

# Item W 22a

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

## CALIFORNIA COASTAL COMMISSION

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### RECORD PACKET COPY

### STAFF REPORT: AMENDMENT

**APPLICATION NO:** 5-90-1103-A2

**APPLICANT:** Edward Betz

**AGENT:** Peter Racicot, C C & R, Inc.

**PROJECT LOCATION:** 25066 Mulholland Highway, Santa Monica Mountains, Los Angeles County

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Expansion of an existing building pad with 3,500 cubic yards of grading (all cut).

**DESCRIPTION OF PREVIOUSLY APPROVED AMENDMENT NO. 1:** Overexcavation of 3,000 cu. yds. of fill on existing, previously disturbed building pad, the placement of 3,000 cu. yds. of fill from a previously approved grading site to this pad, and the revegetation of the streambed adjacent to this pad.

**DESCRIPTION OF AMENDMENT:** Request for after-the-fact approval of modifications from the grading plan approved in the first amendment to the as-built grading plan, including an additional 6,496 cu. yds. of grading for a total of 12,496 cu yds. of grading (6,250 cu. yds of cut and 6,246 cu. yds. of fill), and "restore" a 4,000 sq. ft. area of the site including creating berms, planting with native plants and recording an open space restriction on this area of the site.

**LOCAL APPROVALS RECEIVED:** Los Angeles County As-built Approval by Division of Building and Safety, November 17, 1993

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/ Santa Monica Mountains Land Use Plan, Coastal Development Permit 5-90-1103 and Permit Amendment 5-90-1103-A1 (Betz).

### STAFF NOTE

This application was filed on September 27, 2003. The applicant's agreement to extend the time limit for action on this application is dated March 15, 2004. Therefore, under the provisions of the Permit Streamlining Act, the latest possible date for Commission action is 90 days later, June 13, 2004. As such, the Commission must act on Permit Amendment Application 5-90-1103-A2 at the June 9-11, 2004 Hearing.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends denial of the amendment request because the project, as proposed to be amended, will not minimize grading or landform alteration or runoff and erosion from the site. The development area is well in excess of the maximum 10,000 sq. ft. development area that the Commission has consistently allowed in ESHA and Significant Watersheds. The project site is visible from a scenic highway, public parkland, and the Backbone Trail. The project is not consistent with Sections 30230, 30231, 30240, or 30251 of the Coastal Act, or with the guidance policies of the certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan.

**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*
- 3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material (§13166 of the California Code of Regulations).

**I. STAFF RECOMMENDATION:**

**MOTION:**        *I move that the Commission approve Coastal Development Permit Amendment No.5-90-1103-A2 for the development proposed by the applicant.*

**Staff Recommendation of Denial:**

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

**Resolution to Deny the Permit:**

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

or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## **II. FINDINGS.**

### **A. Project Site Description and Amendment Description**

The proposed project site comprises two parcels that are 2.74-acres and 1.7-acres in size. The site is located south of Mulholland Highway, just east of Cold Canyon Road. The majority of each parcel making up the proposed project site is located within the Cold Creek "Significant Watershed", as designated by the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (1987). Only a small strip of each site at the northern property line is outside of the mapped "Significant Watershed". Topographically the entire parcel drains into Cold Creek Watershed through several small drainages.

The applicant is requesting Permit Amendment 5-90-1103-A2 for after-the-fact approval of modifications that were made from the grading plan approved under Permit Amendment 5-90-1103-A1 to the as-built grading plan (Exhibit 4) that includes 12,496 cu yds. of grading (6,250 cu. yds of cut and 6,246 cu. yds. of fill). The amount of grading proposed in the subject amendment request is twice the amount of grading previously approved (previous approvals described below). Additional cut and fill were carried out in order to bring the two approved pads to approximately the same elevation and to combine them into one large pad area. Comparing the approved grading plans with those proposed in the subject amendment reveals that PAD 1 was filled such that the final grade is approximately 7 feet higher and that PAD 2 is approximately 5 feet lower in elevation. There was previously a separation of approximately 12 feet in elevation between the two pads. The additional fill area on PAD 1 results in a far larger fill slope which extends onto the adjacent property to the west (also owned by the applicant). Using a planimeter, staff measured the development area of the project (including the flat pad area and graded slopes, but excluding the roadway), as well as the flat pad area. The development area shown on the as-built plans proposed in this amendment is approximately 36,630 sq. ft. The flat pad area is approximately 21,600 sq. ft. in size.

As described in greater detail below, the applicant is also proposing, as part of the subject permit amendment request, to modify the development that has already been carried out on the site, including "restoring" a 4,000 sq. ft. portion of Pad 1, including creating berms, planting with native plants and recording an open space restriction on this area of the site.

### **B. Background**

Prior to 1990, there were two existing building pad areas on the site. The site descended steeply from the road. The northernmost of these two pads (PAD 1) was located nearest Mulholland Highway and was approximately 25 feet lower in elevation

than the roadway. The southernmost pad (PAD 2) was approximately 15 to 20 feet higher in elevation than PAD 1 and separated by a short steep slope from PAD 1.

The Commission originally approved Permit 5-90-1103 in March 1991 for the expansion of Pad 2 with 3,500 cu. yds. of grading (all cut). The staff report for this approval states that:

The site was previously graded in the early 1970's. Two pad areas were constructed on the 3-acre site. The applicant is proposing to grade 3,500 cubic yards (all cut) to expand one of the existing pad areas. The pad will be lowered approximately 5 feet and will be expanded from approximately 7,500 square feet to approximately 11,000 square feet.

The proposed project plans for the original approval (Exhibit 2) show that prior to 1990, there were two existing small flat pad areas on the site. The site descended steeply from the road. The northernmost of these two pads (PAD 1) was located nearest Mulholland Highway and was approximately 25 feet lower in elevation than the roadway. The southernmost pad (PAD 2) was approximately 15 to 20 feet higher in elevation and separated by a short steep slope from PAD 1. It is obvious that PAD 2 was a knoll before any grading took place in the 1970's. Permit 5-90-1103 permitted the cutting of 3,500 cu. yds. of material from PAD 2, creating a larger, flatter pad area. Staff would note that although the staff report stated that the approved pad would be approximately 11,000 sq. ft. in size, more recent measurement of the grading plan indicates that the size of the pad (excluding the road) was approximately 12,780 sq. ft. This pad was presumably for the future construction of a residential development, although the applicant did not propose any structure as part of this permit. The approved grading plan shows only the proposed cut on PAD 2. No fill or any other work was shown on the grading plan, nor was any other work proposed. The original project was approved with conditions of approval regarding landscaping and geologic recommendations.

The permit was issued (September 1991) and the applicant commenced work on the project. The applicant scraped the vegetation from the site and began the initial grading. However, the area where vegetation was removed extended beyond the approved grading area into a drainage course west of the approved pad onto an adjacent parcel also owned by the applicant. Additionally, the applicant had modified the grading project to include overexcavation and recompaction of Pad 1 on the site and placement of the excess material cut from the approved pad (Pad 2) onto the area of Pad 1. This work had not yet commenced when Commission enforcement staff contacted the applicant (1992) and requested that the applicant stop all work not permitted under Permit 5-90-1103. The staff report for Permit Amendment 5-90-1103-A1 states that:

The applicant states that he was not aware that a coastal development permit was required for the proposed overexcavation and placement of fill from the upper pad to the lower pad. Additionally, the applicant states that he was not aware that the scraping and vegetation clearance in the stream required a coastal development permit.

The applicant applied for Permit Amendment 5-90-1103-A1 for the overexcavation and recompaction of 3,000 cu. yds. of fill on existing, previously disturbed building pad, the placement of 3,000 cu. yds. of fill from a previously approved grading site to this pad, and the revegetation of the streambed adjacent to this pad. The applicant stated that the area where PAD 1 was proposed was underlain by uncertified fill, so the overexcavation and recompaction was necessary to be able to use the pad to site future development. The grading plan (Exhibit 3) proposed in Permit Amendment 5-90-1103-A1 then included two pad areas separated by a narrow steep slope area that would not be graded, a small cut slope to the east of PAD 2, a fill slope on the west side of PAD 1 that extended to the western property line, and a graded driveway extending from Mulholland to PAD 2. Although not described in the staff report for Permit Amendment 5-90-1103-A1, staff has measured the development areas (including the graded slopes and excluding the road) from the approved grading plan. The following chart details these areas:

	Development Area
PAD 1	12,600 sq. ft.
PAD 2	13,500 sq. ft.
<b>Total</b>	<b>26,100 sq. ft.</b>

Total grading volume proposed was 6,000 cu. yds. (3,000 cu. yds. cut and 3,000 cu. yds. fill). The Permit Amendment 5-90-1103-A1 was approved (April 1992) with special conditions regarding geologic recommendations, landscaping and erosion control plan, timing of completion of work, and condition compliance.

The grading plan approved in the first permit amendment (5-90-1103-A1) was apparently modified in the field at the time that the grading was carried out in 1992-1993. The applicant obtained after-the-fact approval for the "as-built" grading plan from the County of Los Angeles Building and Safety Department in November 1993. However, the applicant did not obtain a coastal development permit or permit amendment for the increase in grading. Commission staff was made aware of the violation when the applicant offered the property for sale last year.

To conclude, development on the proposed project site has included increases in grading and landform alteration as well as development area, from the originally approved plan, to the first amendment of the plan to the plan that was finally constructed on the site and is proposed in the subject permit amendment. This chart compares the grading volumes, development area, and pad size (the development area and pad size was measured by staff using a planimeter and the applicant's grading plans) for the three projects:

Plan	Grading-Cut	Grading-Fill	Grading-Total	Development Area	Pad Size
5-90-1103	3,500 c.y.	0 c.y.	3,500 c.y.	12,780 s.f.	12,780 s.f.
5-90-1103-A1	3,000 c.y.	3,000 c.y.	6,000 c.y.	26,100 s.f.	19,170 s.f.
5-90-1103-A2	6,250 c.y.	6,246 c.y.	12,496 c.y.	36,630 s.f.	21,600 s.f.

### C. Applicants Proposal

The applicant postponed the last scheduled hearing in March 2004, waiving the requirement for an action on the amendment request within 180 days. The applicant has since retained an agent to review earlier approved plans, and the as-built plans. The applicant's agent has submitted a letter, dated May 17, 2004 describing their analysis of past grading and the proposed modifications to the previously approved grading plan. This letter is attached as Exhibit 6.

The applicant's engineer has calculated the amount of grading represented by both the approved grading plan (5-90-1103-A1) as well as the as-built grading plan proposed in the subject permit amendment application. The engineer has estimated that the amount of grading that would have been necessary to carry out the grading plan approved in Permit Amendment 5-90-1103-A1 is 8,700 cu. yds. (4,350 cu. yds. cut and 4,350 cu. yds. fill). The engineer has stated that the amount of grading proposed by the applicant and the project engineer at that time (6,000 cu. yds. of grading, including 3,000 cu. yds. cut and 3,000 cu. yds. fill) was in error and that the pad design could not have been accomplished with that amount of grading. Further, the engineer has stated that design of the fill slope and the natural area between the two pads would not have met grading standards required by the County of Los Angeles. Staff would note that the plan considered in Permit Amendment 5-90-1103-A1 was prepared by a civil engineer and that staff and the Commission relied on the representations of the engineer in approving that amendment.

The applicant's present engineer also reviewed the "as-built" grading plan, dated November 1993, which is proposed as part of the subject amendment application. The engineer estimates that the amount of grading necessary to carry out the plan was 12,500 cu. yds. (6,250 cu. yds. cut and 6,250 cu. yds. fill) or only 4 cu. yds. more than the amount shown on the "as-built" plan.

The applicant has proposed to "restore" a 4,000 sq. ft. portion of Pad 1, including creating berms, planting with native plants and recording an open space restriction on this area of the site. The applicant's agents' letter states that:

Our goal is to allow staff to recommend approval on the amendment without requiring retrograding of the site. Contact has been made with Dr. Klaus Radtke...to craft a restoration plan on the northerly portion of the "As Built" graded pad. This is the area where the bulk of the excess fill was placed. The goal of the plan is to restore the area to a naturalized condition in order to reestablish parity to the original Coastal entitlement of 1992.

The applicant has also proposed to add additional drainage best management practices, landscaping and erosion control plans, wildfire waiver, and future improvements restriction as part of the permit amendment request.

However, the proposed amendment, even with these modifications will not minimize impacts to ESHA, significant watershed, or visual resources. The proposed modifications to PAD 1, including the planting of native vegetation, may reduce potential erosion from this area, but it will not actually restore the area in the sense that it can function as habitat. The proposed area would likely be within a fuel modification zone for future residential development on the site and subject to removal or thinning for fire protection. Additionally, the overall increase in the development area from 26,100 sq. ft. to 36,630 sq. ft. will not be reduced by the proposal. Further, the proposed modifications to PAD 1 may soften the view of the large flat pad area, but it will not actually restore the grade of PAD 1. The pad would remain at a higher grade than the approved plan. Additionally, the visual impact of the large fill slope will not be reduced by the proposal.

Staff would note that there is an alternative to the proposed project that could be found to minimize impacts to coastal resources, consistent with Coastal Act ESHA policies. As described above, the project site consists of two parcels. The western parcel is 1.7-acres in size and vacant, aside from the portion of the fill slope for PAD 1 that extends onto this parcel. The eastern parcel is 2.74-acres in size and is developed with the majority of the graded pad and slopes. If the 1.7-acre lot was combined with the larger lot to create one parcel or was otherwise restricted from development, then the proposed increase of development area could be considered to be clustering the development for two parcels into one area, thereby allowing the larger development area to be found to minimize impacts to the significant watershed. The applicant has not proposed to restrict development on the site in this way.

#### **D. Sensitive 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.***

Section 30240 of the Coastal Acts states:

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

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

***"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.***

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 means such as 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, Sections 30107.5 and 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values. Therefore, when considering any area, such as the Santa Monica Mountains, with regard to an ESHA determination one must focus on three main questions:

- 1) Is a habitat or species rare?
- 2) Is the habitat or species especially valuable because of its special nature or role in the ecosystem?
- 3) Is the habitat or species easily disturbed or degraded by human activities and developments?

The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Monica Mountains is itself rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Therefore, habitat areas that provide important roles in that ecosystem are especially valuable and meet the second criterion for the ESHA designation. In the Santa Monica Mountains, coastal sage scrub and chaparral have many important roles in the ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of



essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. For these and other reasons discussed in Exhibit 5, which is incorporated herein, the Commission finds that large contiguous, relatively pristine stands of coastal sage scrub and chaparral in the Santa Monica Mountains meet the definition of ESHA. This is consistent with the Commission's past findings on the Malibu LCP<sup>1</sup>.

For any specific property within the Santa Monica Mountains, it is necessary to meet three tests in order to assign the ESHA designation. First, is the habitat properly identified, for example as coastal sage scrub or chaparral? Second, is the habitat undeveloped and otherwise relatively pristine? Third, is the habitat part of a large, contiguous block of relatively pristine native vegetation?

The areas of the project site that are outside of the previously disturbed areas are well vegetated with chaparral plants. The westernmost of the two parcels contains a well-developed drainage that is tributary to Cold Creek. Both sites descend from Mulholland Highway toward Cold Creek Canyon, although the riparian area associated with Cold Creek is not located on either parcel. The slopes on the south side of Cold Creek Canyon extend up upward to a much higher elevation than the project site into State Park Land. This area south of the project site is undeveloped. The slopes on the project site are thus part of a larger block of pristine habitat. Commission staff visited the subject property on July 28, 2003 and confirmed that the project site outside of the disturbed area consists of chaparral vegetation.

