

CALIFORNIA COASTAL COMMISSION

TH CENTRAL COAST AREA
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Filed: 1/16/04
 49th Day: 3/05/04
 180th Day: 7/14/04
 270th Day: 10/12/04
 Staff: LKF-*Y*
 Staff Report: 6/25/04
 Hearing Date: 7/14/04
 Commission Action:



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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-03-117
APPLICANT: Nasser and Elizabeth Teherani
AGENT: Klaus Radtke
PROJECT LOCATION: 955 Cold Canyon Road, Monte Nido (Los Angeles County)
APN NO.: 4456-039-006

PROJECT DESCRIPTION: Construction of an approximately 2,500 sq. ft. horse corral with three-rail split wood fencing and an approximately 35 foot long, 7 foot wide access path adjacent to an existing single family residence, with approximately 50 cu. yds. of grading (25 cu. yds. cut, 25 cu. yds. fill).

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, August 14, 2003.

SUBSTANTIVE FILE DOCUMENTS: Certified 1986 Malibu-Santa Monica Mountains Land Use Plan; Coastal Development Permit (CDP) No. 4-94-157 (Teherani); CDP No. 5-91-409 (Teherani); CDP No. P-81-7701 (Ben Johnson's Estates); CDP No. 5-83-208-E6 (Cold Creek Associates); Cease and Desist Order CCC-03-CD-02 dated April 10, 2003; Restoration Order CCC-03-RO-03 dated April 10, 2003; "Restoration, Revegetation and Monitoring Plan," by Klaus Radtke, dated May 14, 2003.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project with two (2) special conditions regarding drainage and polluted runoff control plans and interim erosion control plans.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-03-117 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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

III. SPECIAL CONDITIONS

1. *Drainage and Polluted Runoff Control Plans*

Prior to the Issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and written approval, two sets of final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the corral area. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall identify an area for animal waste containment and shall include provisions for the collection, storage, and disposal of animal wastes, including manure and bedding, and for the prevention of off-site migration of animal waste due to wind, rain, or run-off. Manure stored on site shall be contained in fully enclosed bins and/or a facility with impervious flooring that is protected from wind, rain and nuisance flows. The plan shall specify the maximum capacity of the manure storage and containment areas and shall include provisions to reduce and dispose of animal waste so as not to exceed the maximum capacity of the waste containment areas. All animal bedding and wastes shall be collected and disposed of off site in a manner and location prescribed in the approved final plan.
- (e) The plan shall include drainage devices and BMPs that will ensure that runoff draining from or through, any and all horse facilities shall be collected and treated in accordance with the other provisions of this Special Condition. The plan shall also include measures to prevent surface flow into equestrian facilities from upslope areas.
- (f) Runoff may be allowed to sheet flow through vegetated and/or gravel filter strips or other media filter devices for treatment and infiltration purposes, prior to being collected, where necessary, and conveyed off site in a non-erosive manner. Vegetated and/or gravel filter strips must be located on slopes no greater than 4:1, and appropriately sized, properly designed and engineered to: 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. Vegetated filter strips shall consist of native plants indigenous to the Santa Monica Mountains. Filter elements shall be designed to intercept and infiltrate or treat the runoff volume produced by all storms up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

- (g) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

2. Interim Erosion Control Plans

Prior to issuance of a coastal development permit, the applicants shall submit two sets of interim erosion control plans, prepared by a licensed engineer or a qualified resource specialist, for review and approval by the Executive Director. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (1) The plan shall delineate the areas to be disturbed by excavation or construction activities and shall include any staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should excavation and construction take place during the rainy season (November 1 – March 31), the applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled material with geofabric covers or other appropriate cover, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial excavation operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction.
- (3) The plan shall also include temporary erosion control measures should excavation or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled material and disturbed soils with geotextiles, mats, sand bag barriers, and/or silt fencing; and temporary drains, swales, and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes to construct an approximately 2,500 sq. ft. horse corral with three-rail split wood fencing and an approximately 35 foot long, 7 foot wide access path adjacent to an existing single family residence, with approximately 50 cu. yds. of grading (25 cu. yds. cut, 25 cu. yds. fill) (**Exhibits 4- 6**).

