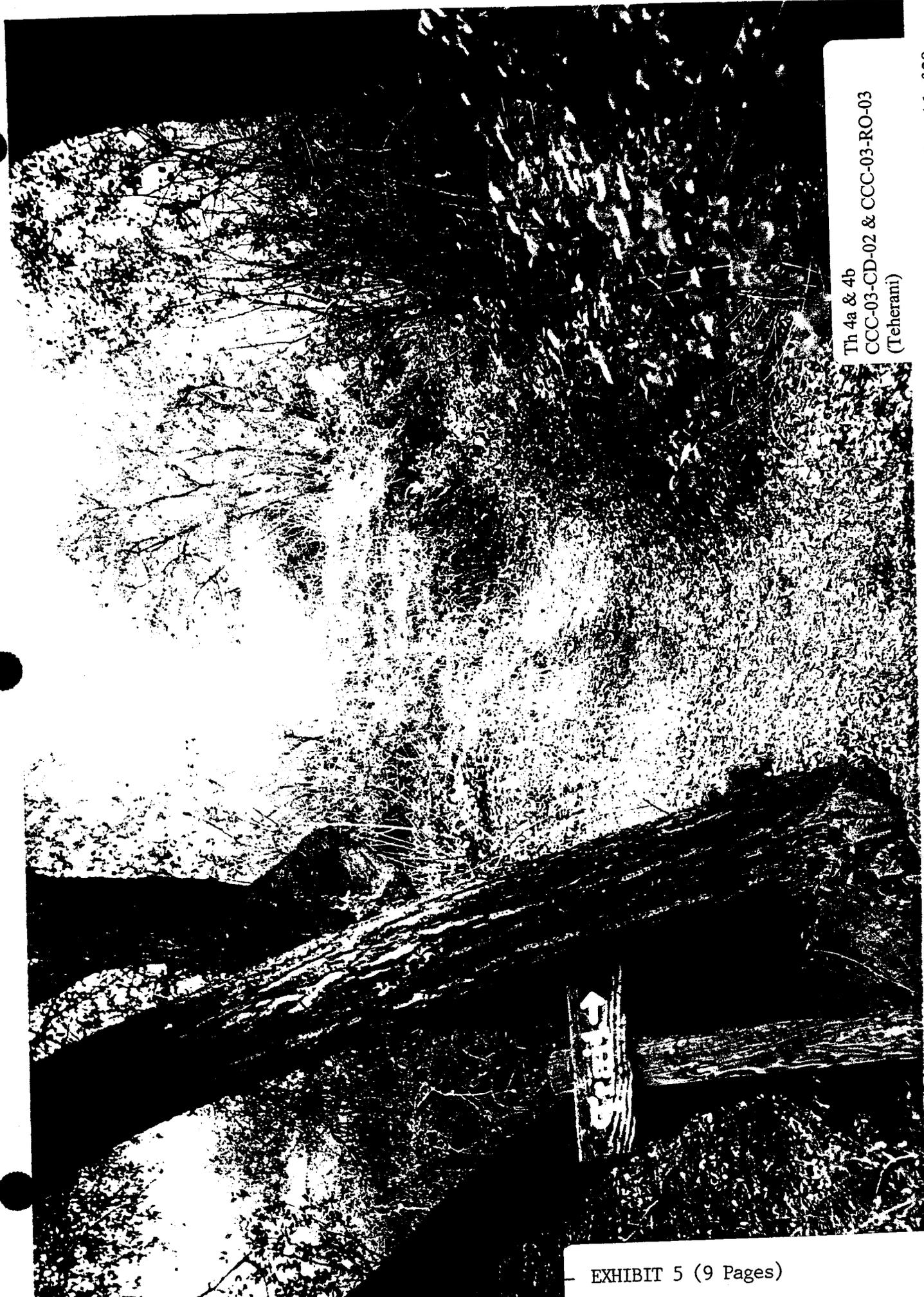
A. Project Description and Background

Exhibit #10

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The applicant proposes to construct a 4,100 sq. ft., two story, 32 ft. high from finished grade, single family residence with attached 550 sq. ft. 3-car garage, pool, spa, driveway, septic tank, retaining wall, drainage swale adjacent to retaining wall and driveway trench drain, fencing along west and south perimeter of the pad, and to remove a portion of existing drainage swale. About 330 cubic yards of additional grading is proposed on the 0.95 acres building pad and driveway within the total 2.35 acre lot. The property includes a building pad, driveway, drainage swale and wood fencing approved in Coastal Permit P-81-7701. (See Exhibits 1 - 10)