Due to the important ecosystem roles of chaparral in the Santa Monica Mountains (detailed in Exhibit 5), and the fact that the subject site below the existing developed area is relatively undisturbed and part of a large, unfragmented block of habitat that is located within the Cold Creek watershed, the Commission finds that the chaparral on and surrounding the project site meets the definition of ESHA (Section 30107.5) under the Coastal Act. As discussed above, a portion of the developed area of the site was denuded of vegetation and was graded to create two small pad areas in the 1970's, prior to the Coastal Act. Additionally, a total of 6,000 cu. yds. of grading was approved in this upper area of the site in Permit 5-90-1103 and Permit 5-90-1103-A1 (as described in detail above). The existing disturbed and graded areas as well as adjacent areas where the 6,000 cu. yds. of grading were permitted are not considered ESHA.

In addition to the presence of ESHA on the lower areas of the parcels, the proposed project site is located within the Cold Creek "Significant Watershed", as designated by the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (1987). Only a small strip of each site at the northern property line is outside of the mapped "Significant Watershed". Topographically, of course, the entire project site drains into Cold Creek Watershed through several small drainages. The LUP contains the following description of the Cold Creek Canyon Watershed:

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<sup>1</sup> Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

Cold Creek Canyon is a relatively undisturbed watershed containing year-round water and supporting well-developed native vegetation and wildlife. Undisturbed stands of chaparral, oak woodland, coastal sage scrub, riparian woodland and associated wildlife inhabit Cold Creek Canyon. The Cold Creek watershed is the last remaining watershed in the Santa Monica Mountains to contain stoneflies (Plecoptera), a group of aquatic insects very sensitive to impacts of siltation and urban run-off containing petroleum-based compounds. Many other uncommon species occur in this area including flowering ash, red shanks, island mountain mahogany, big-leaf maple, interior live oak, Humboldt lily and stream orchis. In addition, several pockets of native grassland supporting a federally-nominated endangered plant species occur within this watershed. The native grassland and the rare plant (*Pentachaeta lyonii*) are uncommon throughout the Santa Monica Mountains and California as a whole. The central core of the Cold Creek watershed is generally undisturbed and utilized only for natural resource-oriented uses, much of it being in public ownership. Residential development is present both in the upper and lowermost parts of the drainage basin.

The Commission has used the policies of the LUP as guidance regarding the consistency of development projects with the provisions of the Coastal Act. Following are the specific LUP policies (Table 1) that pertain to "Significant Watersheds":

- ***Structures shall be clustered to minimize the effects on sensitive environmental resources.***
- ***Structures shall be located as close to the periphery of the watershed as feasible, or in any other location in which it can be demonstrated that the effects of development will be less environmentally damaging.***
- ***Structures and uses shall be located as close as possible to existing roadways and other services to minimize the construction of new infrastructure.***
- ***Grading and vegetation removed shall be limited to that necessary to accommodate the residential unit, garage, and one other structure, one access road and minimum brush clearance required by the Los Angeles County Fire Department. Where clearance to mineral soil is not required by the Fire Department, fuel load shall be reduced through thinning or mowing, rather than complete removal of vegetation. The standard for a graded building pad shall be a maximum of 10,000 square feet.***
- ***New on-site access roads shall be limited to a maximum length of 300 feet or one-third of the parcel depth, whichever is smaller. Greater lengths may be allowed if the Environmental Review Board determine that there is not an acceptable alternative and that a significant impact will not be realized and shall constitute a conditional use.***
- ***The cleared area shall not exceed 10% of the area excluding access roads.***
- ***Site grading shall be accomplished in accordance with the stream protection and erosion control policies.***
- ***Designated environmentally sensitive streambeds shall not be filled. Any crossings should be accomplished by a bridge.***
- ***Approval of development shall be subject to review by the Environmental Review Board.***

Other applicable LUP policies include the following:

***P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.***

***P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.***

***P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.***

The applicant proposes after-the-fact approval of modifications that were made from the grading plan previously approved under Permit Amendment 5-90-1103-A1 to the as-built grading plan (Exhibit 4) that includes 12,496 cu yds. of grading (6,250 cu. yds of cut and 6,246 cu. yds. of fill). The amount of grading proposed in the subject amendment request is twice the amount of grading previously approved. The applicant carried out twice the approved volume of grading in order to bring the two approved pads to approximately the same elevation and to combine them into one large pad area. Comparing the approved grading plans with those proposed in the subject amendment reveals that PAD 1 was filled such that the final grade is approximately 7 feet higher and that PAD 2 is approximately 5 feet lower in elevation. There was previously a separation of approximately 12 feet in elevation between the two pads. The additional fill area on PAD 1 results in a far larger fill slope which extends onto the adjacent property to the west (also owned by the applicant). The development area (including the area of the slopes, but excluding the roadway) shown on the as-built plans proposed in this amendment is approximately 36,630 sq. ft. The flat pad area (excluding the slopes and the roadway) is approximately 21,600 sq. ft. in size.

Where the Commission has approved development within or adjacent to ESHA in order to avoid a taking of private property and to provide the applicant with an economically viable use, the Commission has restricted the maximum size of the development area in order to minimize adverse impacts to ESHA, as required by the Coastal Act. The Commission has generally found that a development area of no more than 10,000 sq. ft. with all structures clustered within it will provide an owner an economically viable use of the property while minimizing the impacts of vegetation removal, grading, placement of impermeable surfaces, erosion, runoff, and fuel modification to the extent feasible. The same requirement has been applied consistently within areas designated "Significant Watershed" or "Wildlife Corridor" by the Malibu/Santa Monica Mountains LUP.

Staff would note that in this case, the graded areas are not located within ESHA, as they would be within the area previously denuded of vegetation and graded for two small pads prior to the effective date of the Coastal Act. Future residential development of the site would require removal of ESHA for fuel modification and the project site is within a designated Significant Watershed, so the Commission finds that it is appropriate to restrict the maximum development area to 10,000 sq. ft. This maximum

size restriction is intended to minimize the removal of habitat area, watershed cover, both through grading and landform alteration, as well as through removal or alteration of habitat for fuel modification. In this case, the increased development area for which the applicant is requesting after-the-fact approval is far in excess of the maximum 10,000 sq. ft. area that the Commission has found consistent with the policies of the Coastal Act and the guidance of the LUP policies. It should be noted that Permit Amendment 5-90-1103-A1 allowed for the grading of two separate pads that together totaled 26,100 sq. ft. of development area (the flat pad area total for both pads was approximately 19,170 sq. ft.), including graded slopes and excluding the roadway. This past Commission action thus permitted a development area that was already in excess of the 10,000 sq. ft. limit. The development that the applicant actually constructed included twice the approved amount of grading and an additional 10,000 sq. ft. of development area (total development area existing on the site is approximately 36,630 sq. ft. including graded slopes and excluding the roadway). This includes a large flat pad area and a long fill slope that extends into the upper limits of a drainage that is tributary to Cold Creek.

The proposed amendment to permit the doubling of the amount of grading and creation of a very large pad will not minimize grading or landform alteration as required by the Coastal Act and the guidance policies of the LUP. The amount of grading (12,496 cu. yds. total) is far in excess of what the Commission has approved in this area, particularly on parcels that are adjacent to a scenic highway, visible from a park, and within a significant watershed or other sensitive resource area. Obviously, there are alternative projects that could minimize grading and landform alteration. The approved grading plan was found to minimize grading, consistent with the Coastal Act and LUP policies. It is necessary to minimize grading and landform alteration, both to minimize the visibility of development (as discussed below) as well as to minimize impacts to sensitive resources, from the removal of habitat, the alteration of habitat for fuel modification, and alteration of processes of the site. The larger flat pad area results in greater runoff and erosion from the site. The site was graded approximately ten years ago and the pad area remains as bare dirt. The large fill slope adjacent to PAD 1 and the smaller cut slope adjacent to PAD 2 have yet to be revegetated. As shown on Exhibit 6, with the exception of a few trees (and some non-native grasses on the fill slope), the slopes have not been planted. Undoubtedly this has increased erosion from the site.

The proposed development will further result in an increase in impervious surface at the subject site, which in turn decreases the infiltrative function and capacity of existing permeable land on site. While no structures have been constructed on the site and drainage swales are the only paved surfaces, the pad area has been cut, filled, and compacted which reduces the permeability. Reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health. Minimizing the effects of this development is especially critical given the location of the project site within a Significant Watershed.

In conclusion, as described above, the applicant is requesting a permit amendment for after-the-fact approval of the as-built grading plan for the project site. This revised grading plan doubles the amount of grading to a total of 12,496 cu yds. of grading (6,250 cu. yds. of cut and 6,246 cu. yds. of fill). The grading resulted in lowering one pad and filling another pad in order to create one very large development area. The development area is well in excess of the development area previously approved in Permit Amendment 5-90-1103-A1, as well as the maximum 10,000 sq. ft. development area that the Commission has consistently allowed in ESHA and Significant Watersheds in order to assure conformity with the Coastal Act and the guidance policies of the LUP. The grading plan does not minimize grading or landform alteration nor does it minimize runoff and erosion from the site. These significant adverse impacts to ESHA and water quality are not consistent with Sections 30230, 30231, and 30240 of the Coastal Act, or with the guidance policies of the Malibu/Santa Monica Mountains Land Use Plan. As such, the Commission finds that the proposed development must be denied.

As described above, the applicant proposes to "restore" a 4,000 sq. ft. portion of PAD 1 by berming, planting native vegetation, and restricting development within the area to open space uses only. However, the proposed amendment, even with these modifications will not minimize impacts to ESHA or significant watershed resources. The proposed project will still include 12, 496 cu. yds. of grading and will not minimize the alteration of landforms. The proposed modifications to PAD 1, including the planting of native vegetation, may reduce potential erosion from this area, but it will not actually restore the area in the sense that it can function as habitat. The proposed area would likely be within a fuel modification zone for future residential development on the site and subject to removal or thinning for fire protection. Additionally, the overall increase in the development area from 26,100 sq. ft. to 36, 630 sq. ft. will not be reduced by the proposal.

There are alternatives to the project that could be found consistent with the policies of the Coastal Act and LUP that would allow residential use of the property. An obvious alternative is the grading plan that was found by the Commission to be consistent with the Coastal Act and LUP in Permit Amendment 5-90-1103-A1. As described above, there is also an alternative to the proposed project that could be found to minimize

impacts to coastal resources, consistent with Coastal Act policies. As described above, the project site consists of two parcels. The western parcel is 1.7-acres in size and vacant, aside from the portion of the fill slope for PAD 1 that extends onto this parcel. The eastern parcel is 2.74-acres in size and is developed with the majority of the graded pad and slopes. If the 1.7-acre lot was combined with the larger lot to create one parcel or was otherwise restricted from development, then the proposed increase of development area could be considered to be clustering the development for two parcels into one area, thereby allowing the larger development area to be found to minimize impacts to the significant watershed.

## **E. Visual Resources.**

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

Section 30251 of the Coastal Act states:

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

In addition, the Commission has used the policies of the LUP as guidance regarding the consistency of development projects with the provisions of the Coastal Act. Following are the specific LUP policies that pertain to the protection of visual resources:

***P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e. geological, solids, hydrological, water percolation, and runoff) to the maximum extent feasible.***



***P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below road grade.***

***P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs and landscaping) shall:***

***Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.***

***Minimize the alteration of natural landforms.***

***Be landscaped to conceal raw-cut slopes.***

***Be visually compatible with and subordinate to the character of its setting.***

***Be sited so as not to significantly intrude in the skyline as seen from public viewing places***

***P134 Structures shall be sited to conform to the natural topography, as feasible.***

***Massive grading and reconfiguration of the site shall be discouraged.***

***P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.***

The project site is surrounded by public parklands and very low-density residential development. Owing to this land use pattern, the rural atmosphere, open spaces, vistas, and large contiguous areas of natural landforms and native vegetation, the area is highly scenic. There is State Parkland south of the proposed project site and the Backbone Trail crosses this land from east to west. The trail is approximately 1,000 feet higher in elevation than the project site and approximately 5,000 ft. south of the site. As such, the pad and any future residential development will be visible from the park and the Backbone Trail. In addition, the Stunt Ranch park is located to the southeast of the project site and there will be views of the project site from this park as well. Further, the site is directly adjacent to Mulholland Highway, a designated Scenic Highway.

As described above, the applicant proposes after-the-fact approval of modifications that were made from the grading plan previously approved under Permit Amendment 5-90-1103-A1 to the as-built grading plan (Exhibit 4) that includes 12,496 cu yds. of grading (6,250 cu. yds. of cut and 6,246 cu. yds. of fill). The amount of grading proposed in the subject amendment request is twice the amount of grading previously approved. The applicant carried out twice the approved volume of grading in order to bring the two approved pads to approximately the same elevation and to combine them into one large pad area. Comparing the approved grading plans with those proposed in the subject amendment reveals that PAD 1 was filled such that the final grade is approximately 7 feet higher and that PAD 2 is approximately 5 feet lower in elevation. There was previously a separation of approximately 12 feet in elevation between the two pads. The additional fill area on PAD 1 results in a far larger fill slope which extends onto the adjacent property to the west (also owned by the applicant). The development area (including the area of the slopes, but excluding the roadway) shown on the as-built plans proposed in this amendment is approximately 36,630 sq. ft. The flat pad area (excluding the slopes and the roadway) is approximately 21,600 sq. ft. in size.

It should be noted that the previously approved project included the creation of two large pad areas separated by a slope. Although that grading plan included a large amount of grading (3,000 cu. yds. cut and 3,000 cu. yds. fill), the appearance of the natural landforms would have been better maintained. The as-built plan, on the other hand, has resulted in further lowering the knoll-like landform of PAD 2 and in adding seven feet of fill on PAD 1. The site now contains one very large flat pad area with a large manufactured fill slope.

The Coastal Act requires that new development minimize the alteration of natural landforms and that new development be subordinate to the character of the surrounding area. Obviously, the proposed grading plan does not minimize landform alteration. The amount of grading (12,496 cu. yds. total) is far in excess of what the Commission has approved in this area, particularly on parcels that are adjacent to a scenic highway, visible from a park, and within a significant watershed or other sensitive resource area. The natural landforms on the northern area of the site have been destroyed in creating a very large development area.

The proposed development area is very visible from Mulholland Highway. Much of the flat pad is visible from the highway. The fill slope, in particular, has an adverse impact on visual resources from the scenic highway. The length of this slope and its manufactured appearance does not blend into the surrounding terrain. Although the applicant has not proposed the construction of any residential structures to this point, the construction of a development area of the size proposed herein will create the expectation of a large amount of development on the site. This would likely include the construction of a large home and several accessory structures such as guest house, pool, pool house, tennis court, etc. Such structures would have a significant adverse impact on visual resources. The Commission has typically required that new development be notched into hillsides or constructed on split pads, avoiding the creation of large expanses of flat pad. Such measures have been employed in order to minimize the visibility of structures from public areas, as well as to minimize the alteration of natural landforms, and the creation of large graded slopes that can be difficult to revegetate.