The project site is an approximately 2.85 acre hillside lot located within the Malibu/Cold Creek Resource Management area. The subject parcel contains a graded pad and slopes that descend west to Cold Creek, a designated perennial USGS blue line stream, and south to a seasonal tributary of Cold Creek. The tributary stream runs through the southern portion of the property, while Cold Creek is located immediately adjacent to the western property line. The areas surrounding these creeks contain oak woodlands/savannah and riparian habitat, and have been determined by Commission staff to be Environmentally Sensitive Habitat Areas (ESHA) (**Exhibits 1- 3**).

The site is located within the Cold Creek Ranch subdivision, which contains estate sized residential properties (**Exhibit 2**). The graded pad area contains an existing single family residence, driveway, motor court, covered horse corral, chicken coop, tack room, horse trail, and landscaping (**Exhibit 4**). The lower portion of the property, immediately adjacent to Cold Creek, contains an unpermitted approximately 10,000 sq. ft. horse corral. This corral and a path/road leading down to it are being removed and restored pursuant to Restoration Order CCC-03-RO-03.

The proposed corral is located in a relatively level area, currently being used as a fruit tree orchard, immediately upslope of the motor court. The proposed corral is located approximately 100 feet north of the seasonal tributary to Cold Creek, on the opposite side of the nose of a small east-west trending ridge. The proposed path extends from the southwest corner of the proposed corral and connects with an existing path that runs parallel to and approximately 50 feet northwest of the tributary. The proposed development is located within the existing developed portions of the site, and will not result in removal of native vegetation or destruction of ESHA. The site is not visible from any scenic viewing areas (**Exhibits 4, 5 and 7**).

B. WATER QUALITY

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

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

encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

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

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

When the pollutants are swept into coastal waters by storm water or other means, they can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and human diseases such as hepatitis and dysentery. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms, and have adverse impacts on human health.

As noted above, the subject parcel descends west to Cold Creek, a designated perennial USGS blue line stream, and south to a seasonal tributary of Cold Creek. The types of pollutants noted above are particularly significant in this case since Cold Creek has been placed on the State's list of impaired water bodies (Clean Water Act 303(d) list). Cold Creek is a tributary to Malibu Creek, which is also listed as an impaired water body by the Los Angeles Regional Water Quality Control Board (LARWQCB). Malibu Creek outlets into Malibu Lagoon and Surfrider Beach, which is consistently one of the most polluted regions within the Santa Monica Bay. The LARWQCB is developing a Total Maximum Daily Load (TMDL) for bacteria at Santa Monica Bay beaches, including the Malibu beach area, which would include Cold Creek and Malibu Creek. The discharge of additional pollutants into Cold Creek and its tributaries detracts from the efforts being made by LARWQCB to restore this water body and further degrades an already impaired stream.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the corral area. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally,

storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition One (1)** and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Special Condition One (1) also requires the applicants to provide for the collection, containment, and disposal of animal wastes in order to prevent off-site migration due to wind, rain or run-off, and for the collection and treatment of all runoff draining from or through all horse corrals and facilities. These requirements are necessary to minimize the potential transport of biological pollutants into surface waters. In addition, **Special Condition One (1)** requires the applicants to monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

Lastly, interim erosion control measures will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction. Therefore, the Commission finds that **Special Condition Two (2)** is necessary to ensure that the proposed development will not adversely impact water quality or coastal resources.

In summary, for all the reasons stated above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

