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Filed: 10/31/03
Staff: AJP-LB
Staff Report: 7/25/05
Hearing Date: 8/9-12/05
Commission Action:

STAFF REPORT: DE NOVO

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Approval with Conditions

APPLICATION NUMBER: A-5-PPL-03-465

APPLICANT: Y.M.C.A. of Metropolitan Los Angeles

PROJECT LOCATION: 15601 Sunset Boulevard, Pacific Palisades City of Angeles (County of Los Angeles)

PROJECT DESCRIPTION: Request for after-the-fact approval and continued use for placement of two trailers, portable restrooms, storage containers and installation of a chain link fence on a seasonal basis; the operation of an annual retail sale facility for the sale of Christmas trees between December 1st and 25th and annual retail sales of Halloween pumpkins between October 15 and 31st; and operation of a youth day camp, all in the OS-1XL and OS-1-H Zones in proposed Parcel A of Parcel Map PMLA No. 7245. In addition, the project includes subdivision of an existing 56.78-acre parcel into two parcels (Parcel A: 3.95 acres and Parcel B: 52.83 acres) in the RE40-1-H zone.

SUMMARY OF STAFF RECOMMENDATION

The major issues of this proposed development include public access, protection of environmentally sensitive resources, and future development. Staff recommends **APPROVAL** of the proposed development with eight special conditions that require: 1) an open space restriction to protect environmentally sensitive habitat area and buffer area; 2) the applicant to record an offer of an access easement for a public access trail; 3) evidence of a recorded roadway easement for public use; 4) future use of the property will be limited to day camp activities, temporary events, seasonal fund raising sales, public recreation, and open space. All proposed future development will be evaluated as to the potential impacts to public access to and from the adjacent public park, on views from park, on any Environmentally Sensitive Habitat Areas, and on water quality; 5) notification to applicant that this permit action has no effect on conditions imposed by the local

government pursuant to an authority other than the Coastal Act; 6) the applicant shall incorporate the City's condition, as modified herein, of approval regarding potential future sale of property; 7) the applicant shall record a deed restriction against the property imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property; 8) because some development has occurred without a coastal development permit, the applicant shall comply with all conditions within 120 days of approval of this permit.

One issue this permit request raises is its purpose, which is to enable the sale of State property to a private organization resulting in the potential loss of public recreational lands. This request can be distinguished from similar possible requests because of the history of this parcel: The YMCA held an option to purchase part of the subject site before the State purchased the land and it became public land. The portion of the site subject to that option has never really been fully unencumbered public land. Therefore, the current transaction does not involve the transfer of fully public lands into private hands, and the Commission cannot deny the application on the basis that it would facilitate such a transfer (see page 13 for further discussion). A second issue raised by opponents is that sale to a private entity would raise the possibility of the construction of a multi-story building or other more intense use of the site. This permit is conditioned on the continuing use of the parcel for recreational activities that are open to the general public; construction of any building would require an amendment to this permit and would be subject to the special conditions imposed on this permit to protect public access to the canyon, habitat and visual quality.

SUBSTANTIVE FILE DOCUMENTS:

1. Parcel Map No. 7245
2. Los Angeles City CDP No. 98-004/ZA 98-0229(NC)
3. Coastal Commission's Coastal Development Permit No. 5-91-816

Staff Note:

The proposed development is within the coastal zone area of the City of Los Angeles. Section 30600(b) of the Coastal Act allows local government to assume permit authority prior to certification of a local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978, the City of Los Angeles chose to issue its own coastal development permits.

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that the development which receives a local development permit also obtain a permit from the Coastal Commission. Section 30601 requires a second coastal development permit from

the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area (which is known as the Dual Permit Jurisdiction area), the local agency's (City of Los Angeles) coastal development permit is the only coastal development permit required. Thus, it is known as the *Single* Permit Jurisdiction area.