As described above, the site is visible from public parkland to the south and southeast of the site, as well as from the Backbone Trail located within the park to the south. The views from the parks and trail will be from above and at some distance from the site. The bare dirt of the flat pad area reads as a different color and texture than the surrounding vegetation and is visible from these areas. Again, the eventual construction of structures on the site will have additional impacts on visual resources from the parks and trail.

In conclusion, as described above, the applicant is requesting a permit amendment for after-the-fact approval of the as-built grading plan for the project site. This revised grading plan doubles the amount of grading and creates one very large development area. The grading plan does not minimize grading or landform alteration nor does it minimize impacts to visual resources from a designated scenic highway, or from public



parkland or from the Backbone Trail, a major riding and hiking trail that extends across the Santa Monica Mountains. These significant adverse impacts to visual resources are not consistent with Section 30251 of the Coastal Act, or with the guidance policies of the Malibu/Santa Monica Mountains Land Use Plan. As such, the Commission finds that the proposed development must be denied.

There are alternatives to the project that could be found consistent with the policies of the Coastal Act and LUP that would allow residential use of the property. As described above, the applicant proposes an alternative to "restore" a 4,000 sq. ft. portion of PAD 1 by berming, planting native vegetation, and restricting development within the area to open space uses only. However, the proposed amendment, even with these modifications will not minimize impacts to visual resources. The proposed project will still include 12,496 cu. yds. of grading and will not minimize the alteration of landforms. The proposed modifications to PAD 1 may soften the view of the large flat pad area, but it will not actually restore the grade of PAD 1. The pad would remain at a higher grade than the approved plan. Additionally, the visual impact of the large fill slope will not be reduced by the proposal.

An obvious alternative is the grading plan that was found by the Commission to be consistent with the Coastal Act and LUP in Permit Amendment 5-90-1103-A1. While it may have been necessary to remove and recompact the uncertified fill beneath PAD 1, the grade of this area did not need to be raised, allowing the length of the fill slope to be less. Additionally, maintaining a grade differential between PAD 1 and PAD 2 would minimize the visual impact of one large flat pad by at least imitating the natural landforms. As described above, there is an alternative to the proposed project that could be found to minimize impacts to coastal resources, consistent with Coastal Act policies. As described above, the project site consists of two parcels. The western parcel is 1.7-acres in size and vacant, aside from the portion of the fill slope for PAD 1 that extends onto this parcel. The eastern parcel is 2.74-acres in size and is developed with the majority of the graded pad and slopes. If the 1.7-acre lot was combined with the larger lot to create one parcel or was otherwise restricted from development, then the proposed increase of development area could be considered to be clustering the development for two parcels into one area, thereby allowing the larger development area to be found to minimize impacts to visual resources.

## **F. Unpermitted Development**

Unpermitted development occurred on the subject parcel prior to submission of this permit amendment application including 6,496 cu. yds. of additional grading beyond the 6,000 cu. yds. of grading allowed on site pursuant to the Permit Amendment 5-90-1103-A1 for a total of 12,496 cu. yds. of grading (6,250 cu. yds. of cut and 6,246 cu. yds. of fill). The amount of grading proposed in the subject amendment request is twice the amount of grading previously approved. Additional cut and fill were carried out in order to bring the two approved pads to approximately the same elevation and to combine them into one large pad area. The development area shown on the as-built plans proposed in this amendment is approximately 36,630 sq. ft. The flat pad area is approximately 21,600

sq. ft. in size. The applicant is requesting after-the-fact approval for the additional grading volume and the modifications to the approved grading plan. The Commission's enforcement division will evaluate further actions to address this matter.

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

## **G. LOCAL COASTAL PROGRAM**

Section 30604(a) of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the project, as proposed to be amended, will not be in conformity with the provisions of Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will prejudice the County's ability to prepare a Local Coastal Program for the Santa Monica Mountains area which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

## **H. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

The Commission finds that the proposed project will have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of

1970. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act.

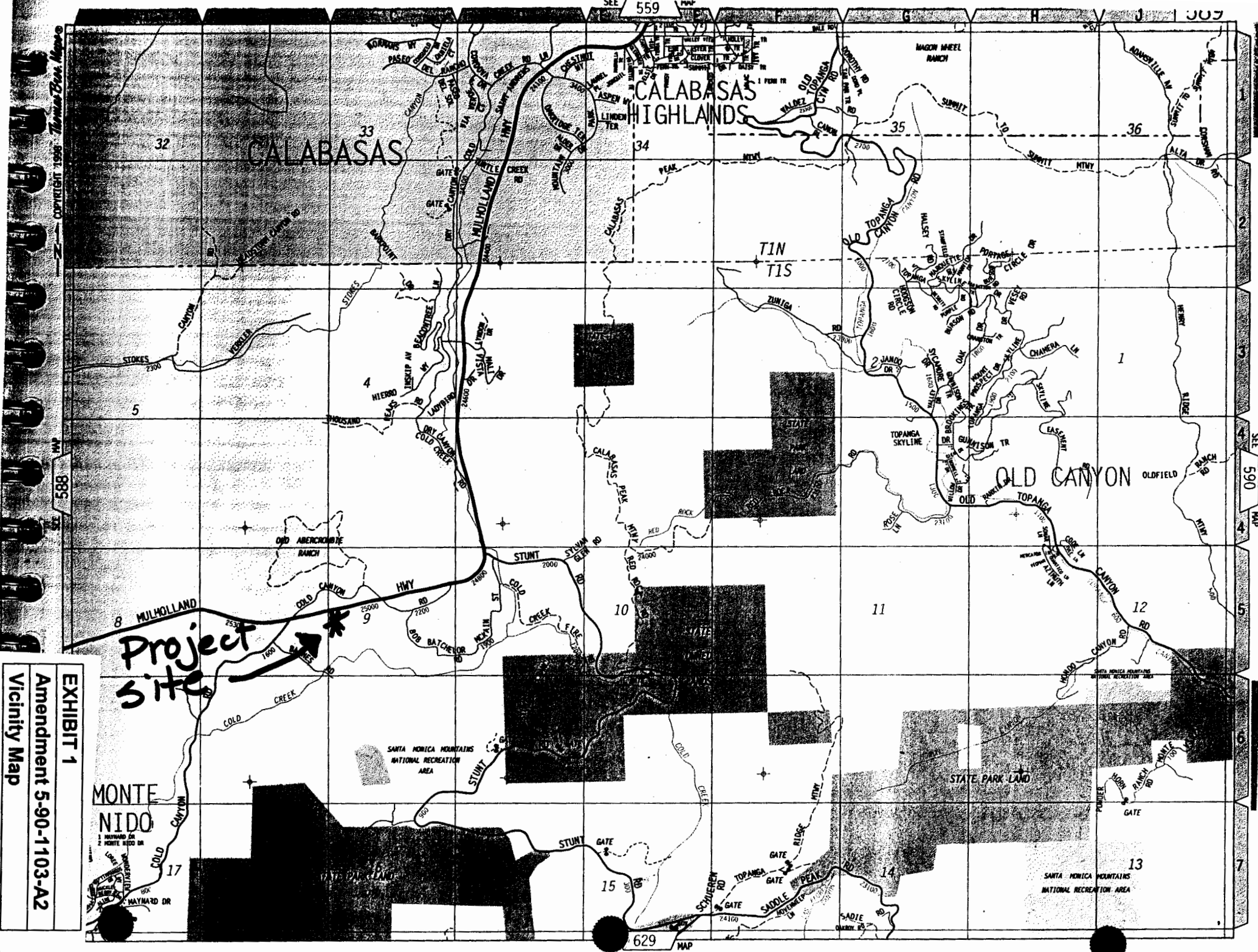


EXHIBIT 1  
Amendment 5-90-1103-A2  
Vicinity Map

EXHIBIT 2

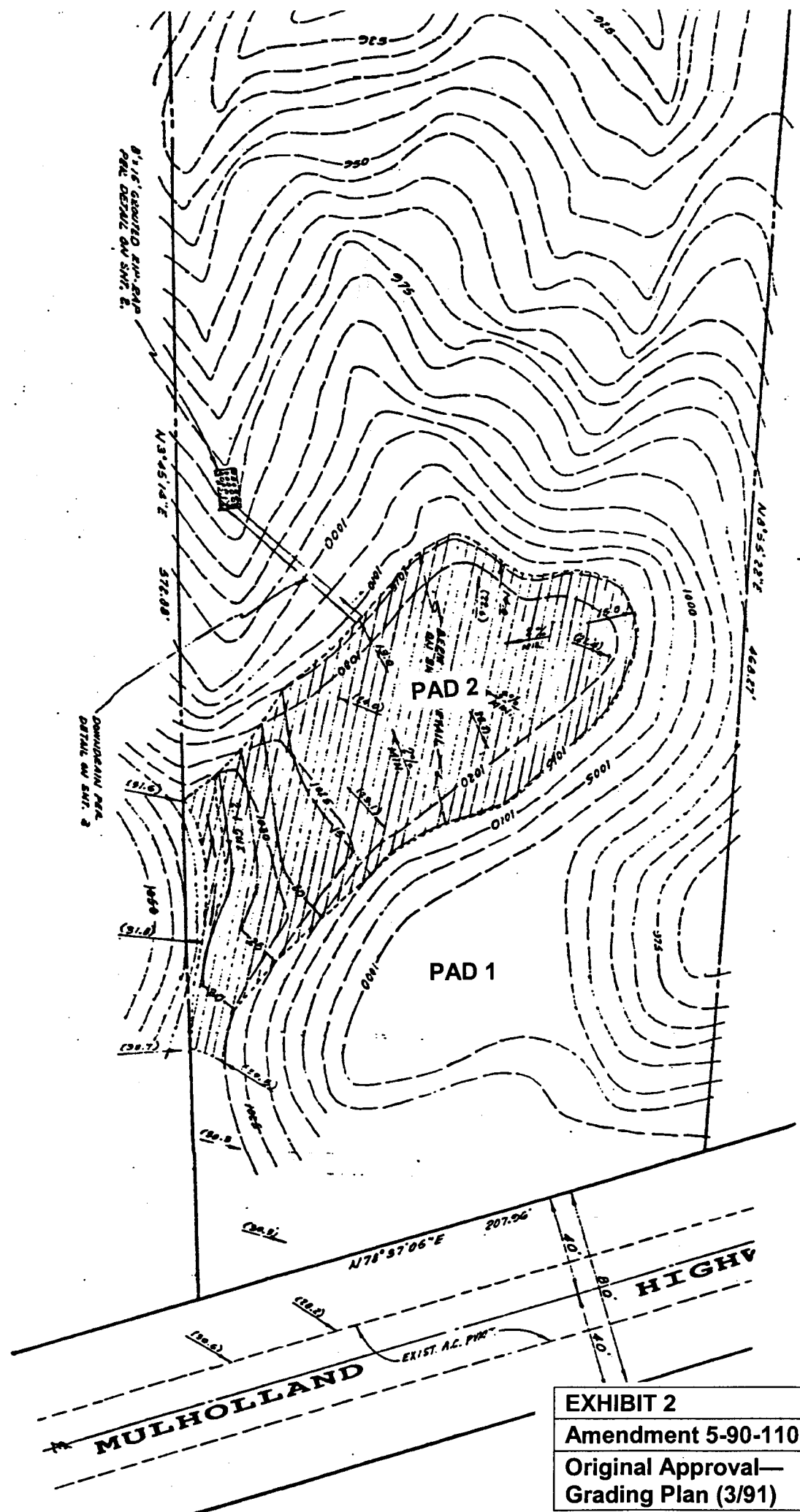


EXHIBIT 2  
Amendment 5-90-1103-A2  
Original Approval—  
Grading Plan (3/91)







## CALIFORNIA COASTAL COMMISSION

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## MEMORANDUM

FROM: John Dixon, Ph.D.  
Ecologist / Wetland Coordinator

TO: Ventura Staff

SUBJECT: Designation of ESHA in the Santa Monica Mountains

DATE: March 25, 2003

In the context of the Malibu LCP, the Commission found that the Mediterranean Ecosystem in the Santa Mountains is rare, and especially valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Therefore, areas of undeveloped native habitat in the Santa Monica Mountains that are large and relatively unfragmented may meet the definition of ESHA by virtue of their valuable roles in that ecosystem, regardless of their relative rarity throughout the state. This is the only place in the coastal zone where the Commission has recognized chaparral as meeting the definition of ESHA. The scientific background presented herein for ESHA analysis in the Santa Monica Mountains is adapted from the Revised Findings for the Malibu LCP that the Commission adopted on February 6, 2003.

For habitats in the Santa Monica Mountains, particularly coastal sage scrub and chaparral, there are three site-specific tests to determine whether an area is ESHA because of its especially valuable role in the ecosystem. First, is the habitat properly identified, for example as coastal sage scrub or chaparral? The requisite information for this test generally should be provided by a site-specific biological assessment. Second, is the habitat largely undeveloped and otherwise relatively pristine? Third, is the habitat part of a large, contiguous block of relatively pristine native vegetation? This should be documented with an aerial photograph from our mapping unit (with the site delineated) and should be attached as an exhibit to the staff report. For those habitats that are absolutely rare or that support individual rare species, it is not necessary to find that they are relatively pristine, and are neither isolated nor fragmented.

**Designation of Environmentally Sensitive Habitat in the  
Santa Monica Mountains**

The Coastal Act provides a definition of "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" (Section 30107.5).

<b>EXHIBIT 5</b>
<b>Permit Amendment</b>
<b>5-90-1103-A2</b>



There are three important elements to the definition of ESHA. First, a geographic area can be designated ESHA either because of the presence of individual species of plants or animals or because of the presence of a particular habitat. Second, in order for an area to be designated as ESHA, the species or habitat must be either rare or it must be especially valuable. Finally, the area must be easily disturbed or degraded by human activities.

The first test of ESHA is whether a habitat or species is rare. Rarity can take several forms, each of which is important. Within the Santa Monica Mountains, rare species and habitats often fall within one of two common categories. Many rare species or habitats are globally rare, but locally abundant. They have suffered severe historical declines in overall abundance and currently are reduced to a small fraction of their original range, but where present may occur in relatively large numbers or cover large local areas. This is probably the most common form of rarity for both species and habitats in California and is characteristic of coastal sage scrub, for example. Some other habitats are geographically widespread, but occur everywhere in low abundance. California's native perennial grasslands fall within this category.

A second test for ESHA is whether a habitat or species is especially valuable. Areas may be valuable because of their "special nature," such as being an unusually pristine example of a habitat type, containing an unusual mix of species, supporting species at the edge of their range, or containing species with extreme variation. For example, reproducing populations of valley oaks are not only increasingly rare, but their southernmost occurrence is in the Santa Monica Mountains. Generally, however, habitats or species are considered valuable because of their special "role in the ecosystem." For example, many areas within the Santa Monica Mountains may meet this test because they provide habitat for endangered species, protect water quality, provide essential corridors linking one sensitive habitat to another, or provide critical ecological linkages such as the provision of pollinators or crucial trophic connections. Of course, all species play a role in their ecosystem that is arguably "special." However, the Coastal Act requires that this role be "especially valuable." This test is met for relatively pristine areas that are integral parts of the Santa Monica Mountains Mediterranean ecosystem because of the demonstrably rare and extraordinarily special nature of that ecosystem as detailed below.

Finally, ESHAs are those areas that could be easily disturbed or degraded by human activities and developments. Within the Santa Monica Mountains, as in most areas of southern California affected by urbanization, all natural habitats are in grave danger of direct loss or significant degradation as a result of many factors related to anthropogenic changes.