C. 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).

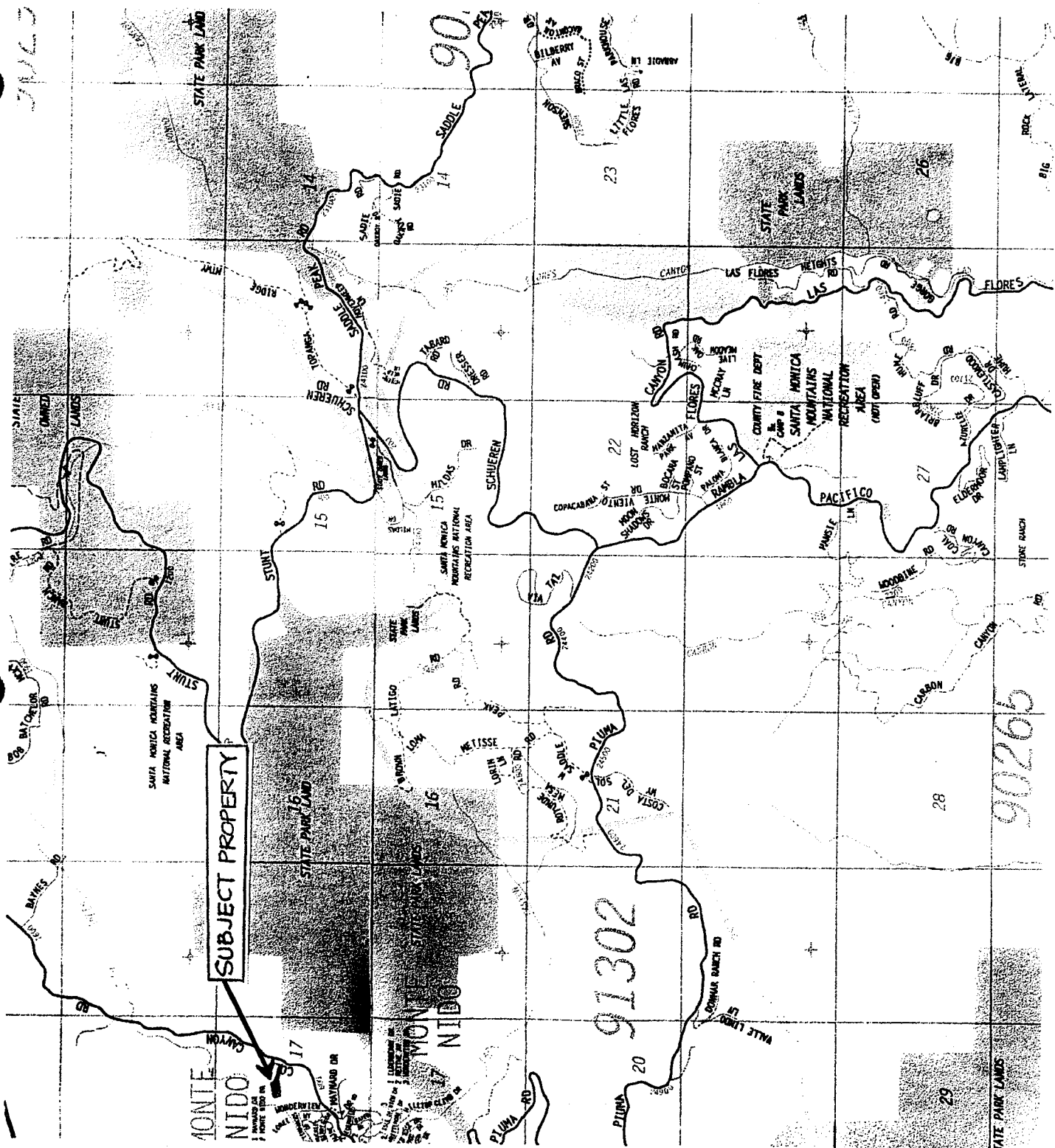
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act.

Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for the Malibu/Santa Monica Mountains area which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