The development approved by the City is within the single permit jurisdiction area. The City approved coastal development permit No. 98-004/ZA 98-0229 for the subdivision and continued use of the site for seasonal sales and a summer day camp, which included after-the-fact authorization of the placement of two temporary trailers and the chain link fence. The City's permit was appealed by two groups: No Oil, Inc. (c/o Barbara Kohn) and Friends of Temescal Canyon. In July 2004, the Commission found the appeal to raise a substantial issue based on impacts on coastal resources and public access. Subsequently, the proposed project was scheduled for De Novo hearing in March 2005. After public testimony and Commission discussion, the Commission continued the item and directed staff to investigate the ownership transfer of the property and the possibility of long term leasing of the property as an alternative to the State selling the property.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR COASTAL DEVELOPMENT PERMIT NO. A-5-PPL-03-465:

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: ***I move that the Commission approve Coastal Development Permit Amendment No. A5-PPL-03-465 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 permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California 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 alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. SPECIAL CONDITIONS

1. Open Space

A. No development, as defined in section 30106 of the Coastal Act, shall occur in the upper northern portion of the property of Parcel A that the Commission has determined to be an Environmentally Sensitive Habitat Area due to the presence of Coastal Sage Scrub, or within a 50 foot buffer around that area, as shown in Exhibit No. 5 to the July 25, 2005 staff report, and more precisely described and depicted in Exhibit No. 1 attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, except for:

1. vegetation removal for fire management and removal of non-native vegetation; and

2. the following development, if approved by the Coastal Commission as an amendment to this coastal development permit:

   road maintenance and improvements to existing roadway; and planting of native vegetation.

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as Exhibit No. 1 to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit No. 5 attached to the staff report dated July 25, 2005.

2. Public Trail Access

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence of the recordation of a binding irrevocable offer to dedicate a 10-foot wide access trail easement, beginning at Sunset Boulevard and providing public access to the Santa Monica Mountains Conservancy property to the north, as required by the City of Los Angeles in Parcel Map approval PMLA No.

7245, generally depicted in Exhibit No. 13 attached to the staff report dated July 25, 2005.

B. The irrevocable offer shall be of a form and content approved by the Executive Director, free of prior encumbrances, except for tax liens, that the Executive Director determines may affect the interest being conveyed, and shall provide the public the right to improve the access easement for pedestrian and bicycle access. The dedicated access easement shall not be open for public use until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the access easement. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

C. As an alternative to the requirements in paragraphs A and B of this condition, the applicant may provide evidence that the Santa Monica Mountains Conservancy is reserving such an easement for itself in its sale of Parcel A to the YMCA and that such reservation is set forth in the Grant Deed that conveys title to Parcel A and will become effective upon completion of the sale.

3. Public Roadway Access

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, evidence of recordation of a roadway easement for public vehicle egress and ingress, along the southwest corner of Parcel A, beginning at Sunset Boulevard, of sufficient size and in the proper location to ensure continued public vehicle access to Temescal Canyon Gateway Park, as generally depicted in Exhibit No. 13 attached to the staff report dated July 25, 2005. The easement shall measure approximately 25 feet wide and approximately 265 feet in length. The applicant shall include a plan showing the location of the access easement. Evidence that the Santa Monica Mountains Conservancy is reserving such an easement for itself in its sale of Parcel A to the YMCA, and that such reservation is set forth in the Grant Deed that conveys title to Parcel A and will become effective upon completion of the sale may suffice to satisfy this requirement.

4. Future Development and Use of the Site

A. This Coastal Development Permit A5-PPL-03-465 is only for the development expressly described and conditioned herein. The permittee shall undertake development in accordance with the approved coastal development permit. Any proposed changes to the development shall be reported to the Executive Director.