The project site, the building pad, is located north of the Monte Nido area, west of Cold Canyon Road, drains to a blue line stream, Cold Creek, is within the Malibu/Cold Creek Resource Management Area, and is within 200 feet of the Cold Creek Environmentally Sensitive Resource Area, which includes a significant oak woodland and savannah. The Los Angeles County Environmental Review Board has recommended a number of conditions on the project to protect environmentally sensitive habitat areas and has restricted the development to earth tone colors to reduce visual impacts from the equestrian trail which



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(Teherani)

EXHIBIT 5 (9 Pages)

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(Teherani)

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(Teherani)

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(Teherani)

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(Teherani)

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CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

Exhibit #10

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*George
Have we
responded?
rial*

green to

P. 1
*love
me*

The Townsgate Executive Bldg., 2659 Townsgate Rd., Westlake Village, Calif. 91361 • Suite 115 (213) 991-2635

P-81-7701

April 30, 1982



Nancy Lucast, Executive Director
California Coast Regional Commission
666 E. Ocean Blvd., Suite 3107
Long Beach, California 90801

Dear Nancy:

I recently found out that you replaced Mr. Carpenter. Coincidentally with that knowledge we made a conclusive step with the County. I am writing this letter to summarize our activity and respectfully to request your help.

We have progressed to the point where we can now comply with the Commissions conditions on enclosed permit No. P-81-7701. We are sending this letter under separate cover to Mr. Ronald R. Rose of the State Coastal Conservancy with the form of the Deed of Conveyance as per item 2, letter of condition enclosed. The Deed will cover the land, approximately 59 acres of the entire 85 acres, being transferred to the Conservancy.

We have progressed with the County of Los Angeles to the point of recordation on the land retained by us, which then allows said transfer of the 59 acres to the Conservancy. In recording the new map we will have given up the seven units which were on the County approved map within the land being transferred to the Conservancy. This will offset seven of the nine development credits requested by the commission as a condition of our permit.

We would like to transfer the dollar value of the then remaining two units into white horse fencing for the trail along the creek and some of the feeder trails, as long as the money lasts. When we were working with the local trail committee, the Santa Monica Mountains trail committee and your Mr. Heacox, we worked out the location of the various trails. Our engineer at the same time, working with the trails committee, also complied with your paragraph 3. We have spent many hours working on these horse trails and we feel the value of the two units we still own would be best placed within the land we are granting to the Conservancy in the form of some minimal grading and the horse fencing. We would also volunteer to get the trails committee to help us select the fence design and approve same.