D. 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.

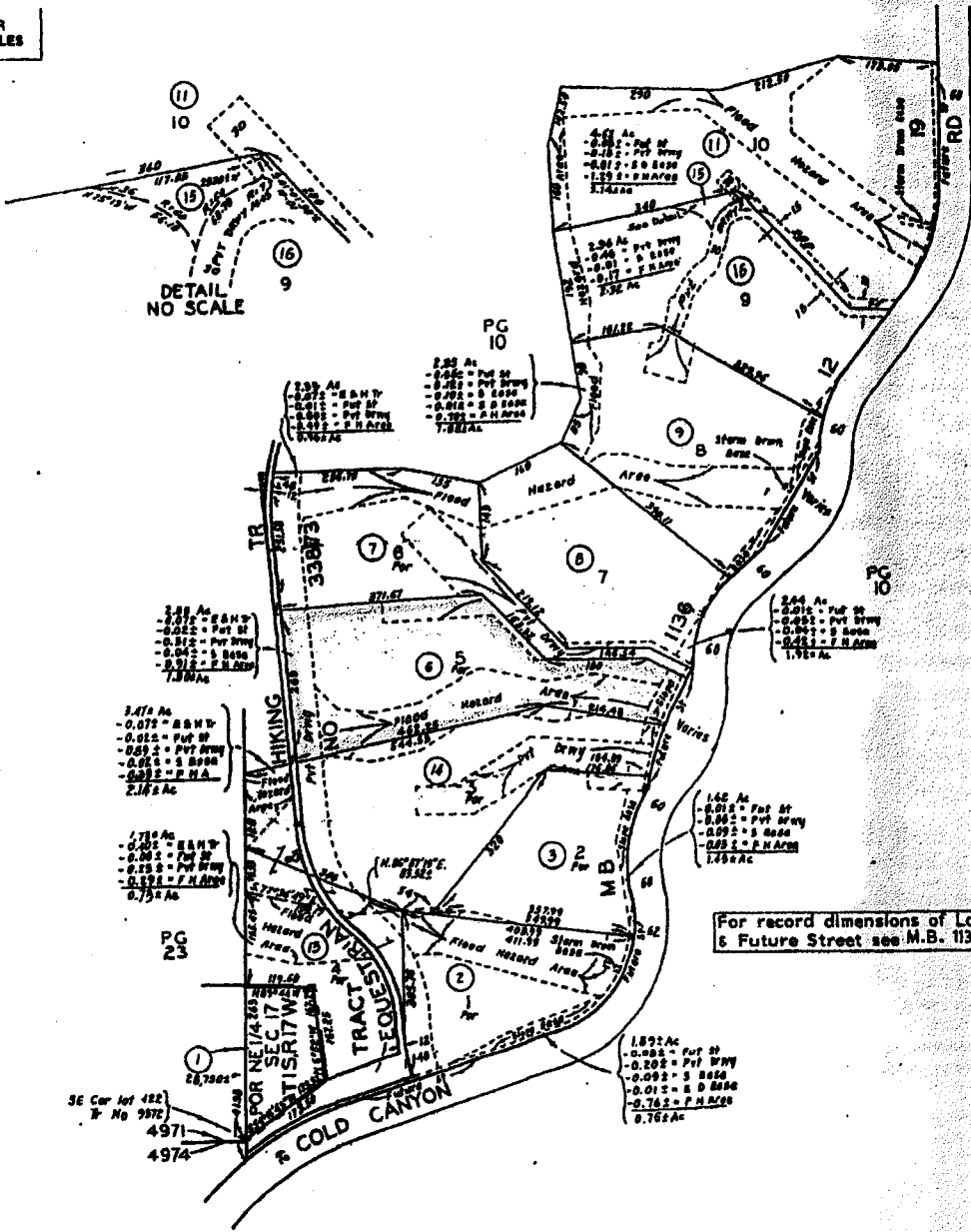
The Commission finds that, the proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.