No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

B. Use of the site by any party, including, but not limited to, the current landowner, the permittee, any successors-in-interest to the permittee as owners of the site, and lessees, will be limited to day camp activities and recreational programs available to all members of the general public, temporary events, seasonal fund raising sales, low cost public recreation, and open space. All proposed future development shall be consistent with the above mentioned public uses and will be evaluated as to, but not limited to, the potential impacts to public access to and from the adjacent public park, visual impacts from the park and Sunset Boulevard, impacts to any Environmentally Sensitive Habitat Areas and native vegetation, and water quality impacts. All future development shall be sited and designed to avoid, where feasible, and mitigate where significant impacts are unavoidable, all significant impacts to public access and recreation and minimize all impacts to coastal resources on and surrounding the site.

5. Local Government Approval

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of Coastal Development Permit A5-PPL-03-465 shall prevail.

6. Rights of First Refusal

Condition no. 10.c imposed by the City of Los Angeles in Parcel Map approval PMLA No. 7245, see Exhibit No. 14, is hereby incorporated as a condition of this Coastal Development Permit, as listed below with the following modifications (deletions shown as strike through and additions shown as underlying):

In the event that the YMCA determines to divest itself of this site and the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority fails to accept it, the property shall be offered first to the California Department of Parks and Recreation; second to any other public resource agency including the City of Los Angeles; and third to any interested non-profit organizations. At least 180 days ~~shall be granted to exercise this transfer~~ from the date on which any of those entities indicates that it wishes to purchase the property shall be granted to consummate the sale of the property.

The YMCA's offer to sell the property to any of the public agencies or non-profit organizations listed above shall be held open for a period of at least one-year from the date that notice is provided by the YMCA of the availability of the

property, indicating the history of ownership of the property and the deadline for acceptance of the offer.

7. **Deed Restriction**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

8. **Condition Compliance**

Within 120 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all the requirements specified in the conditions hereto that the applicant is required to satisfy prior to the issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Area History

The applicant is proposing the subdivision of an existing 56.78 acre parcel into two parcels (Parcel A: 3.95 acres, and Parcel B: 52.83 acres) and requesting after-the-fact approval and continued use for the placement of two trailers, portable restrooms, storage containers and installation of a chain link fence on a season basis; the operation of an annual retail sales facility for the sale of Christmas trees between December 1st and 25th and annual retail sales of Halloween pumpkins between October 15 and 31st; and operation of a youth day camp all in the OS-1XL and OS-1-H Zones in proposed Parcel A of Parcel Map PMLA No. 7245. The applicant does not own the existing 56.78-acre parcel. However, it holds an option to purchase the proposed 3.95-acre Parcel A and a right to seek this subdivision in order to

facilitate that purchase. The Santa Monica Mountains Conservancy, owner of the property, was a co-applicant on the application to the City for the Subdivision Map Act approval, but it didn't formally join the application for the City CDP.
The property subject to the proposed subdivision is located within Temescal Canyon, just north of Sunset Boulevard, in the Pacific Palisades area of the City of Los Angeles (see Exhibit No. 1). The 56.78 acre parcel has approximately 300 feet of frontage along Sunset Boulevard and extends north from Sunset Boulevard approximately 5,000 feet (see Exhibit Nos. 2-4).

The subject property is zoned OS-1XL and OS-1-H (Open Space). The property was previously zoned R3-1 (Medium Density Residential) in 1975 and changed to RE40-1 (Residential Estate Zone) in 1986. In 1999, the zoning was changed to the current Open Space zoning.

The YMCA of Metropolitan Los Angeles has an agreement with the Santa Monica Mountains Conservancy, which owns the approximately 140-acre Temescal Canyon Gateway Park (see Exhibit No. 7) in which the 56.78-acre subject parcel lies. The agreement secures the YMCA's option to purchase the 3.95-acre portion (proposed Parcel A) of the 56.78-acres Conservancy property and allows the YMCA to use that area in the interim. The Conservancy also leases to the YMCA the existing swimming pool located outside of the 3.95 acre portion on proposed Parcel B. The YMCA has held an option to purchase part of the subject site since 1976, when it entered into an agreement ("Option Agreement") with the prior owner of the site, the Presbyterian Synod of Southern California and Hawaii (the "Synod"). The Santa Monica Mountains Conservancy and YMCA entered into an Agreement, dated November 8, 1994, which granted the YMCA the right to continue use of the 3.95 acre site to conduct the type of activities as have been conducted in the past and which are currently occurring on the site. In that agreement, the Conservancy also agreed that, upon acquisition of a 140-acre parcel from the Synod, the Conservancy would assume the obligations of the Synod under the Option Agreement.