### **Ecosystem Context of the Habitats of the Santa Monica Mountains**

The Santa Monica Mountains comprise the largest, most pristine, and ecologically complex example of a Mediterranean ecosystem in coastal southern California.

California's coastal sage scrub, chaparral, oak woodlands, and associated riparian areas have analogues in just a few areas of the world with similar climate. Mediterranean ecosystems with their wet winters and warm dry summers are only found in five localities (the Mediterranean coast, California, Chile, South Africa, and south and southwest Australia). Throughout the world, this ecosystem with its specially adapted vegetation and wildlife has suffered severe loss and degradation from human development. Worldwide, only 18 percent of the Mediterranean community type remains undisturbed<sup>1</sup>. However, within the Santa Monica Mountains, this ecosystem is remarkably intact despite the fact that it is closely surrounded by some 17 million people. For example, the 150,000 acres of the Santa Monica Mountains National Recreation Area, which encompasses most of the Santa Monica Mountains, was estimated to be 90 percent free of development in 2000<sup>2</sup>. Therefore, this relatively pristine area is both large and mostly unfragmented, which fulfills a fundamental tenet of conservation biology<sup>3</sup>. The need for large contiguous areas of natural habitat in order to maintain critical ecological processes has been emphasized by many conservation biologists<sup>4</sup>.

In addition to being a large single expanse of land, the Santa Monica Mountains ecosystem is still connected, albeit somewhat tenuously, to adjacent, more inland ecosystems<sup>5</sup>. Connectivity among habitats within an ecosystem and connectivity among ecosystems is very important for the preservation of species and ecosystem integrity. In a recent statewide report, the California Resources Agency<sup>6</sup> identified wildlife corridors and habitat connectivity as the top conservation priority. In a letter to governor Gray Davis, sixty leading environmental scientists have endorsed the

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<sup>1</sup> National Park Service. 2000. Draft general management plan & environmental impact statement. Santa Monica Mountains National Recreation Area – California.

<sup>2</sup> Ibid.

<sup>3</sup> Harris, L. D. 1988. Edge effects and conservation of biotic diversity. *Conserv. Biol.* 330-332. Soule, M. E., D. T. Bolger, A. C. Alberts, J. Wright, M. Soric and S. Hill. 1988. Reconstructed dynamics of rapid extinctions of chaparral-requiring birds in urban habitat islands. *Conserv. Biol.* 2: 75-92. Yahner, R. H. 1988. Changes in wildlife communities near edges. *Conserv. Biol.* 2:333-339. Murphy, D. D. 1989. Conservation and confusion: Wrong species, wrong scale, wrong conclusions. *Conservation Biol.* 3:82-84.

<sup>4</sup> Crooks, K. 2000. Mammalian carnivores as target species for conservation in Southern California. p. 105-112 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2<sup>nd</sup> Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Sauvajot, R. M., E. C. York, T. K. Fuller, H. Sharon Kim, D. A. Kamradt and R. K. Wayne. 2000. Distribution and status of carnivores in the Santa Monica Mountains, California: Preliminary results from radio telemetry and remote camera surveys. p 113-123 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2<sup>nd</sup> Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Beier, P. and R. F. Noss. 1998. Do habitat corridors provide connectivity? *Conserv. Biol.* 12:1241-1252. Beier, P. 1996. Metapopulation models, tenacious tracking and cougar conservation. In: *Metapopulations and Wildlife Conservation*, ed. D. R. McCullough. Island Press, Covelo, California, 429p.

<sup>5</sup> The SMM area is linked to larger natural inland areas to the north through two narrow corridors: 1) the Conejo Grade connection at the west end of the Mountains and 2) the Simi Hills connection in the central region of the SMM (from Malibu Creek State Park to the Santa Susanna Mountains).

<sup>6</sup> California Resources Agency. 2001. Missing Linkages: Restoring Connectivity to the California Landscape. California Wilderness Coalition, Calif. Dept of Parks & Recreation, USGS, San Diego Zoo and The Nature Conservancy. Available at: <http://www.calwild.org/pubs/reports/linkages/index.htm>

conclusions of that report<sup>7</sup>. The chief of natural resources at the California Department of Parks and Recreation has identified the Santa Monica Mountains as an area where maintaining connectivity is particularly important<sup>8</sup>.

The species most directly affected by large scale connectivity are those that require large areas or a variety of habitats, e.g., gray fox, cougar, bobcat, badger, steelhead trout, and mule deer<sup>9</sup>. Large terrestrial predators are particularly good indicators of habitat connectivity and of the general health of the ecosystem<sup>10</sup>. Recent studies show that the mountain lion, or cougar, is the most sensitive indicator species of habitat fragmentation, followed by the spotted skunk and the bobcat<sup>11</sup>. Sightings of cougars in both inland and coastal areas of the Santa Monica Mountains<sup>12</sup> demonstrate their continued presence. Like the "canary in the mineshaft," an indicator species like this is good evidence that habitat connectivity and large scale ecological function remains in the Santa Monica Mountains ecosystem.

The habitat integrity and connectivity that is still evident within the Santa Monica Mountains is extremely important to maintain, because both theory and experiments over 75 years in ecology confirm that large spatially connected habitats tend to be more stable and have less frequent extinctions than habitats without extended spatial structure<sup>13</sup>. Beyond simply destabilizing the ecosystem, fragmentation and disturbance

<sup>7</sup> Letters received and included in the September 2002 staff report for the Malibu LCP.

<sup>8</sup> Schoch, D. 2001. Survey lists 300 pathways as vital to state wildlife. Los Angeles Times. August 7, 2001.

<sup>9</sup> Martin, G. 2001. Linking habitat areas called vital for survival of state's wildlife Scientists map main migration corridors. San Francisco Chronicle, August 7, 2001.

<sup>10</sup> Noss, R. F., H. B. Quigley, M. G. Hornocker, T. Merrill and P. C. Paquet. 1996. Conservation biology and carnivore conservation in the Rocky Mountains. *Conserv. Biol.* 10: 949-963. Noss, R. F. 1995. Maintaining ecological integrity in representative reserve networks. World Wildlife Fund Canada.

<sup>11</sup> Sauvajot, R. M., E. C. York, T. K. Fuller, H. Sharon Kim, D. A. Kamradt and R. K. Wayne. 2000. Distribution and status of carnivores in the Santa Monica Mountains, California: Preliminary results from radio telemetry and remote camera surveys. p 113-123 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Beier, P. 1996. Metapopulation models, tenacious tracking and cougar conservation. In: *Metapopulations and Wildlife Conservation*, ed. D. R. McCullough. Island Press, Covelo, California, 429p.

<sup>12</sup> Recent sightings of mountain lions include: Temescal Canyon (pers. com., Peter Brown, Facilities Manager, Calvary Church), Topanga Canyon (pers. com., Marti Witter, NPS), Encinal and Trancas Canyons (pers. com., Pat Healy), Stump Ranch Research Center (pers. com., Dr. Robert Wayne, Dept. of Biology, UCLA). In May of 2002, the NPS *photographed* a mountain lion at a trip camera on the Back Bone Trail near Castro Crest – Seth Riley, Eric York and Dr. Ray Sauvajot, National Park Service, SMMNRA.

<sup>13</sup> Gause, G. F. 1934. The struggle for existence. Baltimore, William and Wilkins 163 p. (also reprinted by Hafner, N.Y. 1964). Gause, G. F., N. P. Smaragdova and A. A. Witt. 1936. Further studies of interaction between predators and their prey. *J. Anim. Ecol.* 5:1-18. Huffaker, C. B. 1958. Experimental studies on predation: dispersion factors and predator-prey oscillations. *Hilgardia* 27:343-383. Luckinbill, L. S. 1973. Coexistence in laboratory populations of *Paramecium aurelia* and its predator *Didinium nasutum*. *Ecology* 54:1320-1327. Allen, J. C., C. C. Brewster and D. H. Slone. 2001. Spatially explicit ecological models: A spatial convolution approach. *Chaos, Solitons and Fractals*. 12:333-347.

can even cause unexpected and irreversible changes to new and completely different kinds of ecosystems (habitat conversion)<sup>14</sup>.

As a result of the pristine nature of large areas of the Santa Monica Mountains and the existence of large, unfragmented and interconnected blocks of habitat, this ecosystem continues to support an extremely diverse flora and fauna. The observed diversity is probably a function of the diversity of physical habitats. The Santa Monica Mountains have the greatest geological diversity of all major mountain ranges within the transverse range province. According to the National Park Service, the Santa Monica Mountains contain 40 separate watersheds and over 170 major streams with 49 coastal outlets<sup>15</sup>. These streams are somewhat unique along the California coast because of their topographic setting. As a "transverse" range, the Santa Monica Mountains are oriented in an east-west direction. As a result, the south-facing riparian habitats have more variable sun exposure than the east-west riparian corridors of other sections of the coast. This creates a more diverse moisture environment and contributes to the higher biodiversity of the region. The many different physical habitats of the Santa Monica Mountains support at least 17 native vegetation types<sup>16</sup> including the following habitats considered sensitive by the California Department of Fish and Game: native perennial grassland, coastal sage scrub, red-shank chaparral, valley oak woodland, walnut woodland, southern willow scrub, southern cottonwood-willow riparian forest, sycamore-alder woodland, oak riparian forest, coastal salt marsh, and freshwater marsh. Over 400 species of birds, 35 species of reptiles and amphibians, and more than 40 species of mammals have been documented in this diverse ecosystem. More than 80 sensitive species of plants and animals (listed, proposed for listing, or species of concern) are known to occur or have the potential to occur within the Santa Monica Mountains Mediterranean ecosystem.

The Santa Monica Mountains are also important in a larger regional context. Several recent studies have concluded that the area of southern California that includes the Santa Monica Mountains is among the most sensitive in the world in terms of the number of rare endemic species, endangered species and habitat loss. These studies have designated the area to be a local hot-spot of endangerment in need of special protection<sup>17</sup>.

Therefore, the Commission finds that the Santa Monica Mountains ecosystem is itself rare and especially valuable because of its special nature as the largest, most pristine,

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<sup>14</sup> Scheffer, M., S. Carpenter, J. A. Foley, C. Folke and B. Walker. 2001. Catastrophic shifts in ecosystems. *Nature* 413:591-596.

<sup>15</sup> NPS. 2000. op.cit.

<sup>16</sup> From the NPS report (2000 op. cit.) that is based on the older Holland system of subjective classification. The data-driven system of Sawyer and Keeler-Wolf results in a much larger number of distinct "alliances" or vegetation types.

<sup>17</sup> Myers, N. 1990. The biodiversity challenge: Expanded hot-spots analysis. *Environmentalist* 10:243-256. Myers, N., R. A. Mittermeier, C. G. Mittermeier, G. A. B. da Fonseca and J. A. Kent. 2000. Biodiversity hot-spots for conservation priorities. *Nature* 403:853-858. Dobson, A. P., J. P. Rodriguez, W. M. Roberts and D. S. Wilcove. 1997. Geographic distribution of endangered species in the United States. *Science* 275:550-553.

physically complex, and biologically diverse example of a Mediterranean ecosystem in coastal southern California. The Commission further finds that because of the rare and special nature of the Santa Monica Mountains ecosystem, the ecosystem roles of substantially intact areas of the constituent plant communities discussed below are "especially valuable" under the Coastal Act.

### **Major Habitats within the Santa Monica Mountains**

The most recent vegetation map that is available for the Santa Monica Mountains is the map that was produced for the National Park Service in the mid-1990s using 1993 satellite imagery supplemented with color and color infrared aerial imagery from 1984, 1988, and 1994 and field review<sup>18</sup>. The minimum mapping unit was 5 acres. For that map, the vegetation was mapped in very broad categories, generally following a vegetation classification scheme developed by Holland<sup>19</sup>. Because of the mapping methods used the degree of plant community complexity in the landscape is not represented. For example, the various types of "ceanothus chaparral" that have been documented were lumped under one vegetation type referred to as "northern mixed chaparral." Dr. Todd Keeler-Wolf of the California Department of Fish and Game is currently conducting a more detailed, quantitative vegetation survey of the Santa Monica Mountains.

The National Park Service map can be used to characterize broadly the types of plant communities present. The main generic plant communities present in the Santa Monica Mountains<sup>20</sup> are: coastal sage scrub, chaparral, riparian woodland, coast live oak woodland, and grasslands.

#### **Riparian Woodland**

Some 49 streams connect inland areas with the coast, and there are many smaller drainages as well, many of which are "blue line." Riparian woodlands occur along both perennial and intermittent streams in nutrient-rich soils. Partly because of its multi-layered vegetation, the riparian community contains the greatest overall biodiversity of all the plant communities in the area<sup>21</sup>. At least four types of riparian communities are discernable in the Santa Monica Mountains: walnut riparian areas, mulefat-dominated riparian areas, willow riparian areas and sycamore riparian woodlands. Of these, the

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<sup>18</sup> Franklin, J. 1997. Forest Service Southern California Mapping Project, Santa Monica Mountains National Recreation Area, Task 11 Description and Results, Final Report. June 13, 1997, Dept. of Geography, San Diego State University, USFS Contract No. 53-91S8-3-TM45.

<sup>19</sup> Holland R. F. 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California. State of California, The Resources Agency, Dept. of Fish and Game, Natural Heritage Division, Sacramento, CA. 95814.

<sup>20</sup> National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000. (Fig. 11 in this document.)

<sup>21</sup> Ibid.

sycamore riparian woodland is the most diverse riparian community in the area. In these habitats, the dominant plant species include arroyo willow, California black walnut, sycamore, coast live oak, Mexican elderberry, California bay laurel, and mule fat. Wildlife species that have been observed in this community include least Bell's vireo (a State and federally listed species), American goldfinches, black phoebes, warbling vireos, bank swallows (State listed threatened species), song sparrows, belted kingfishers, raccoons, and California and Pacific tree frogs.

Riparian communities are the most species-rich to be found in the Santa Monica Mountains. Because of their multi-layered vegetation, available water supply, vegetative cover and adjacency to shrubland habitats, they are attractive to many native wildlife species, and provide essential functions in their lifecycles<sup>22</sup>. During the long dry summers in this Mediterranean climate, these communities are an essential refuge and oasis for much of the areas' wildlife.

Riparian habitats and their associated streams form important connecting links in the Santa Monica Mountains. These habitats connect all of the biological communities from the highest elevation chaparral to the sea with a unidirectional flowing water system, one function of which is to carry nutrients through the ecosystem to the benefit of many different species along the way.

The streams themselves provide refuge for sensitive species including: the coast range newt, the Pacific pond turtle, and the steelhead trout. The coast range newt and the Pacific pond turtle are California Species of Special Concern and are proposed for federal listing<sup>23</sup>, and the steelhead trout is federally endangered. The health of the streams is dependent on the ecological functions provided by the associated riparian woodlands. These functions include the provision of large woody debris for habitat, shading that controls water temperature, and input of leaves that provide the foundation of the stream-based trophic structure.