VICINITY MAP

2002

4-2-1



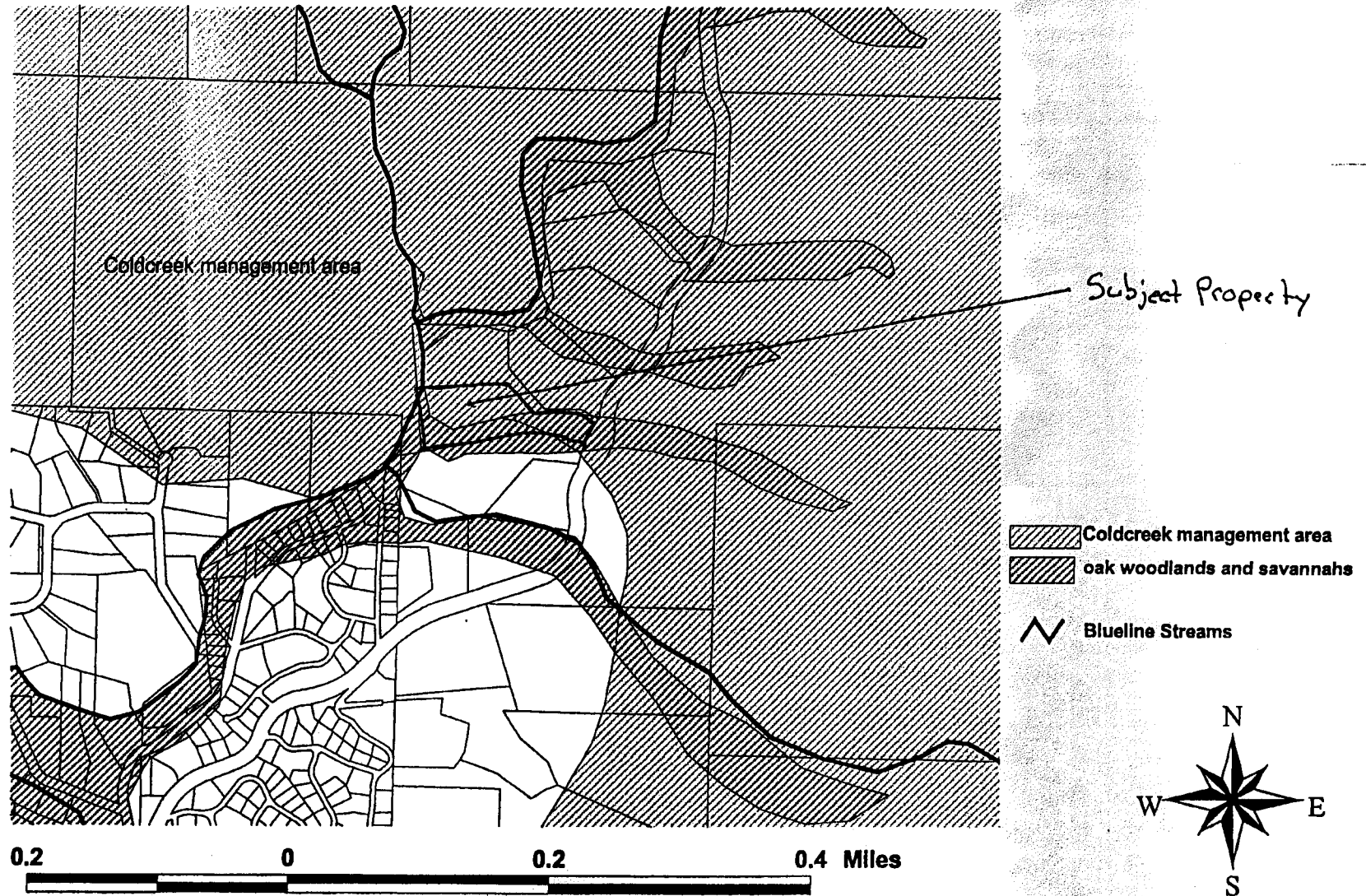
REVISE
89103/08005001-07
891127
891127/08007001-07
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For record dimensions of Lots 1 to 10
& Future Street see M.B. 1136-12 to 19.

AUG 10 2001

EXHIBIT NO. 2
APPLICATION NO.
4-03-117
PARCEL MAP

ENVIRONMENTALLY SENSITIVE RESOURCES



From the Malibu/Santa Monica Mountains Land Use Plan adopted 12/16/86

EXHIBIT NO. 3

APPLICATION NO.