According to City records, the YMCA has used the property for 35 years. The upper portion of the property (proposed Parcel B) is developed with a swimming pool operated and maintained by the YMCA, and other buildings owned and operated by the Santa Monica Mountains Conservancy (see Exhibit No. 7). Proposed Parcel A, the lower 3.95 acre parcel, is currently undeveloped with the exception of the seasonal placement of two unpermitted trailers, portable restrooms, storage containers, and a chain link fence which are used by the YMCA for the annual sales of Christmas trees and Halloween pumpkins, and for a summer youth day camp. Under the City's zoning, the annual sales were a use allowed by right when the property was zoned R3-1 in 1975, and the use has continued through subsequent down-zonings. The site has been used for the annual sales since 1976.

Historically proposed Parcel A was developed with a gas station and store. The gas station was built sometime in the 1920's according to a letter submitted to the City of Los Angeles Deputy Advisory Agency by the Pacific Palisades Historical Society, dated September 13, 2002. It is not known when these structures were removed. Remnants of an asphalt road

and concrete pads are located on the site. The proposed Parcel B is developed with a swimming pool and access road, just north of Parcel A, and other facilities further north into the canyon that were constructed by previous property owners prior to the Coastal Act. Minimum density single-family residential development lies to the east and low/ medium multiple family residential uses lie to the south. A high school is located across Sunset Boulevard directly to the southwest and a condominium complex is located just to the east. The City's permit includes authorization for the applicant's continued use of the smaller lot (proposed Parcel A) for annual or seasonal sales that have taken place regularly since 1976. Although the uses have existed on the site since 1976, and no changes are being proposed, the uses were included in the City's permit because, under the current City zoning of OS (Open Space), the uses are non-conforming legal uses and the City code required that a variance be issued for the continuance of the non-conforming uses. Similarly, unless the applicant could establish a vested right in the episodic activity, a CDP is also needed for each new use of the site that constitutes development.

The City's permit was a combined Coastal Development Permit and variance for the existing uses, and a Parcel Map approval for the proposed subdivision. Although the express terms of the City's CDP (ZA-98-004) are somewhat unclear as to whether it covers the subdivision, there is some evidence in the findings that it may have been intended to do so, and the City has indicated in a letter to Commission staff, dated May 13, 2004, that the City's approval of the CDP did indeed cover both the parcel Map (PMLA No. 7245) and the continuation of the non-conforming uses. In any event, since the Commission found this appeal to raise a substantial issue, the local permit is stayed, and the instant CDP, which does authorize the subdivision, will effectively replace it.

B. Site Ownership History

The entire 140-acre area of Temescal Canyon located north of Sunset Boulevard, including the 3.95-acre proposed Parcel A, was owned by the Presbyterian Synod from 1943 to 1994. The Synod used the canyon as a private retreat center and allowed the YMCA to use the subject property (proposed Parcel A) for a children's summer day camp, and for the seasonal sale Christmas trees since 1976, and pumpkin sales since 1983. In 1976, the YMCA and the Synod entered into an agreement granting the YMCA an option to purchase 8.6 acres, including the subject property. In 1985, after litigation between the Synod and YMCA, a settlement was reached, in which the Synod granted the YMCA an option to acquire 3 acres. In 1990, the agreement was amended to include an additional .95 acres fronting on Sunset Boulevard. Then in 1994, the Synod sold the entire 140-acre property to the Santa Monica Mountains Conservancy. As part of that purchase sale agreement, the Conservancy agreed to assume the Synod's contractual obligation to convey the subject 3.95-acre portion of the property to the YMCA, and agreed to the YMCA's continued shared use and maintenance of the swimming pool on proposed Parcel B. According to the YMCA, since 1994, the YMCA has paid the Conservancy over $100,000 to keep the option alive, a portion of which is applicable to the purchase price upon transfer of the property.