The importance of the connectivity between riparian areas and adjacent habitats is illustrated by the Pacific pond turtle and the coast range newt, both of which are sensitive and both of which require this connectivity for their survival. The life history of the Pacific pond turtle demonstrates the importance of riparian areas and their associated watersheds for this species. These turtles require the stream habitat during the wet season. However, recent radio tracking work<sup>24</sup> has found that although the Pacific pond turtle spends the wet season in streams, it also requires upland habitat for refuge during the dry season. Thus, in coastal southern California, the Pacific pond turtle requires both streams and intact adjacent upland habitats such as coastal sage

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<sup>22</sup> Walter, Hartmut. Bird use of Mediterranean habitats in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

<sup>23</sup> USFWS. 1989. Endangered and threatened wildlife and plants; animal notice of review. Fed. Reg. 54:554-579. USFWS. 1993. Endangered and threatened wildlife and plants; notice of 1-year petition finding on the western pond turtle. Fed. Reg. 58:42717-42718.

<sup>24</sup> Rathbun, G.B., N.J. Scott and T.G. Murphy. 2002. Terrestrial habitat use by Pacific pond turtle in a Mediterranean climate. *Southwestern Naturalist*. (in Press).



scrub, woodlands or chaparral as part of their normal life cycle. The turtles spend about four months of the year in upland refuge sites located an average distance of 50 m (but up to 280 m) from the edge of the creek bed. Similarly, nesting sites where the females lay eggs are also located in upland habitats an average of 30 m (but up to 170 m) from the creek. Occasionally, these turtles move up to 2 miles across upland habitat<sup>25</sup>. Like many species, the pond turtle requires both stream habitats and the upland habitats of the watershed to complete its normal annual cycle of behavior. Similarly, the coast range newt has been observed to travel hundreds of meters into upland habitat and spend about ten months of the year far from the riparian streambed<sup>26</sup>. They return to the stream to breed in the wet season, and they are therefore another species that requires both riparian habitat and adjacent uplands for their survival.

Riparian habitats in California have suffered serious losses and such habitats in southern California are currently very rare and seriously threatened. In 1989, Faber estimated that 95-97% of riparian habitat in southern California was already lost<sup>27</sup>. Writing at the same time as Faber, Bowler asserted that, "[t]here is no question that riparian habitat in southern California is endangered."<sup>28</sup> In the intervening 13 years, there have been continuing losses of the small amount of riparian woodlands that remain. Today these habitats are, along with native grasslands and wetlands, among the most threatened in California.

In addition to direct habitat loss, streams and riparian areas have been degraded by the effects of development. For example, the coast range newt, a California Species of Special Concern has suffered a variety of impacts from human-related disturbances<sup>29</sup>. Human-caused increased fire frequency has resulted in increased sedimentation rates, which exacerbates the cannibalistic predation of adult newts on the larval stages.<sup>30</sup> In addition impacts from non-native species of crayfish and mosquito fish have also been documented. When these non-native predators are introduced, native prey organisms are exposed to new mortality pressures for which they are not adapted. Coast range newts that breed in the Santa Monica Mountain streams do not appear to have adaptations that permit co-occurrence with introduced mosquito fish and crayfish<sup>31</sup>. These introduced predators have eliminated the newts from streams where they previously occurred by both direct predation and suppression of breeding.

<sup>25</sup> Testimony by R. Dagit, Resource Conservation District of the Santa Monica Mountains at the CCC Habitat Workshop on June 13, 2002.

<sup>26</sup> Dr. Lee Kats, Pepperdine University, personal communication to Dr J. Allen, CCC.

<sup>27</sup> 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.

<sup>28</sup> Bowler, P.A. 1989. Riparian woodland: An endangered habitat in southern California. Pp 80-97 in Schoenherr, A.A. (ed.) Endangered plant communities of southern California. Botanists Special Publication No. 3.

<sup>29</sup> Gamradt, S.C., L.B. Kats and C.B. Anzalone. 1997. Aggression by non-native crayfish deters breeding in California newts. *Conservation Biology* 11(3):793-796.

<sup>30</sup> Kerby, L.J., and L.B. Kats. 1998. Modified interactions between salamander life stages caused by wildfire-induced sedimentation. *Ecology* 79(2):740-745.

<sup>31</sup> Gamradt, S.C. and L.B. Kats. 1996. Effect of introduced crayfish and mosquitofish on California newts. *Conservation Biology* 10(4):1155-1162.

Therefore, because of the essential role that riparian plant communities play in maintaining the biodiversity of the Santa Monica Mountains, because of the historical losses and current rarity of these habitats in southern California, and because of their extreme sensitivity to disturbance, the native riparian habitats in the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

### Coastal Sage Scrub and Chaparral

Coastal sage scrub and chaparral are often lumped together as "shrublands" because of their roughly similar appearance and occurrence in similar and often adjacent physical habitats. In earlier literature, these vegetation associations were often called soft chaparral and hard chaparral, respectively. "Soft" and "hard" refers to differences in their foliage associated with different adaptations to summer drought. Coastal sage scrub is dominated by soft-leaved, generally low-growing aromatic shrubs that die back and drop their leaves in response to drought. Chaparral is dominated by taller, deeper-rooted evergreen shrubs with hard, waxy leaves that minimize water loss during drought.

The two vegetation types are often found interspersed with each other. Under some circumstances, coastal sage scrub may even be successional to chaparral, meaning that after disturbance, a site may first be covered by coastal sage scrub, which is then replaced with chaparral over long periods of time.<sup>32</sup> The existing mosaic of coastal sage scrub and chaparral is the result of a dynamic process that is a function of fire history, recent climatic conditions, soil differences, slope, aspect and moisture regime, and the two habitats should not be thought of as completely separate and unrelated entities but as different phases of the same process<sup>33</sup>. The spatial pattern of these vegetation stands at any given time thus depends on both local site conditions and on history (e.g., fire), and is influenced by both natural and human factors.

In lower elevation areas with high fire frequency, chaparral and coastal sage scrub may be in a state of flux, leading one researcher to describe the mix as a "coastal sage-chaparral subclimax."<sup>34</sup> Several other researchers have noted the replacement of chaparral by coastal sage scrub, or coastal sage scrub by chaparral depending on fire history.<sup>35</sup> In transitional and other settings, the mosaic of chaparral and coastal sage

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<sup>32</sup> Cooper, W.S. 1922. The broad-sclerophyll vegetation of California. Carnegie Institution of Washington Publication 319. 124 pp.

<sup>33</sup> Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. (See attached comment document in Appendix).

<sup>34</sup> Hanes, T.L. 1965. Ecological studies on two closely related chaparral shrubs in southern California. Ecological Monographs 41:27-52.

<sup>35</sup> Gray, K.L. 1983. Competition for light and dynamic boundary between chaparral and coastal sage scrub. Madrono 30(1):43-49. Zedler, P.H., C.R. Gautier and G.S. McMaster. 1983. Vegetation change in response to extreme events: The effect of a short interval between fires in California chaparral and coastal sage scrub. Ecology 64(4): 809-818.



scrub enriches the seasonal plant resource base and provides additional habitat variability and seasonality for the many species that inhabit the area.

*Relationships Among Coastal Sage Scrub, Chaparral and Riparian Communities*

Although the constituent communities of the Santa Monica Mountains Mediterranean ecosystem can be defined and distinguished based on species composition, growth habits, and the physical habitats they characteristically occupy, they are not independent entities ecologically. Many species of plants, such as black sage, and laurel sumac, occur in more than one plant community and many animals rely on the predictable mix of communities found in undisturbed Mediterranean ecosystems to sustain them through the seasons and during different portions of their life histories.

Strong evidence for the interconnectedness between chaparral, coastal scrub and other habitats is provided by "opportunistic foragers" (animals that follow the growth and flowering cycles across these habitats). Coastal scrub and chaparral flowering and growth cycles differ in a complimentary and sequential way that many animals have evolved to exploit. Whereas coastal sage scrub is shallow-rooted and responds quickly to seasonal rains, chaparral plants are typically deep-rooted having most of their flowering and growth later in the rainy season after the deeper soil layers have been saturated<sup>36</sup>. New growth of chaparral evergreen shrubs takes place about four months later than coastal sage scrub plants and it continues later into the summer<sup>37</sup>. For example, in coastal sage scrub, California sagebrush flowers and grows from August to February and coyote bush flowers from August to November<sup>38</sup>. In contrast, chamise chaparral and bigpod ceanothus flower from April to June, buck brush ceanothus flowers from February to April, and hoaryleaf ceanothus flowers from March to April.

Many groups of animals exploit these seasonal differences in growth and blooming period. The opportunistic foraging insect community (e.g., honeybees, butterflies and moths) tends to follow these cycles of flowering and new growth, moving from coastal sage scrub in the early rainy season to chaparral in the spring<sup>39</sup>. The insects in turn are followed by insectivorous birds such as the blue-gray gnatcatcher<sup>40</sup>, bushtit, cactus wren, Bewick's wren and California towhee. At night bats take over the role of daytime insectivores. At least 12 species of bats (all of which are considered sensitive) occur in

<sup>36</sup> DeSimone, S. 2000. California's coastal sage scrub. *Fremontia* 23(4):3-8. Mooney, H.A. 1988. Southern coastal scrub. Chap. 13 in Barbour, M.G. and J. Majors; Eds. 1988. *Terrestrial vegetation of California*, 2<sup>nd</sup> Edition. Calif. Native Plant Soc. Spec. Publ. #9.

<sup>37</sup> Schoenherr, A. A. 1992. *A natural history of California*. University of California Press, Berkeley. 772p.

<sup>38</sup> Dale, N. 2000. Flowering plants of the Santa Monica Mountains. California Native Plant Society, 1722 J Street, Suite 17, Sacramento, CA 95814.

<sup>39</sup> Ballmer, G. R. 1995. What's bugging coastal sage scrub. *Fremontia* 23(4):17-26.

<sup>40</sup> Root, R. B. 1967. The niche exploitation pattern of the blue-gray gnatcatcher. *Ecol. Monog.* 37:317-350.

the Santa Monica Mountains<sup>41</sup>. Five species of hummingbirds also follow the flowering cycle<sup>42</sup>.

Many species of 'opportunistic foragers', which utilize several different community types, perform important ecological roles during their seasonal movements. The scrub jay is a good example of such a species. The scrub jay is an omnivore and forages in coastal sage scrub, chaparral, and oak woodlands for insects, berries and notably acorns. Its foraging behavior includes the habit of burying acorns, usually at sites away from the parent tree canopy. Buried acorns have a much better chance of successful germination (about two-fold) than exposed acorns because they are protected from desiccation and predators. One scrub jay will bury approximately 5000 acorns in a year. The scrub jay therefore performs the function of greatly increasing recruitment and regeneration of oak woodland, a valuable and sensitive habitat type<sup>43</sup>.

Like the scrub jay, most of the species of birds that inhabit the Mediterranean ecosystem in the Santa Monica Mountains require more than one community type in order to flourish. Many species include several community types in their daily activities. Other species tend to move from one community to another seasonally. The importance of maintaining the integrity of the multi-community ecosystem is clear in the following observations of Dr. Hartmut Walter of the University of California at Los Angeles:

"Bird diversity is directly related to the habitat mosaic and topographic diversity of the Santa Monicas. Most bird species in this bio-landscape require more than one habitat for survival and reproduction." "A significant proportion of the avifauna breeds in the wooded canyons of the Santa Monicas. Most of the canyon breeders forage every day in the brush- and grass-covered slopes, ridges and mesas. They would not breed in the canyons in the absence of the surrounding shrublands. Hawks, owls, falcons, orioles, flycatchers, woodpeckers, warblers, hummingbirds, etc. belong to this group. Conversely, some of the characteristic chaparral birds such as thrashers, quails, and wrentits need the canyons for access to shelter, protection from fire, and water. The regular and massive movement of birds between riparian corridors and adjacent shrublands has been demonstrated by qualitative and quantitative observations by several UCLA students<sup>44</sup>."

Thus, the Mediterranean ecosystem of the Santa Monica Mountains is a mosaic of vegetation types linked together ecologically. The high biodiversity of the area results

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<sup>41</sup> Letter from Dr. Marti Witter, NPS, dated Sept. 13, 2001, in letters received and included in the September 2002 staff report for the Malibu LCP.

<sup>42</sup> National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

<sup>43</sup> Borchert, M. I., F. W. Davis, J. Michaelsen and L. D. Oyler. 1989. Interactions of factors affecting seedling recruitment of blue oak (*Quercus douglasii*) in California. Ecology 70:389-404. Bossema, I. 1979. Jays and oaks: An eco-ethological study of a symbiosis. Behavior 70:1-118. Schoenherr, A. A. 1992. A natural history of California. University of California Press, Berkeley. 772p.

<sup>44</sup> Walter, Hartmut. Bird use of Mediterranean habitats in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

from both the diversity and the interconnected nature of this mosaic. Most raptor species, for example, require large areas and will often require different habitats for perching, nesting and foraging. Fourteen species of raptors (13 of which are considered sensitive) are reported from the Santa Monica Mountains. These species utilize a variety of habitats including rock outcrops, oak woodlands, riparian areas, grasslands, chaparral, coastal sage scrub, estuaries and freshwater lakes<sup>45</sup>.

When the community mosaic is disrupted and fragmented by development, many chaparral-associated native bird species are impacted. In a study of landscape-level fragmentation in the Santa Monica Mountains, Stralberg<sup>46</sup> found that the ash-throated flycatcher, Bewick's wren, wrentit, blue-gray gnatcatcher, California thrasher, orange-crowned warbler, rufous-crowned sparrow, spotted towhee, and California towhee all decreased in numbers as a result of urbanization. Soule<sup>47</sup> observed similar effects of fragmentation on chaparral and coastal sage scrub birds in the San Diego area.

In summary, all of the vegetation types in this ecosystem are strongly linked by animal movement and foraging. Whereas classification and mapping of vegetation types may suggest a snapshot view of the system, the seasonal movements and foraging of animals across these habitats illustrates the dynamic nature and vital connections that are crucial to the survival of this ecosystem.

### Coastal Sage Scrub

"Coastal sage scrub" is a generic vegetation type that is inclusive of several subtypes<sup>48</sup>. In the Santa Monica Mountains, coastal sage scrub is mostly of the type termed "Venturan Coastal Sage Scrub." In general, coastal sage scrub is comprised of dominant species that are semi-woody and low-growing, with shallow, dense roots that enable them to respond quickly to rainfall. Under the moist conditions of winter and spring, they grow quickly, flower, and produce light, wind-dispersed seeds, making them good colonizers following disturbance. These species cope with summer drought by dying back, dropping their leaves or producing a smaller summer leaf in order to reduce water loss. Stands of coastal sage scrub are much more open than chaparral and contain a greater admixture of herbaceous species. Coastal sage scrub is generally restricted to drier sites, such as low foothills, south-facing slopes, and shallow soils at higher elevations.

<sup>45</sup> National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701. and Letter from Dr. Marti Witter, NPS, Dated Sept. 13, 2001, in letters received and included in the September 2002 staff report for the Malibu LCP.

<sup>46</sup> Stralberg, D. 2000. Landscape-level urbanization effects on chaparral birds: A Santa Monica Mountains case study. p 125-136 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2<sup>nd</sup> Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62.

<sup>47</sup> Soule, M. E, D. T. Bolger, A. C. Alberts, J. Wright, M. Sorice and S. Hill. 1988. Reconstructed dynamics of rapid extinctions of chaparral-requiring birds in urban habitat islands. *Conserv. Biol.* 2: 75-92.

<sup>48</sup> Kirkpatrick, J.B. and C.F. Hutchinson. 1977. The community composition of Californian coastal sage scrub. *Vegetatio* 35:21-33; Holland, 1986. op.cit.; Sawyer and Keeler-Wolf, 1995, op.cit.