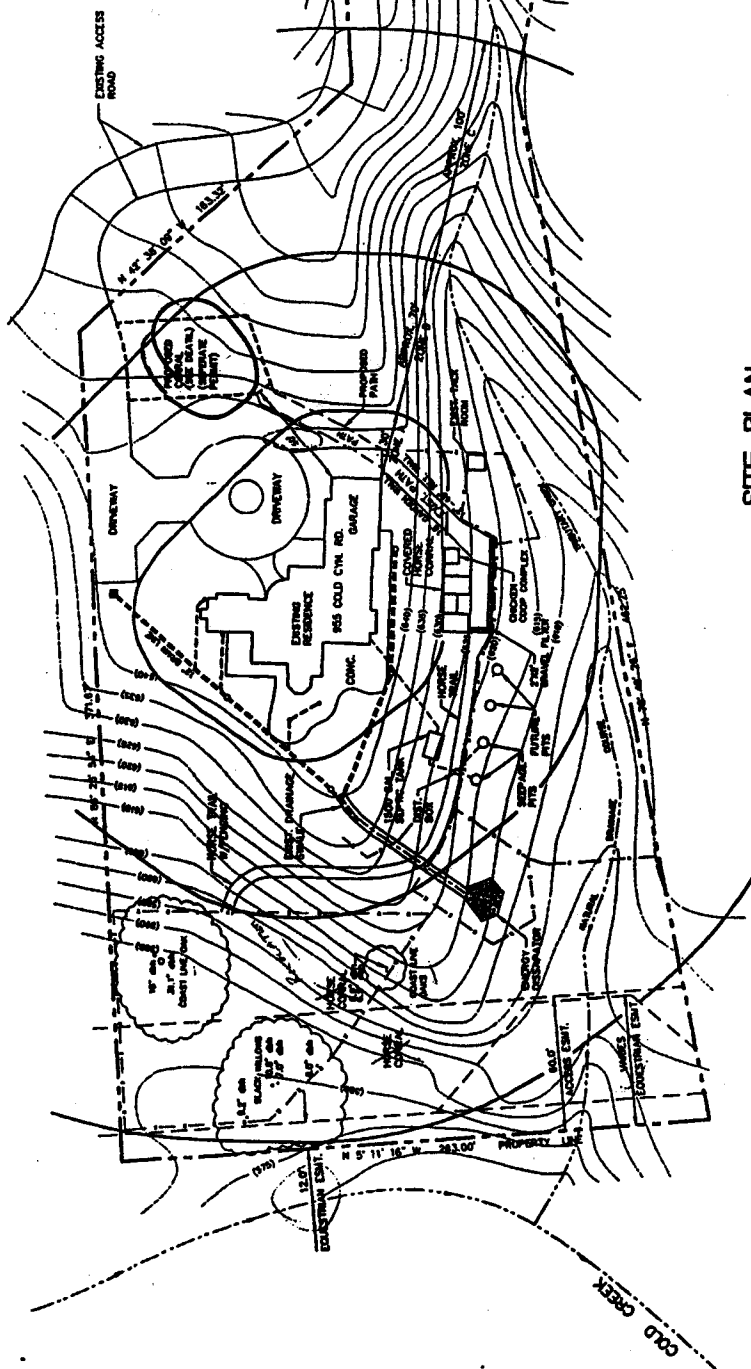
4-03-117

ESHA MAP

SEE ATTACHED
CONVOLUTIONS

FF 49734 (Approved in Concept)

- For plan approved in concept for new location of house owned with family, include address. No other approvals granted with this plan. For plan located in Environmental Review Band review. See attached recommendations.
- No lot lines are to be removed or encroached upon. See attached Ord. 27 Attachment.

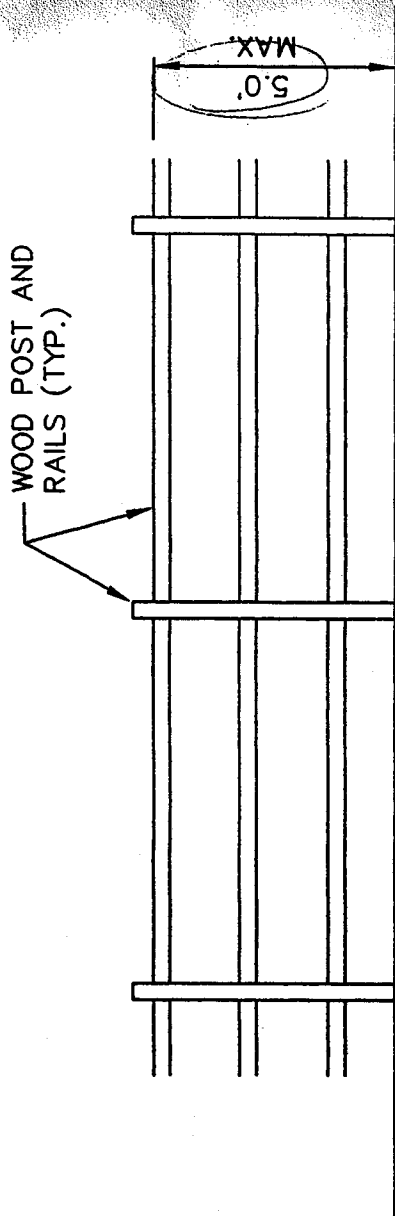


SITE PLAN

SITE PLAN

SITE PLAN

SCALE: 1" = 30'