C. Description of Local Approval

On January 15, 2003, the City's Zoning Administrator approved a coastal development permit (98-004), with conditions, for the:

> *Continued use and maintenance of nonconforming annual retail sale of Christmas trees between December 1st and December 25th and nonconforming annual retail sale of Halloween pumpkins between October 15th and October 31st, and youth day camp in the OZ1XL and OS-1-H zones in proposed Parcel A of PMLA No. 7245.*

The City also included a variance [ZA 98-0229(NC)] for the existing non-conforming uses. In conjunction with the City's Coastal Development Permit and variance, the Deputy Advisory Agency approved the preliminary Parcel Map No. 7245 (PMLA No.7245) for the subdivision of the 56.78-acre property into two parcels consisting of a 3.95 acre parcel (A) and a 52.83 acre parcel (B). As part of the City's action on the CDP, the Parcel Map approval included Coastal Act findings for the subdivision of the property. According to the City, the City's approval of the CDP included the Parcel Map and its Coastal Act findings.

The Zoning Administrator's decision on the CDP, and the Deputy Advisory Agency's decision on the preliminary Parcel Map, were appealed to the West Los Angeles Area Planning Commission. On March 19, 2003, the West Los Angeles Area Planning Commission sustained the actions of the Zoning Administrator and the Deputy Advisory Agency.

D. Public Access and Recreational Resources

Section 30210 of the Coastal Act states:

> *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 of the Coastal Act states:

> *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30213 of the Coastal Act states, in part:

> *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30223 of the Coastal Act:

> *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

The project site is located adjacent to and north of Sunset Boulevard, and immediately east of the entrance to the recreational area of Temescal Canyon Gateway Park. Temescal Canyon Gateway Park is a 141-acre recreational park developed with a 74 space paved parking lot and pocket park, located directly west of the proposed Parcel A. The park also includes information kiosks, restrooms, picnic areas and trails, conference center, camp store and classrooms and nature facility/ranger residence. The park property provides public access and recreational opportunities, such as hiking and biking, and provides access to Topanga State Park further to the north.

In 1992, the Commission approved a Coastal Development Permit for the development of 20.5 acres of Temescal Gateway Park (CDP No. 5-91-816) by the entity that then owned it, the Presbyterian Synod. The improvements were located just north of Sunset Boulevard and west of the access road. Improvements included a 74-space parking lot, pocket park, restrooms, nature facility/ranger residence, and walking paths and improvements to the park entrance along Sunset Boulevard.

The proposed subdivision will create a 3.95-acre parcel (Parcel A) and a 52.83-acre parcel (Parcel B). Parcel A will be located along Sunset Boulevard with approximately 300 feet of street frontage along Sunset Boulevard. Parcel A will be purchased by the YMCA per the purchase agreement with the underlying property owner, Santa Monica Mountains Conservancy. Parcel B, located north of Parcel A and extending further into the Canyon, will continue to be owned by the Conservancy.

Because of the location of the project site in relation to the adjacent parkland, the proposed subdivision and any potential future development of the site could have an adverse impact on access and recreational opportunities in the area. Opponents to the project indicate that the lower portion of the property (Proposed Parcel A) is used by the public for hiking and access to the park and any future development could impact existing public use (see letters submitted by residents, Exhibit No. 8). The opponents point out, as evidence of public use of the property, dirt trails that traverse the property. Furthermore, Mr. Frank Angel, representing the Sierra Club, asserts that by allowing the subdivision, the Commission would be allowing the loss of State land and loss of recreational opportunities on and across Parcel A and that the YMCA's future development plans would replace the parkland with high-cost, exclusionary programs or facilities, and displace general public access. Finally, opponents expressed concern that a recreational use could include a multi story structure. Although the applicant indicates that it has no immediate plans for such development; the applicant's representatives have not been willing to pledge that the applicant would never attempt to develop the site more intensively. The opponents claim that any structure would have visual impact on the park entry.