Exhibit 5d

5.82.29DE

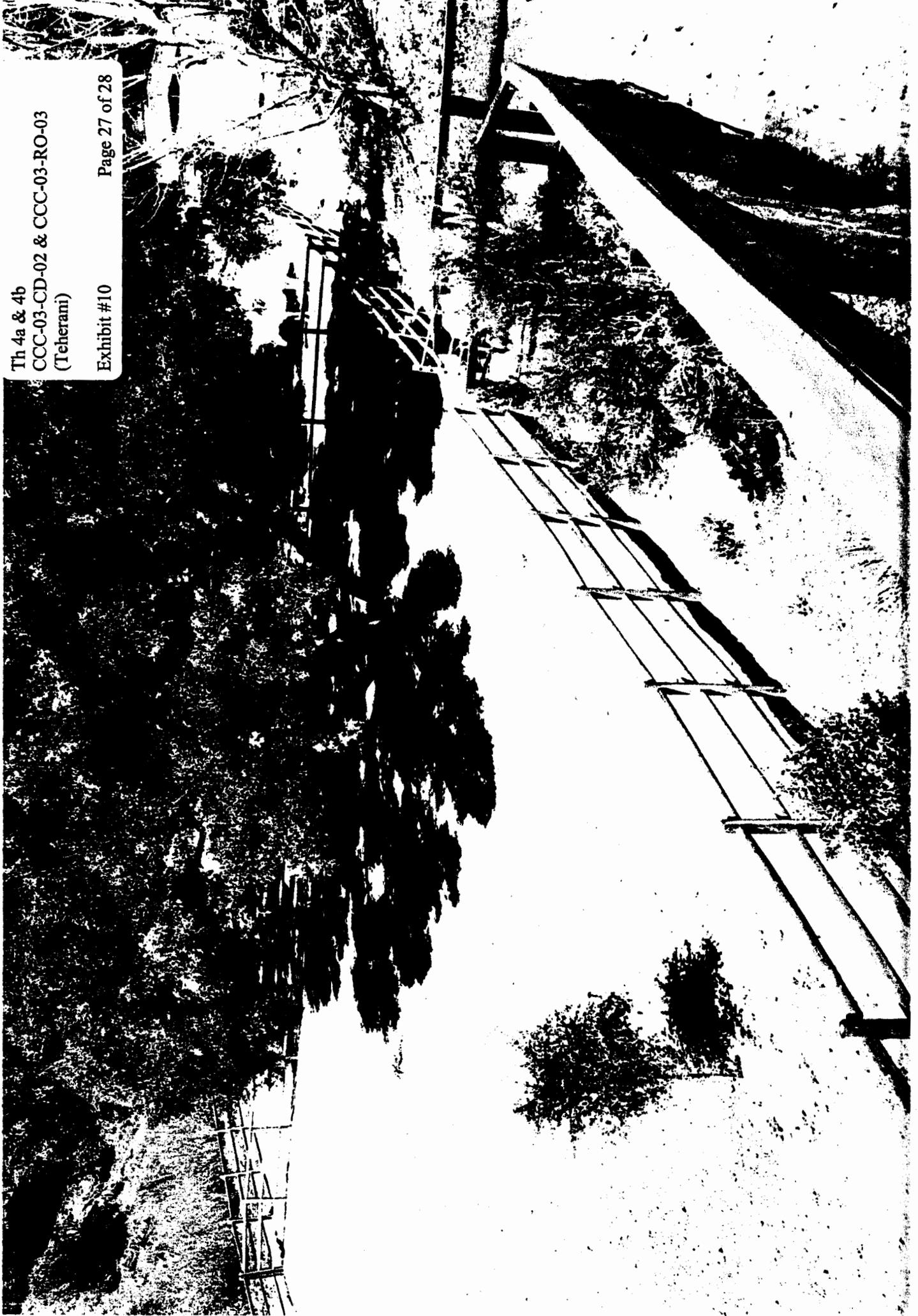
EXHIBIT 6 (2 Pages)



Th 4a & 4b
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(Teherani)

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(Teherani)

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December 7, 2002

Mr. Fred Teherani
955 Cold Canyon Rd.
Calabasas, CA 91302

Dear Mr. Teherani:

At your request, I inspected the large oak tree located on your property West of your house and East of Cold Creek. The date of the inspection was December 4, 2002. You requested information regarding the large branch that was cut off of this tree during the Calabasas fire in October of 1996. The limb was cut-off approximately 5 feet above the ground at the trunk.

In 1996 the Calabasas brush fire burned under this tree igniting it. Fire crews working in the area, to extinguish the fire and protect improvements, cut limbs off many trees including this one. During emergency conditions, no records are kept on the trees or the limbs that are cut as this would be impractical. I have worked at this station since February 1, 1993. It is my recollection that this tree had several branches that were in contact with the ground fuels. After the 1996 fire, I noted that fire crews working in the area had cut this tree and others in the area. Since emergency crews during an emergency cut off this tree branch you were not required to obtain an oak tree cutting permit. It was good to see that the brush modification that you had done, on the slope between the tree and your house, helped prevent the fire from spreading to your home.

Please note that this tree is within 200 feet of your house and in the future it must be maintained, by you, free of dead wood and limbed up 6 feet from the ground as part of your brush modification requirements. If you need to cut any live limb on this oak tree, greater than 2", you must first obtain an oak tree permit by calling the Malibu Forestry Unit at (818) 222-1108 or Fire Station 67 at (818) 222-1099 prior to cutting.