The species composition and structure of individual stands of coastal sage scrub depend on moisture conditions that derive from slope, aspect, elevation and soil type. Drier sites are dominated by more drought-resistant species (e.g., California sagebrush, coast buckwheat, and *Opuntia* cactus). Where more moisture is available (e.g., north-facing slopes), larger evergreen species such as toyon, laurel sumac, lemonade berry, and sugar bush are common. As a result, there is more cover for wildlife, and movement of large animals from chaparral into coastal sage scrub is facilitated in these areas. Characteristic wildlife in this community includes Anna's hummingbirds, rufous-sided towhees, California quail, greater roadrunners, Bewick's wrens, coyotes, and coast horned lizards<sup>49</sup>, but most of these species move between coastal sage scrub and chaparral during their daily activities or on a seasonal basis.

Of the many important ecosystem roles performed by the coastal sage scrub community, five are particularly important in the Santa Monica Mountains. Coastal sage scrub provides critical linkages between riparian corridors, provides essential habitat for species that require several habitat types during the course of their life histories, provides essential habitat for local endemics, supports rare species that are in danger of extinction, and reduces erosion, thereby protecting the water quality of coastal streams.

Riparian woodlands are primary contributors to the high biodiversity of the Santa Monica Mountains. The ecological integrity of those riparian habitats not only requires wildlife dispersal along the streams, but also depends on the ability of animals to move from one riparian area to another. Such movement requires that the riparian corridors be connected by suitable habitat. In the Santa Monica Mountains, coastal sage scrub and chaparral provide that function. Significant development in coastal sage scrub would reduce the riparian corridors to linear islands of habitat with severe edge effects<sup>50</sup>, reduced diversity, and lower productivity.

Most wildlife species and many species of plants utilize several types of habitat. Many species of animals endemic to Mediterranean habitats move among several plant communities during their daily activities and many are reliant on different communities either seasonally or during different stages of their life cycle. Without an intact mosaic of coastal sage scrub, chaparral, and riparian community types, many species will not thrive. Specific examples of the importance of interconnected communities, or habitats, were provided in the discussion above. This is an essential ecosystem role of coastal sage scrub.

A characteristic of the coastal sage scrub vegetation type is a high degree of endemism. This is consonant with Westman's observation that 44 percent of the species he sampled in coastal sage scrub occurred at only one of his 67 sites, which were

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<sup>49</sup> National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000.

<sup>50</sup> Environmental impacts are particularly severe at the interface between development and natural habitats. The greater the amount of this "edge" relative to the area of natural habitat, the worse the impact.

distributed from the San Francisco Bay area to Mexico<sup>51</sup>. Species with restricted distributions are by nature more susceptible to loss or degradation of their habitat. Westman said of this unique and local aspect of coastal sage scrub species in California:

"While there are about 50 widespread sage scrub species, more than half of the 375 species encountered in the present study of the sage scrub flora are rare in occurrence within the habitat range. In view of the reduction of the area of coastal sage scrub in California to 10-15% of its former extent and the limited extent of preserves, measures to conserve the diversity of the flora are needed."<sup>52</sup>

Coastal sage scrub in southern California provides habitat for about 100 rare species<sup>53</sup>, many of which are also endemic to limited geographic regions<sup>54</sup>. In the Santa Monica Mountains, rare animals that inhabit coastal sage scrub<sup>55</sup> include the Santa Monica shieldback katydid, silvery legless lizard, coastal cactus wren, Bell's sparrow, San Diego desert woodrat, southern California rufous-crowned sparrow, coastal western whiptail, and San Diego horned lizard. Some of these species are also found in chaparral<sup>56</sup>. Rare plants found in coastal sage scrub in the Santa Monica Mountains include Santa Susana tarplant, Coulter's saltbush, Blockman's dudleya, Braunton's milkvetch, Parry's spineflower, and Plummer's mariposa lily<sup>57</sup>. A total of 32 sensitive species of reptiles, birds and mammals have been identified in this community by the National Park Service.<sup>58</sup>

One of the most important ecological functions of coastal sage scrub in the Santa Monica Mountains is to protect water quality in coastal streams by reducing erosion in the watershed. Although shallow rooted, the shrubs that define coastal sage scrub have dense root masses that hold the surface soils much more effectively than the exotic annual grasses and forbs that tend to dominate in disturbed areas. The native shrubs of this community are resistant not only to drought, as discussed above, but well adapted to fire. Most of the semi-woody shrubs have some ability to crown sprout after

<sup>51</sup> Westman, W.E. 1981. Diversity relations and succession in Californian coastal sage scrub. *Ecology* 62:170-184.

<sup>52</sup> Ibid.

<sup>53</sup> Atwood, J. L. 1993. California gnatcatchers and coastal sage scrub: The biological basis for endangered species listing. pp.149-166 *In: Interface Between Ecology and Land Development in California*. Ed. J. E. Keeley, So. Calif. Acad. of Sci., Los Angeles. California Department of Fish and Game (CDFG). 1993. The Southern California Coastal Sage Scrub (CSS) Natural Communities Conservation Plan (NCCP). CDFG and Calif. Resources Agency, 1416 9<sup>th</sup> St., Sacramento, CA 95814.

<sup>54</sup> Westman, W.E. 1981. op. cit.

<sup>55</sup> Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.

<sup>56</sup> O'Leary J.F., S.A. DeSimone, D.D. Murphy, P.F. Brussard, M.S. Gilpin, and R.F. Noss. 1994. Bibliographies on coastal sage scrub and related malacophyllous shrublands of other Mediterranean-type climates. *California Wildlife Conservation Bulletin* 10:1-51.

<sup>57</sup> Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.

<sup>58</sup> NPS, 2000, op cit.

fire. Several CSS species (e.g., *Eriogonum cinereum*) in the Santa Monica Mountains and adjacent areas resprout vigorously and other species growing near the coast demonstrate this characteristic more strongly than do individuals of the same species growing at inland sites in Riverside County.<sup>59</sup> These shrub species also tend to recolonize rapidly from seed following fire. As a result they provide persistent cover that reduces erosion.

In addition to performing extremely important roles in the Mediterranean ecosystem, the coastal sage scrub community type has been drastically reduced in area by habitat loss to development. In the early 1980's it was estimated that 85 to 90 percent of the original extent of coastal sage scrub in California had already been destroyed.<sup>60</sup> Losses since that time have been significant and particularly severe in the coastal zone.

Therefore, because of its increasing rarity, its important role in the functioning of the Santa Monica Mountains Mediterranean ecosystem, and its extreme vulnerability to development, coastal sage scrub within the Santa Monica Mountains meets the definition of ESHA under the Coastal Act.

### Chaparral

Another shrub community in the Santa Monica Mountain Mediterranean ecosystem is chaparral. Like "coastal sage scrub," this is a generic category of vegetation. Chaparral species have deep roots (10s of ft) and hard waxy leaves, adaptations to drought that increase water supply and decrease water loss at the leaf surface. Some chaparral species cope more effectively with drought conditions than do desert plants<sup>61</sup>. Chaparral plants vary from about one to four meters tall and form dense, intertwining stands with nearly 100 percent ground cover. As a result, there are few herbaceous species present in mature stands. Chaparral is well adapted to fire. Many species regenerate mainly by crown sprouting; others rely on seeds which are stimulated to germinate by the heat and ash from fires. Over 100 evergreen shrubs may be found in chaparral<sup>62</sup>. On average, chaparral is found in wetter habitats than coastal sage scrub, being more common at higher elevations and on north facing slopes.

The broad category "northern mixed chaparral" is the major type of chaparral shown in the National Park Service map of the Santa Monica Mountains. However, northern mixed chaparral can be variously dominated by chamise, scrub oak or one of several species of manzanita or by ceanothus. In addition, it commonly contains woody vines and large shrubs such as mountain mahogany, toyon, hollyleaf redberry, and sugarbush<sup>63</sup>. The rare red shank chaparral plant community also occurs in the Santa Monica Mountains. Although included within the category "northern mixed chaparral" in

<sup>59</sup> Dr. John O'Leary, SDSU, personal communication to Dr. John Dixon, CCC, July 2, 2002

<sup>60</sup> Westman, W.E. 1981. op. cit.

<sup>61</sup> Dr. Stephen Davis, Pepperdine University. Presentation at the CCC workshop on the significance of native habitats in the Santa Monica Mountains. June 13, 2002.

<sup>62</sup> Keely, J.E. and S.C. Keeley. Chaparral. Pages 166-207 in M.G. Barbour and W.D. Billings, eds. North American Terrestrial Vegetation. New York, Cambridge University Press.

<sup>63</sup> Ibid.

the vegetation map, several types of ceanothus chaparral are reported in the Santa Monica Mountains. Ceanothus chaparral occurs on stable slopes and ridges, and may be dominated by bigpod ceanothus, buck brush ceanothus, hoaryleaf ceanothus, or greenbark ceanothus. In addition to ceanothus, other species that are usually present in varying amounts are chamise, black sage, holly-leaf redberry, sugarbush, and coast golden bush<sup>64</sup>.

Several sensitive plant species that occur in the chaparral of the Santa Monica Mountains area are: Santa Susana tarplant, Lyon's pentachaeta, marcescent dudleya, Santa Monica Mountains dudleya, Braunton's milk vetch and salt spring checkerbloom<sup>65</sup>. Several occurring or potentially occurring sensitive animal species in chaparral from the area are: Santa Monica shieldback katydid, western spadefoot toad, silvery legless lizard, San Bernardino ring-neck snake, San Diego mountain kingsnake, coast patch-nosed snake, sharp-shinned hawk, southern California rufous-crowned sparrow, Bell's sparrow, yellow warbler, pallid bat, long-legged myotis bat, western mastiff bat, and San Diego desert woodrat.<sup>66</sup>

Coastal sage scrub and chaparral are the predominant generic community types of the Santa Monica Mountains and provide the living matrix within which rarer habitats like riparian woodlands exist. These two shrub communities share many important ecosystem roles. Like coastal sage scrub, chaparral within the Santa Monica Mountains provides critical linkages among riparian corridors, provides essential habitat for species that require several habitat types during the course of their life histories, provides essential habitat for sensitive species, and stabilizes steep slopes and reduces erosion, thereby protecting the water quality of coastal streams.

Many species of animals in Mediterranean habitats characteristically move among several plant communities during their daily activities, and many are reliant on different communities either seasonally or during different stages of their life cycle. The importance of an intact mosaic of coastal sage scrub, chaparral, and riparian community types is perhaps most critical for birds. However, the same principles apply to other taxonomic groups. For example, whereas coastal sage scrub supports a higher diversity of native ant species than chaparral, chaparral habitat is necessary for the coast horned lizard, an ant specialist<sup>67</sup>. Additional examples of the importance of an interconnected communities, or habitats, were provided in the discussion of coastal sage scrub above. This is an extremely important ecosystem role of chaparral in the Santa Monica Mountains.

Chaparral is also remarkably adapted to control erosion, especially on steep slopes. The root systems of chaparral plants are very deep, extending far below the surface and

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<sup>64</sup> Ibid.

<sup>65</sup> Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.

<sup>66</sup> Ibid.

<sup>67</sup> A.V. Suarez. Ants and lizards in coastal sage scrub and chaparral. A presentation at the CCC workshop on the significance of native habitats in the Santa Monica Mountains. June 13, 2002.



penetrating the bedrock below<sup>68</sup>, so chaparral literally holds the hillsides together and prevents slippage.<sup>69</sup> In addition, the direct soil erosion from precipitation is also greatly reduced by 1) water interception on the leaves and above ground foliage and plant structures, and 2) slowing the runoff of water across the soil surface and providing greater soil infiltration. Chaparral plants are extremely resistant to drought, which enables them to persist on steep slopes even during long periods of adverse conditions. Many other species die under such conditions, leaving the slopes unprotected when rains return. Since chaparral plants recover rapidly from fire, they quickly re-exert their ground stabilizing influence following burns. The effectiveness of chaparral for erosion control after fire increases rapidly with time<sup>70</sup>. Thus, the erosion from a 2-inch rain-day event drops from 5 yd<sup>3</sup>/acre of soil one year after a fire to 1 yd<sup>3</sup>/acre after 4 years.<sup>71</sup> The following table illustrates the strong protective effect of chaparral in preventing erosion.

Soil erosion as a function of 24-hour precipitation and chaparral age.

Years Since Fire	Erosion (yd <sup>3</sup> /acre) at Maximum 24-hr Precipitation of:		
	2 inches	5 inches	11 inches
1	5	20	180
4	1	12	140
17	0	1	28
50+	0	0	3

Therefore, because of its important roles in the functioning of the Santa Monica Mountains Mediterranean ecosystem, and its extreme vulnerability to development, chaparral within the Santa Monica Mountains meets the definition of ESHA under the Coastal Act.

### Oak Woodland and Savanna

Coast live oak woodland occurs mostly on north slopes, shaded ravines and canyon bottoms. Besides the coast live oak, this plant community includes hollyleaf cherry, California bay laurel, coffeeberry, and poison oak. Coast live oak woodland is more

<sup>68</sup> Helmers, H., J.S. Horton, G. Juhren and J. O'Keefe. 1955. Root systems of some chaparral plants in southern California. *Ecology* 36(4):667-678. Kummerow, J. and W. Jow. 1977. Root systems of chaparral shrubs. *Oecologia* 29:163-177.

<sup>69</sup> Radtke, K. 1983. *Living more safely in the chaparral-urban interface*. General Technical Report PSW-67. U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station, Berkeley, California. 51 pp.

<sup>70</sup> Kittredge, J. 1973. *Forest influences — the effects of woody vegetation on climate, water, and soil*. Dover Publications, New York. 394 pp. Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. (Table 1). The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. Vicars, M. (ed.) 1999. *FireSmart: protecting your community from wildfire*. Partners in Protection, Edmonton, Alberta.

<sup>71</sup> *Ibid.*



tolerant of salt-laden fog than other oaks and is generally found nearer the coast<sup>72</sup>. Coast live oak also occurs as a riparian corridor species within the Santa Monica Mountains.

Valley oaks are endemic to California and reach their southern most extent in the Santa Monica Mountains. Valley oaks were once widely distributed throughout California's perennial grasslands in central and coastal valleys. Individuals of this species may survive 400-600 years. Over the past 150 years, valley oak savanna habitat has been drastically reduced and altered due to agricultural and residential development. The understory is now dominated by annual grasses and recruitment of seedlings is generally poor. This is a very threatened habitat.

The important ecosystem functions of oak woodlands and savanna are widely recognized<sup>73</sup>. These habitats support a high diversity of birds<sup>74</sup>, and provide refuge for many species of sensitive bats<sup>75</sup>. Typical wildlife in this habitat includes acorn woodpeckers, scrub jays, plain titmice, northern flickers, cooper's hawks, western screech owls, mule deer, gray foxes, ground squirrels, jackrabbits and several species of sensitive bats.

Therefore, because of their important ecosystem functions and vulnerability to development, oak woodlands and savanna within the Santa Monica Mountains met the definition of ESHA under the Coastal Act.

### Grasslands

Grasslands consist of low herbaceous vegetation that is dominated by grass species but may also harbor native or non-native forbs.