TYPICAL CORRAL/TRAIL FENCING

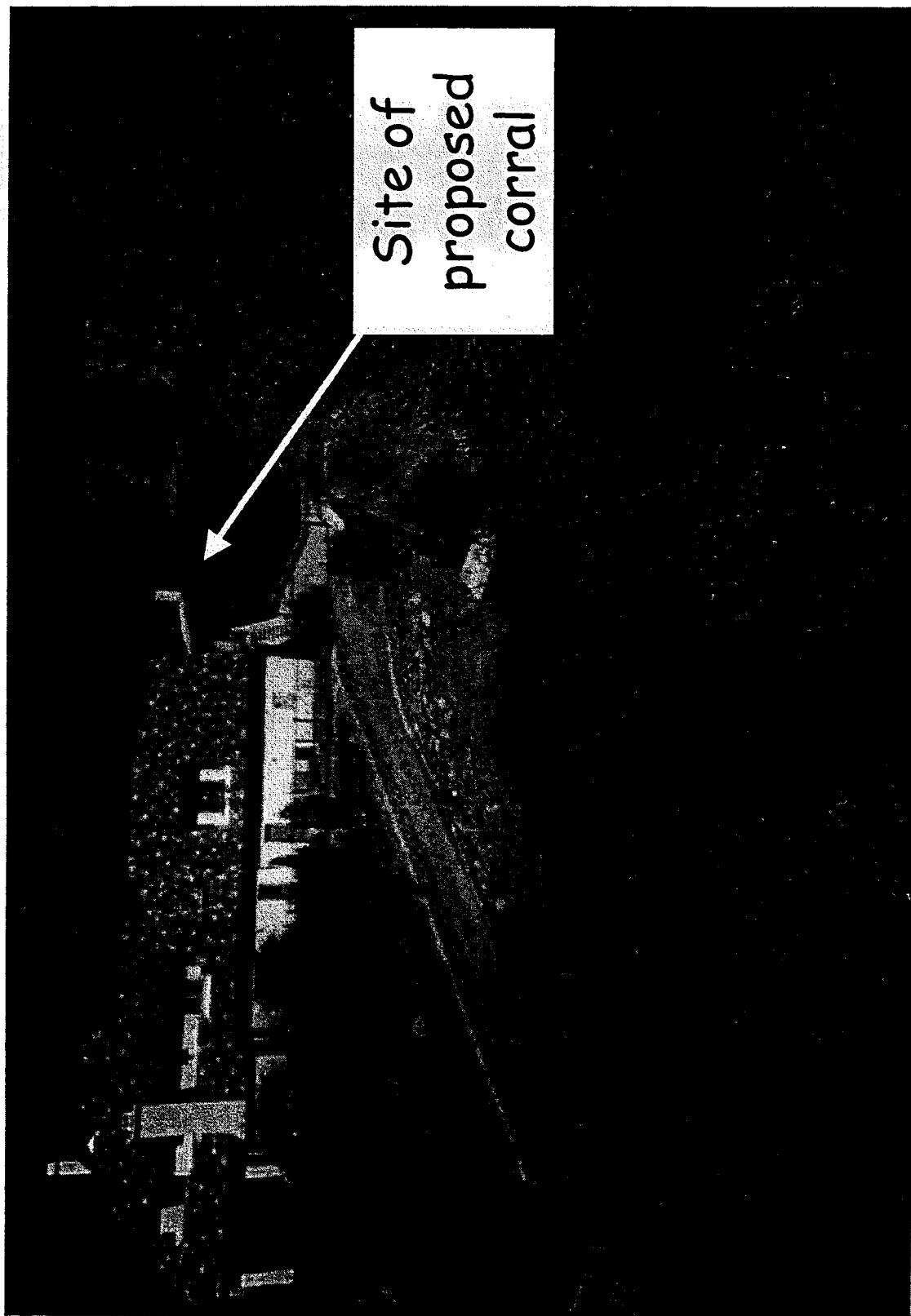
SCALE: NONE

EXHIBIT NO. 6

APPLICATION NO.

4-03-117

FENCING DETAIL



Site of
proposed
corral

EXHIBIT NO. 7

APPLICATION NO.

4-03-117

PHOTO