Sincerely,



Captain Wayne A. Miller

Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

Exhibit #10

Page 28 of 28

- EXHIBIT 8



Tri-Co

Blueprint & Supply
1710 Donlon St., Suite 1
Ventura, CA 93003
(805) 642-5898

PLEASE REMIT
PAYMENT TO:
513 Laguna St.
Santa Barbara, CA 93101
(805) 968-1701

WORK ORDER/INVOICE

ORDER DATE: 12-1-00 CUSTOMER JOB NO.:
 ORDER NO.:
 RESALE TAXABLE

NO. QUANTITY	MATERIAL OR WORK DESCRIPTION	DELIVERY INSTRUCTIONS		SUPPORT SERVICES		UNIT	AMOUNT
		<input type="checkbox"/> HOLD <input type="checkbox"/> DELIVER <input type="checkbox"/> UPS <input type="checkbox"/> COURIER <input type="checkbox"/> PHONE	<input type="checkbox"/> CHARGE <input type="checkbox"/> C.O.D. <input type="checkbox"/> VISA/MC	<input type="checkbox"/> 3 HOLE <input type="checkbox"/> GBC <input type="checkbox"/> VELO <input type="checkbox"/> SCREW POSTS <input type="checkbox"/> MAIL WRAP	<input type="checkbox"/> EDGING <input type="checkbox"/> STAPLED <input type="checkbox"/> FOLDED <input type="checkbox"/> DATE STAMP <input type="checkbox"/> E-MAIL <input type="checkbox"/> DELIVERY <input type="checkbox"/> SPECIAL HANDLING		
1	4-99-198	<input type="checkbox"/> DIAZO PRINTS <input type="checkbox"/> BLUE <input type="checkbox"/> BLACK <input type="checkbox"/> TINTED BOND <input type="checkbox"/> PRES. BLACK <input type="checkbox"/> PRES. BROWN	<input type="checkbox"/> PLOTTER <input type="checkbox"/> BOND <input type="checkbox"/> TRANSPARENT <input type="checkbox"/> VELLUM <input type="checkbox"/> LINE ART <input type="checkbox"/> GREY/SCALES	<input type="checkbox"/> L.G. FORMAT XEROX <input type="checkbox"/> BOND <input type="checkbox"/> VELLUM <input type="checkbox"/> ERAS. VELLUM <input type="checkbox"/> MYLAR	<input type="checkbox"/> S.I. FORMAT XEROX <input type="checkbox"/> SINGLE SIZE <input type="checkbox"/> DOUBLE SIDE <input type="checkbox"/> MICROFILMING <input type="checkbox"/> APERTURE CARDS		
2	5-83-290E						
3	4-96-047						
4	4-98-011						
5	4-98-073						
6	4-00-213						
7	4-99-198						
8	5-91-452						
9	4-99-083						
10	4-92-153						
11	QUAN. UNITS						
12							
13							
14							

Please keep files separate
 even those that are for
 the customer thank you
 (per customer request)

TERMS: DUE ON PRESENTATION OF INVOICE
 10% DISCOUNT IF PAID WITHIN 10 DAYS
 DATE OF INVOICE. A FURTHER CHARGE OF
 1 1/2 % PER MONTH WILL BE APPLIED TO
 DELINQUENT ACCOUNTS.
THANK YOU

WORK ORDER WRITTEN BY: Julie A. Rovello DATE: 12-1-00
 WORK ORDER APPROVED BY: _____ DATE: _____
 WORK RECEIVED BY: _____ DATE: _____

Th 4a & 4b
 CCC-03-CD-02 & CCC-03-RO-03
 (Teherani)

Tri-Co

Blueprint & Supply
 1710 Donlon St., Suite 1
 Ventura, CA 93003
 (805) 642-5898

PLEASE REMIT PAYMENT TO:
 513 Laguna St.
 Santa Barbara, CA 93101
 (805) 966-1701

WORK ORDER/INVOICE

CREDIT DATE 1-9-03		CUSTOMER JOB NO.		INVOICE NO.	
DATE RECEIVED		CUSTOMER P.O. NO.		RESALE <input type="checkbox"/>	
TAXABLE <input type="checkbox"/>					

DELIVERY INSTRUCTIONS		SUPPORT SERVICES		AMOUNT	
<input type="checkbox"/> HOLD	<input type="checkbox"/> CHARGE	<input type="checkbox"/> 3 HOLE	<input type="checkbox"/> EDGE BIND		
<input type="checkbox"/> DELIVER	<input type="checkbox"/> C.O.D.	<input type="checkbox"/> GBC	<input type="checkbox"/> STAPLED		
<input type="checkbox"/> UPS	<input type="checkbox"/> VISAMC	<input type="checkbox"/> VELD	<input type="checkbox"/> FOLDED		
<input type="checkbox"/> COURIER		<input type="checkbox"/> SCREW POSTS	<input type="checkbox"/> DATE STAMP		
<input type="checkbox"/> PHONE		<input type="checkbox"/> MAIL WRAP	<input type="checkbox"/> E-MAIL		
			<input type="checkbox"/> DELIVERY		
			<input type="checkbox"/> SPECIAL HANDLING		