### California Perennial Grassland

Native grassland within the Santa Monica Mountains consists of perennial native needlegrasses: purple needlegrass, (*Nassella pulchra*), foothills needlegrass, (*Nassella lepida*) and nodding needlegrass (*Nassella cernua*). These grasses may occur in the same general area but they do not typically mix, tending to segregate based on slope

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<sup>72</sup> NPS 2000. op. cit.

<sup>73</sup> Block, W.M., M.L. Morrison, and J. Verner. 1990. Wildlife and oak-woodland interdependency. *Fremontia* 18(3):72-76. Pavlik, B.M., P.C. Muick, S. Johnson, and M. Popper. 1991. *Oaks of California*. Cachuma Press and California Oak Foundation, Los Olivos, California. 184 pp.

<sup>74</sup> Cody, M.L. 1977. Birds. Pp. 223-231 in Thrower, N.J.W., and D.E. Bradbury (eds.). *Chile-California Mediterranean scrub atlas*. US/IBP Synthesis Series 2. Dowden, Hutchinson & Ross, Stroudsburg, Pennsylvania. National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

<sup>75</sup> Miner, K.L., and D.C. Stokes. 2000. Status, conservation issues, and research needs for bats in the south coast bioregion. Paper presented at *Planning for biodiversity: bringing research and management together*, February 29, California State University, Pomona, California.

and substrate factors<sup>76</sup>. Mixed with these native needlegrasses are many non-native annual species that are characteristic of California annual grassland<sup>77</sup>. Native perennial grasslands are now exceedingly rare<sup>78</sup>. In California, native grasslands once covered nearly 20 percent of the land area, but today are reduced to less than 0.1 percent<sup>79</sup>. The California Natural Diversity Database (CNDDDB) lists purple needlegrass habitat as a community needing priority monitoring and restoration. The CNDDDB considers grasslands with 10 percent or more cover by purple needlegrass to be significant, and recommends that these be protected as remnants of original California prairie. Patches of this sensitive habitat occur throughout the Santa Monica Mountains where they are intermingled with coastal sage scrub, chaparral and oak woodlands.

Many of the raptors that inhabit the Santa Monica Mountains make use of grasslands for foraging because they provide essential habitat for small mammals and other prey. Grasslands adjacent to woodlands are particularly attractive to these birds of prey since they simultaneously offer perching and foraging habitat. Particularly noteworthy in this regard are the white-tailed kite, northern harrier, sharp-shinned hawk, Cooper's hawk, red-shouldered hawk, red-tailed hawk, golden eagle, American kestrel, merlin, and prairie falcon<sup>80</sup>.

Therefore, because of their extreme rarity, important ecosystem functions, and vulnerability to development, California native perennial grasslands within the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

#### California Annual Grassland

The term "California annual grassland" has been proposed to recognize the fact that non-native annual grasses should now be considered naturalized and a permanent feature of the California landscape and should be acknowledged as providing important ecological functions. These habitats support large populations of small mammals and provide essential foraging habitat for many species of birds of prey. California annual grassland generally consists of dominant invasive annual grasses that are primarily of Mediterranean origin. The dominant species in this community include common wild oats (*Avena fatua*), slender oat (*Avena barbata*), red brome (*Bromus madritensis* ssp. *Rubens*), ripgut brome, (*Bromus diandrus*), and herbs such as black mustard (*Brassica nigra*), wild radish (*Raphanus sativus*) and sweet fennel (*Foeniculum vulgare*). Annual grasslands are located in patches throughout the Santa Monica Mountains in previously disturbed areas, cattle pastures, valley bottoms and along roadsides. While many of

<sup>76</sup> Sawyer, J. O. and T. Keeler-Wolf. 1995. A manual of California vegetation. California Native Plant Society, 1722 J St., Suite 17, Sacramento, CA 95814.

<sup>77</sup> Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.

<sup>78</sup> Noss, R.F., E.T. LaRoe III and J.M. Scott. 1995. Endangered ecosystems of the United States: a preliminary assessment of loss and degradation. Biological Report 28. National Biological Service, U.S. Dept. of Interior.

<sup>79</sup> NPS 2000. op. cit.

<sup>80</sup> NPS 2000. op. cit.

these patches are dominated by invasive non-native species, it would be premature to say that they are never sensitive or do not harbor valuable annual native species. A large number of native forbs also may be present in these habitats<sup>81</sup>, and many native wildflowers occur primarily in annual grasslands. In addition, annual grasslands are primary foraging areas for many sensitive raptor species in the area.

Inspection of California annual grasslands should be done prior to any impacts to determine if any rare native species are present or if any rare wildlife rely on the habitat and to determine if the site meets the Coastal Act ESHA criteria.

### **Effects of Human Activities and Development on Habitats within the Santa Monica Mountains**

The natural habitats of the Santa Monica Mountains are highly threatened by current development pressure, fragmentation and impacts from the surrounding megalopolis. The developed portions of the Santa Monica Mountains represents the extension of this urbanization into natural areas. About 54% of the undeveloped Santa Monica Mountains are in private ownership<sup>82</sup>, and computer simulation studies of the development patterns over the next 25 years predict a serious increase in habitat fragmentation<sup>83</sup>. Development and associated human activities have many well-documented deleterious effects on natural communities. These environmental impacts may be both direct and indirect and include the effects of increased fire frequency, of fire clearance, of introduction of exotic species, and of night lighting.

#### **Increased Fire Frequency**

Since 1925, all the major fires in the Santa Monica Mountains have been caused by human activities<sup>84</sup>. Increased fire frequency alters plant communities by creating conditions that select for some species over others. Strong resprouting plant species such as laurel sumac, are favored while non-sprouters like bigpod ceanothus, are at a disadvantage. Frequent fire recurrence before the non-sprouters can develop and reestablish a seed bank is detrimental, so that with each fire their chances for propagation are further reduced. Resprouters can be sending up new shoots quickly, and so they are favored in an increased fire frequency regime. Also favored are weedy and invasive species. Dr. Steven Davis in his abstract for a Coastal Commission

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<sup>81</sup> Holstein, G. 2001. Pre-agricultural grassland in Central California. *Madrono* 48(4):253-264. Stromberg, M.R., P. Kephart and V. Yadon. 2001. Composition, invasibility and diversity of coastal California grasslands. *Madrono* 48(4):236-252.

<sup>82</sup> National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000.

<sup>83</sup> Swenson, J. J., and J. Franklin. 2000. The effects of future urban development on habitat fragmentation in the Santa Monica Mountains. *Landscape Ecol.* 15:713-730.

<sup>84</sup> NPS, 2000, op. cit.

Workshop stated<sup>85</sup> *"We have evidence that recent increases in fire frequency has eliminated drought-hardy non-sprouters from chaparral communities near Malibu, facilitating the invasion of exotic grasses and forbs that further exacerbate fire frequency."* Thus, simply increasing fire frequency from about once every 22 years (the historical frequency) to about once every 12 years (the current frequency) can completely change the vegetation community. This has cascading effects throughout the ecosystem.

### Fuel Clearance

The removal of vegetation for fire protection in the Santa Monica Mountains is required by law in "Very High Fire Hazard Severity Zones"<sup>86</sup>. Fuel removal is reinforced by insurance carriers<sup>87</sup>. Generally, the Santa Monica Mountains are considered to be a high fire hazard severity zone. In such high fire hazard areas, homeowners must often resort to the California FAIR Plan to obtain insurance. Because of the high risk, all homes in "brush areas" are assessed an insurance surcharge if they have less than the recommended 200-foot fuel modification zone<sup>88</sup> around the home. The combination of insurance incentives and regulation assures that the 200-foot clearance zone will be applied universally<sup>89</sup>. While it is not required that all of this zone be cleared of vegetation, the common practice is simply to disk this zone, essentially removing or highly modifying all native vegetation. For a new structure not adjacent to existing structures, this results in the removal or modification of a minimum of three acres of vegetation<sup>90</sup>. While the directly impacted area is large, the effects of fuel modification extend beyond the 200-foot clearance area.

### Effects of Fuel Clearance on Bird Communities

The impacts of fuel clearance on bird communities was studied by Stralberg who identified three ecological categories of birds in the Santa Monica Mountains: 1) local and long distance migrators (ash-throated flycatcher, Pacific-slope flycatcher, phainopepla, black-headed grosbeak), 2) chaparral-associated species (Bewick's wren, wrentit, blue-gray gnatcatcher, California thrasher, orange-crowned warbler, rufous-crowned sparrow, spotted towhee, California towhee) and 3) urban-associated species

<sup>85</sup> Davis, Steven. Effects of fire and other factors on patterns of chaparral in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

<sup>86</sup> 1996 Los Angeles County Fire Code Section 1117.2.1

<sup>87</sup> Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. Vicars, M. (ed.) 1999. FireSmart: protecting your community from wildfire. Partners in Protection, Edmonton, Alberta.

<sup>88</sup> Fuel Modification Plan Guidelines. Co. of Los Angeles Fire Department, Fuel Modification Unit, Prevention Bureau, Forestry Division, Brush Clearance Section, January 1998.

<sup>89</sup> Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024.

<sup>90</sup> Ibid.

(mourning dove, American crow, Western scrub-jay, Northern mockingbird)<sup>91</sup>. It was found in this study that the number of migrators and chaparral-associated species decreased due to habitat fragmentation while the abundance of urban-associated species increased. The impact of fuel clearance is to greatly increase this edge-effect of fragmentation by expanding the amount of cleared area and "edge" many-fold. Similar results of decreases in fragmentation-sensitive bird species are reported from the work of Bolger et al. in southern California chaparral<sup>92</sup>.

### Effects of Fuel Clearance on Arthropod Communities

Fuel clearance and habitat modification may also disrupt native arthropod communities, and this can have surprising effects far beyond the cleared area on species seemingly unrelated to the direct impacts. A particularly interesting and well-documented example with ants and lizards illustrates this point. When non-native landscaping with intensive irrigation is introduced, the area becomes favorable for the invasive and non-native Argentine ant. This ant forms "super colonies" that can forage more than 650 feet out into the surrounding native chaparral or coastal sage scrub around the landscaped area<sup>93</sup>. The Argentine ant competes with native harvester ants and carpenter ants displacing them from the habitat<sup>94</sup>. These native ants are the primary food resource for the native coast horned lizard, a California "Species of Special Concern." As a result of Argentine ant invasion, the coast horned lizard and its native ant food resources are diminished in areas near landscaped and irrigated developments<sup>95</sup>. In addition to specific effects on the coast horned lizard, there are other Mediterranean habitat ecosystem processes that are impacted by Argentine ant invasion through impacts on long-evolved native ant-plant mutualisms<sup>96</sup>. The composition of the whole arthropod community changes and biodiversity decreases when habitats are subjected to fuel modification. In coastal sage scrub disturbed by fuel modification, fewer arthropod

<sup>91</sup> Stralberg, D. 2000. Landscape-level urbanization effects on chaparral birds: a Santa Monica Mountains case study. Pp. 125-136 in Keeley, J.E., M. Baer-Keeley, and C.J. Fotheringham (eds.). *2nd interface between ecology and land development in California*. U.S. Geological Survey, Sacramento, California.

<sup>92</sup> Bolger, D. T., T. A. Scott and J. T. Rotenberry. 1997. Breeding bird abundance in an urbanizing landscape in coastal Southern California. *Conserv. Biol.* 11:406-421.

<sup>93</sup> Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. *Ecology* 79(6):2041-2056.

<sup>94</sup> Holway, D.A. 1995. The distribution of the Argentine ant (*Linepithema humile*) in central California: a twenty-year record of invasion. *Conservation Biology* 9:1634-1637. Human, K.G. and D.M. Gordon. 1996. Exploitation and interference competition between the invasive Argentine ant, (*Linepithema humile*), and native ant species. *Oecologia* 105:405-412.

<sup>95</sup> Fisher, R.N., A.V. Suarez and T.J. Case. 2002. Spatial patterns in the abundance of the coastal horned lizard. *Conservation Biology* 16(1):205-215. Suarez, A.V. J.Q. Richmond and T.J. Case. 2000. Prey selection in horned lizards following the invasion of Argentine ants in southern California. *Ecological Applications* 10(3):711-725.

<sup>96</sup> Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. *Ecology* 79(6):2041-2056. Bond, W. and P. Slingsby. Collapse of an Ant-Plant Mutualism: The Argentine Ant (*Iridomyrmex humilis*) and Myrmecochorous Proteaceae. *Ecology* 65(4):1031-1037.

predator species are seen and more exotic arthropod species are present than in undisturbed habitats<sup>97</sup>.

Studies in the Mediterranean vegetation of South Africa (equivalent to California shrubland with similar plant species) have shown how the invasive Argentine ant can disrupt the whole ecosystem.<sup>98</sup> In South Africa the Argentine ant displaces native ants as they do in California. Because the native ants are no longer present to collect and bury seeds, the seeds of the native plants are exposed to predation, and consumed by seed eating insects, birds and mammals. When this habitat burns after Argentine ant invasion the large-seeded plants that were protected by the native ants all but disappear. So the invasion of a non-native ant species drives out native ants, and this can cause a dramatic change in the species composition of the plant community by disrupting long-established seed dispersal mutualisms. In California, some insect eggs are adapted to being buried by native ants in a manner similar to plant seeds<sup>99</sup>.

### Artificial Night Lighting

One of the more recently recognized human impacts on ecosystem function is that of artificial night lighting as it effects the behavior and function of many different types of organisms<sup>100</sup>. For literally billions of years the only nighttime sources of light were the moon and stars, and living things have adapted to this previously immutable standard and often depend upon it for their survival. A review of lighting impacts suggests that whereas some species are unaffected by artificial night lighting, many others are severely impacted. Overall, most impacts are negative ones or ones whose outcome is unknown. Research to date has found negative impacts to plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals, and a detailed literature review can be found in the report by Longcore and Rich<sup>101</sup>.

### **Summary**

In a past action, the Coastal Commission found<sup>102</sup> that the Santa Monica Mountains Mediterranean Ecosystem, which includes the undeveloped native habitats of the Santa Monica Mountains, is rare and especially valuable because of its relatively pristine

<sup>97</sup> Longcore, T.R. 1999. Terrestrial arthropods as indicators of restoration success in coastal sage scrub. Ph.D. Dissertation, University of California, Los Angeles.

<sup>98</sup> Christian, C. 2001. Consequences of a biological invasion reveal the importance of mutualism for plant communities. *Nature* 413:635-639.

<sup>99</sup> Hughes, L. and M. Westoby. 1992. Capitula on stick insect eggs and elaiosomes on seeds: convergent adaptations for burial by ants. *Functional Ecology* 6:642-648.

<sup>100</sup> Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024.

<sup>101</sup> Ibid, and Ecological Consequences of Artificial Night Lighting, Conference, February 23-24, 2002, UCLA Los Angeles, California.

<sup>102</sup> Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.



character, physical complexity, and resultant biological diversity. The undeveloped native habitats within the Santa Monica Mountains that are discussed above are ESHA because of their valuable roles in that ecosystem, including providing a critical mosaic of habitats required by many species of birds, mammals and other groups of wildlife, providing the opportunity for unrestricted wildlife movement among habitats, supporting populations of rare species, and preventing the erosion of steep slopes and thereby protecting riparian corridors, streams and, ultimately, shallow marine waters.

The importance the native habitats in the Santa Monica Mountains was emphasized nearly 20 years ago by the California Department of Fish and Game<sup>103</sup>. Commenting on a Draft Land Use Plan for the City of Malibu, the Regional Manager wrote that, "It is essential that large areas of land be reclassified to reflect their true status as ESHAs. One of the major needs of the Malibu LUP is that it should provide protection for entire drainages and not just stream bottoms." These conclusions were supported by the following observations:

"It is a fact that many of the wildlife species of the Santa Monica Mountains, such as mountain lion, deer, and raccoon, have established access routes through the mountains. They often travel to and from riparian zones and development such as high density residential may adversely affect a wildlife corridor.

Most animal species that exist in riparian areas will, as part of their life histories, also be found in other habitat types, including chaparral (sic) or grassland. For example, hawks nest and roost in riparian areas, but are dependent on large open areas for foraging. For the survival of many species, particularly those high on the food chain, survival will depend upon the presence of such areas. Such areas in the Santa Monica Mountains include grassland and coastal sage scrub communities, which have been documented in the SEA studies as supporting a wide diversity of plant and animal life."

This analysis by the Department of Fish and Game is consonant with the findings of the Commission in the case of the Malibu LCP, and with the conclusion that large contiguous areas of relatively pristine native habitat in the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

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<sup>103</sup> Letter from F. A. Worthley, Jr. (CDFG) to N. Lucast (CCC) re Land Use Plan for Malibu dated March 22, 1983.



RECEIVED

MAY 18 2004

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**CC&R Inc.**

Engineering  
Planning  
Surveying

May 17, 2004

California Coastal Commission  
South Central Coastal District Office  
89 South California Street  
Ventura, CA 93001

Attention: Ms. Barbara Carey  
Mr. John Ainsworth

**Re: Application #5-90-1103-A2**

**Applicant: Edward Betz**

**Project Location: 25066 Mulholland Highway, Santa Monica Mountains  
Los Angeles County**

Dear Ms. Carey and Mr. Ainsworth:

Thank you very much for the opportunity to respond to your staff report of February 26, 2004 regarding the development of the above property. For the record, C C & R is a full service civil engineering company located in Westlake Village. Our staff includes registered Civil Engineers and Licensed Land Surveyors.

We have been engaged by Mr. Edward Betz to review his case in terms of the impacts which staff has itemized in the staff report. The following are the results of our meeting with you on 5/13/04 and our technical review of the grading activities to determine possible mitigation recommendations to help alleviate the condition at the site.

**A BRIEF HISTORY OF THE PROJECT:**

As the staff report has indicated, the project is comprised of two parcels. Parcel A (containing the bulk of the development), is 2.74 acres, and Parcel B is a triangular-shaped parcel (also under the ownership of Mr. Betz) is 1.70 acres—for a total acreage of 4.44 acres.

In the 1920's, Mulholland Highway was improved as a 40-foot right-of-way through the project area. At that time, due to the hillside conditions, the work crews cut into the hillside to allow for an approximate 4% grade up Mulholland Highway and took excess fill and deposited on the applicant's properties. A review of the Soils Report indicates that artificial fill, at varying depths, exists over approximately 36,000 square feet of property area under the ownership of Mr. Betz. During the Soils Report investigation, for example, borings encountered materials such as boots and plastic at a depth of up to 24 feet.

Exhibit 6

5-90-1103-A2

Applicant's Letter

Ms. Carey and Mr. Ainsworth  
CALIFORNIA COASTAL COMMISSION  
May 17, 2004  
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We believe that the two pads discussed by the Soils Report in 1990 were the sum result of this deposition of artificial fill. The fill boundaries extend approximately 170 feet southerly of the Mulholland Highway 80-foot right-of-way.

In order to resolve the situation, the applicant submitted to the Coastal Commission a preliminary grading plan, which was approved in concept by the Department of Building and Safety, Los Angeles County Public Works. Specifically noted on the plans was that this was not a permit, and that the applicant would comply with the directives in the Soils Report with regard to grading. This preliminary grading plan was then subsequently submitted to the California Coastal Commission on February 26, 1992, along with a companion report that shows a Riparian mitigation area on the adjacent property, which was received by the Coastal Commission on March 5, 1992. Subsequently, both plans were approved by the Coastal Commission on May 8, 1992 under permit #5-90-1103A.

Approximately ten years later, it is our understanding that Los Angeles County Department of Public Works performed some flood control improvements for Mulholland Highway in the area—allowing for additional run-off to occur on the adjacent Betz property to the west.

#### **SOILS REPORT AND LOS ANGELES COUNTY PUBLIC WORKS**

A review of the Soils Report submitted as companion to the project in the early 1990's indicated considerable directives including the need to remove and re-compact all areas of artificial fill to competent bed rock to allow fill to occur at a 2-to-1 slope maximum and to allow for an up to 15% shrinkage factor. At that time, we also understand that because Mulholland Highway was designated as a future 80-foot right-of-way, that grading would occur within the Mulholland right-of-way to allow a transition from the highway elevations to the driveways and also to allow for a transition from the frontage on Parcel A (the 2.74 acre parcel) to transition back to a 35-foot paved section of Mulholland Highway.

During plan check of the as-built grading plan, dated November 17, 1993, it is conceivable that Public Works also required corrections to the overall site plan to match the grading ordinance adopted by the County of Los Angeles. The grading ordinance, for example, mandates drainage benches for every 25 feet of vertical slope of graded area. These drainage benches, for example, were not shown on the original preliminary grading plan reviewed by the Coastal Commission under Permit #5-90-1103A.

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In summary, a combination of grading corrections mandated by Los Angeles County Department of Public Works, Engineering Section, Building and Safety relative to soils and geology and the applicant's interpretation of the directives in the approved Soils and Geology Report, necessitated additional grading above and beyond which was originally contemplated in the preliminary grading plan reviewed by the Coastal Commission.

#### **THE "AS-BUILT" GRADING PLAN**

The as-built grading plan, approved by the Division of Building and Safety, Los Angeles Department of Public Works, on November 17, 1993, shows several changes to the preliminary grading plan, which was reviewed by the Coastal Commission, and as elucidated by the staff report of February 26, 2004. One of the critical elements of the as-built grading plan is the elimination of a second drainage outlet from the upper pad to the small canyon to the south. In effect, the drainage on the approved as-built grading was directed to one drainage outlet in lieu of two—which was shown in the original preliminary grading plan. This new drainage outlet has more specific details and (as itemized as Section AA Down Drain), which complies with the Los Angeles County Department of Public works guidelines. This drainage outlet is properly designed, is not visible from the south, and in operation, has prevented any erosion from occurring on the site during the last ten years.

Comparison of the as-built grading of November 17, 1993, to the preliminary grading plan approved by Building and Safety on February 21, 1992, several issues have come to light. During the grading operation, the contractor respected the limits of artificial fill, which extends a horizontal distance of 270 feet from the edge of the 80-foot right-of-way of Mulholland Highway. By comparison of the preliminary grading plan of 1992, the 1993 as-built grading actually experienced a contraction of the outer perimeter of the original grading area—both immediately to the south of the upper pad area, and to the south of the large graded cut slope area. The as-built grading also eliminated a portion of the driveway to the lower pad area.

The overall new pad area itself experienced a contraction as well, giving the as-built grading plan an hour glass configuration. Contraction was experienced both on east and west sides to increase slope areas to comply with Los Angeles County Department of Public Works regulations at the expense of pad area. However, the pad area was expanded in three general locations. The first area was the small 15- foot 1:1 slope bench area that separated the two pads as originally shown, and the second area of expansion was the expansion of the lower pad area within 60 feet of the Mulholland Highway 80-foot right of-way. Thirdly expansion occurred on the westerly manufactured slope to

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accommodate Los Angeles County Department of Public Works standards—both for benching details and for curvilinear grading to better comply with existing contours.

As a result, the toe of the grading extended a maximum of 33 feet westerly into the second parcel. Also at that time, fill was added into the Mulholland Highway right-of-way between the 35-foot paved portion into the additional 25-foot area along the frontage of the property. We presume that Los Angeles County Department of Public Works master plan is for the expansion of Mulholland Highway to an ultimate 80-foot right-of-way. And, if that is the case, then it would be appropriate for them (at the time of the as-built grading approval) to require that additional fill be placed along the frontage of the property in anticipation of future Mulholland Highway expansion.

A review of the area quantities listed in the staff report yielded information for our computation analysis:

DESCRIPTION (AREAS)	STAFF REPORT COMPUTATION	CC & R COMPUTATION (SQ. FT.)
New developed area	46,000 square feet	34,650 square feet, which excludes the driveway (3,500 SQ. FT.)
New pad area	21,600 square feet	20,400 without driveway (3,500 SQ. FT.)
Old pad areas (approved)	(No numbers shown)	19,550 square feet without driveways (4,700 SQ. FT.)
Old development area (as approved by Coastal)	26,100 square feet, which includes Pad 1 @ 12,600 square feet and Pad 2 @ 13,500 square feet	27,250 square feet excluding driveways (driveways are 4,700 SQ. FT.)

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In summary, based on the C C & R calculation, we believe that the expansion of the developed area excluding drives from old to new is 7,400 square feet. The pad area expanded 850 square feet. As a result of this increase, the site still contains a net open space of approximately 70% of the site. Assuming that C C & R's numbers are used, this means that total new development (including pads and slope areas) is less than one acre-at 38,150 square feet including driveways.

In the volume of grading, we found that the approved plan volumes are considerably more than listed by the Coastal Commission Staff Report. Primarily grading volume expansion in the "As Built" plan occurred within 60 feet of the Mulholland Highway 80 foot right-of-way to extend the formerly lower pad northward and the extension of the manufactured slope northerly and westerly into the adjacent parcel approximately 33 feet. A review of the volumes listed in the permit of 1993 versus our calculations shows the following comparison:

DESCRIPTION (VOLUMES)	STAFF REPORT BY PRIOR ENGINEER COMPUTATION (C.Y.)	C C & R COMPUTATION WITH ALLOWANCE FOR SHRINKAGE
New developed Area ("AS BUILT" GRADING PLAN 1993)	6,250 cut <u>6,246 fill</u> 12,496 total	6,250 cut <u>6,250 fill</u> 12,500 total
Original Development Area (as approved by Coastal 1992)	3,000 cut <u>3,000 fill</u> 6,000 total	4,350 cut <u>4,350 fill</u> 8,700 total

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**"AS-BUILT" SUMMARY**

The as-built grading plan, which met the standards of Los Angeles County Department of Public Works and Los Angeles Department of Building and Safety, appears to be a technically superior plan over the preliminary grading plan approved by Coastal in 1992. We believe that unforeseen events in the grading operation necessitated the 3,800 C.Y. increase in volume, using C C & R's numbers while keeping the spirit of the original grading plan and that the expansion areas were those areas adjacent to Mulholland Highway and where additional slope areas were required to accommodate Los Angeles County Department of Public Works standards.

**ESHA IMPACTS**

A meeting with the Los Angeles County Department of Regional Planning indicated that the staff is in the process of revising the LCP for the Santa Monica Mountains Area. Consistent with their discussions with the Coastal Commission staff, is a proposal for a tiered system of ESHA's. We are cognizant of the fact that ESHA, as designated in the current LCP, partially traverses the site. It should be noted that the southerly limits of grading ( both in the concept approved grading plan of 1992, the approved as-built grading plan of 1993, and in the limits of artificial fill are consistent with not extending beyond 270 feet diagonally from the 80-foot future right-of-way of Mulholland Highway.

The grading of the 1920's which preceded the LCP established the outside limits of what was reasonably acceptable as part of the grading plan submittal. Secondly, the reduction of one of the drainage swales to a more defined singular drainage swale to the west improves any possible run-off impact to the ESHA.

Our discussions with staff at Los Angeles Department of Regional Planning, who are in the process of updating the LCP, were concerned that a request to return the site to its original Coastal approval of May 8, 1992, is possibly more of an impact to the ESHA than the property in its current configuration. The L.A. County Staff is prepared to interface with the Coastal Commission to develop a tiered system for ESHA's as might apply to this property. For example, the ESHA affected on this property includes the area of artificial fill as a result of construction of the Mulholland Highway in the 1920's. As such, we believe that this portion of the ESHA would be of a less sensitive nature. Secondly, the provision of elaborate BMP's for the site to minimize, to the maximum extent, possible run-off from the site would help to protect the ESHA without any further disturbance on the part of the grading.

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**PROPOSED RESTORATION PLAN**

Based upon our meeting with Coastal staff on 5/13/04, the Applicant and our office are crafting a suitable offset to mitigate the unpermitted impacts from the "As Built" Grading Plan of 1993. Our goal is to allow staff to recommend approval on the amendment without requiring retrograding of the site. Contact has been made with Dr. Klaus Radtke of [RadtkeGeo@aol.com](mailto:RadtkeGeo@aol.com) to work with Mr. E.J. Kim RCE # 42388 at our office to craft a restoration plan on the northerly portion of the "As Built" graded pad. This is the area where the bulk of the excess fill was placed. The goal of the plan is to restore the area to a naturalized condition in order to reestablish parity to the original Coastal entitlement of 1992. Hopefully this Restoration Plan along with the finding that this area has been an artificial fill deposit site since the 1920's can allow staff to make favorable findings for approval. Dr. Betz has agreed to abide by a Coastal Commission open space restriction on this portion of the site.

As an offset we would recommend an open space naturalized area of the pad of approximately 4,000 square feet to be mounded and relandscaped with native, drought tolerant, fire resistant vegetation to the satisfaction of Coastal staff and Dr. Radtke. The attached sketch shows the approximate limits of the proposed Restoration plan area.

**ADDITIONAL MITIGATION**

The following list of mitigation items is not all-inclusive, but could be included in a compromise approval on the part of staff, and would be agreeable to the applicant:

- A. The provision of a drainage and run-off control plan prepared by a Civil Engineer with a selected suite of BMP's (Best Management Practices) that are currently required by the Regional Water Quality Control Board. Such run-off from a singular point would be conveyed in a non-erosive manner, would include energy dissipating measures, and would include provision for maintenance.
- B. Landscaping and erosion control plans. The applicant would be prepared to submit landscaping and erosion control plans to be comparable with today's standards to include an interim erosion control plan and a monitoring program for long-term maintenance of the landscaping.
- C. The applicant would be willing to sign a Wildfire Waiver of Liability.



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D. The applicant would be prepared to restrict future development, as appropriate, future structural appearance to be determined by the Coastal Commission to include lighting restriction. The applicant is offering habitat impact mitigation restoration on site. As discussed earlier in this letter, the applicant is maintaining the balance of his site in open space. Such open space inclusive with the restoration area, in part, could be reserved as a Deed Restriction to the satisfaction of the Coastal Commission.

E. The applicant would be prepared to post performance bonds at the discretion of Coastal.


F. The applicant would be prepared to provide fuel modification zones as appropriate to current Coastal Commission recommendations.

We hope the staff will take our comments to heart. We would like very much to resolve this matter through compromise at the staff's discretion.

Thank you very much for your attention in this matter.

Sincerely yours,

C C & R, Inc.



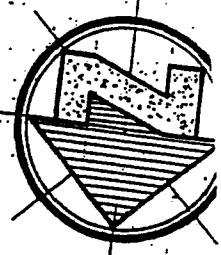
Peter Racicot  
Director of Planning

PR/ms

Attachment

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<b>EXHIBIT 4</b>
<b>Amendment 5-90-1103-A2</b>
<b>Second Amendment— “As-built Grading Plan (2/04)”</b>



Fill slope as seen from Mulholland Highway.

Exhibit 7
5-90-1103A2