ACCT. No. 50813		SPECIAL INSTRUCTIONS	
MATERIAL OR WORK DESCRIPTION		SPECIAL INSTRUCTIONS	
DIGITAL PRINTING <input type="checkbox"/> BOND <input type="checkbox"/> TRANSBOND <input type="checkbox"/> VELLUM <input type="checkbox"/> LINE ART <input type="checkbox"/> GREYSCALE	LG. FORMAT XEROX <input type="checkbox"/> BOND <input type="checkbox"/> VELLUM <input type="checkbox"/> ERAS. VELLUM <input type="checkbox"/> MYLAR	SML. FORMAT XEROX <input type="checkbox"/> SINGLE SIDE <input type="checkbox"/> DOUBLE SIDE <input type="checkbox"/> MICROFILMING <input type="checkbox"/> APERTURE CARDS	

NO. COPIES	DESCRIPTION	QUANTITY	UNIT	AMOUNT
1	5-88-417F A2			
1	81-7706			
1	5-88-932			
1	5-88-417 A			
1	5-88-417			
6				
7				
8				
9				
10				
TOTAL UNITS				
11				
12				
13				
14				

Please keep documents in separate folders

WORK ORDER WRITTEN BY: <i>Julie Revello</i>	DATE 1-9-03
WORK ORDER APPROVED BY:	DATE
WORK RECEIVED BY:	DATE

TERMS DUE ON PRESENTATION OF BIL
 DELINQUENT 10TH OF MONTH FOLLOW
 DATE OF INVOICE. A FINANCE CHARGE
 1.25 % PER MONTH WILL BE IMPOSED ON
 DELINQUENT ACCOUNTS.

THANK



3220 Nebraska Avenue
Santa Monica CA 90404

ph 310 453 0395
fax 310 453 7927

info@healthebay.o
www.healthebay.org

February 4, 2002

California Coastal Commission
89 South California Street Suite 200
Ventura, Ca 93001

Re [REDACTED]

Dear Commissioner,

Heal the Bay strongly supports the staff recommendation to deny the after-the-fact permit to harden the stream banks of Cold Creek. Heal the Bay has engaged in an extensive water quality monitoring and stream habitat mapping project since November of 1998. Cold Creek and the Cold Creek subwatershed has consistently had the best water quality within the Malibu Creek Watershed. Unfortunately, we have documented a marked difference in water quality between our reference site higher up on Cold Creek and our outlet site at the bottom of Cold Creek just before it flows into Malibu Creek. Specifically, the nutrient and bacteria concentrations are elevated at the bottom of Cold Creek. Further, biological surveys have revealed a serious degradation in the diversity and numbers of sensitive species between the upstream reference site and the bottom of Cold Creek. These data can be viewed on our website at <http://www.healthebay.org/StreamTeamData/waterchem.html>. Cold Creek is currently on the state's 303d list as impaired for nutrients. Malibu Creek is listed as impaired for both nutrients and bacteria. During stream habitat mapping activities in Cold Creek we have documented numerous stream bank collapses and sediment inputs to the creek. In addition we have documented areas of bank hardening that are rapidly being undermined due to upstream armoring. It is our belief that this phenomenon is greatly increasing the volume and velocity of stream flows and threatens neighboring downstream properties as well as the creek itself.

Heal the Bay recommends that the Coastal Commission require the applicant to remove any and all structures that have disrupted the stream bank and riparian habitat. In addition, we believe the applicant must be required to restore the stream bank to natural conditions, including replanting with native riparian species such as oaks and willows. Moreover, we believe that the applicant should be subject to 100 buffer zone requirement from the outside edge of the riparian canopy for any future projects. The riparian vegetation plays a crucial role in helping to regulate stream flow and velocity. The riparian vegetation will also help intercept and infiltrate surface runoff and any pollutants that are carried with that runoff.

Heal the Bay is very concerned that numerous activities are being conducted within the Coastal zone without the benefit of permits. We have seen numerous structures throughout the Malibu Creek Watershed that either are or could potentially degrade water quality and instream habitat. In addition, many of these structures are preventing the migration of wildlife, which are highly dependent on riparian corridors for food and movement. We urge you and your colleagues to take action on unpermitted activities in the watershed, so that these losses do not continue to occur.

Sincerely,

Mark Gold D.Env
Executive Director
Heal the Bay

Th 4a & 4b
CCC-03-CD-02 & CCC-03-RO-03
(Teherani)

Mark Abramson
Stream Team Manager
Heal the Bay