1. Access

With regards to public access, there are two worn unimproved pathways along the perimeter of proposed Parcel A. One is located along the unimproved (no sidewalk) public right-of-way area of Sunset Boulevard. This pathway provides pedestrian access along Sunset Boulevard and to the park's entrance road. The second pathway is located along the western boundary of proposed Parcel A. This pathway basically parallels the access road into the park and provides pedestrian access into the park. The remaining area of Parcel A consists of worn and compacted areas, but there are no discernible trails. As stated, prior to 1994 this portion of the canyon had been in private ownership. The Synod and YMCA have used this portion of the property for many years and any footpaths through the property have most likely been created by their use. However, it is also possible, since the opening of Temescal Canyon Gateway Park for public use, that, as the project opponents claim, the public has used Parcel A as a diagonal short cut from Sunset Boulevard to access the park property, or used the western edge of the proposed parcel, adjacent to the access road, to access the park.

Other than stating that the public uses the site, the opponents have not presented any evidence of public use of the property. Furthermore, Parcel A would take up approximately 300 feet of frontage along the north side of Sunset Boulevard. Immediately to the west and adjacent to the subject property is the access entrance road leading into the park and the adjacent public parking lot west of the road. Sunset Boulevard will continue to provide vehicle and pedestrian access to the entrance of the public park. Therefore, with access to the park immediately adjacent to property along Sunset Boulevard, the subdivision of the site and transfer of title of 3.95 acres to the YMCA, and the annual sales, youth day camp, and installation of a temporary chain link fence during these activities, will not preclude the public's ability to access the public park.

In the City's approval of the subdivision (PMLA no. 7245), the City required, as a condition of approval, that a 10-foot wide public easement for hiking purposes be provided through the subject property to what will remain Santa Monica Mountains Conservancy property to the north. The 10-foot wide easement will be located adjacent to and parallel to the entrance road to provide safe pedestrian access off the public park's entrance road from Sunset Boulevard (see Exhibit No. 12 for the general location of the trail easement). With the required access easement along the western portion of Parcel A, the proposed subdivision will not adversely impact the public's ability to access the entrance road to Temescal Gateway Park from along Sunset Boulevard or any portion of the public park area.

Furthermore, the configuration of the proposed Parcel A has the lower southwest corner extending into the access road used for public vehicle access into the park. In 1992, a reciprocal easement that allows shared use of the roadway between the Conservancy and the Presbyterian Church (previous property owner) was recorded for access by both property owners (See Exhibit No. 7). According to the YMCA and the Conservancy, a road easement will continue to be provided to allow public access across the southwest corner of Parcel A to the Conservancy property, generally depicted in Exhibit No. 12. To ensure that public

vehicle access will continue to be provided, Special Condition No. 3 requires that prior to issuance of the permit, the applicant submit evidence, including a site plan and legal description, indicating that a road easement for public access has been recorded. As conditioned, the subdivision and any future development will not prevent future public use of the park's entrance roadway. With the proximity of the access road and parking lot, and provision of public access and roadway easement, the proposed subdivision of the site would not have a significant impact on public access to the park. In addition, since public access is not currently provided, it also would not diminish public access below its current level. Finally, since appellants have presented no evidence of prescriptive rights, there is no evidence that the proposal would interfere with any existing rights of access, whether or not currently being exercised.

2. Recreation

Opponents further argue that the project will result in the loss of public recreational opportunities by converting this property from public parkland to private ownership. Prior to 1994, when the Conservancy purchased the property, the subject property, including the northern portion of the canyon, was in private ownership and used as a private retreat and conference center. Since 1976, the YMCA has used the property for day camps and seasonal sales. Therefore, the subject property has been used for private non-profit purposes for many years. When the Conservancy purchased the property, the agreement to use this property by the private non-profit YMCA for recreational use was in place. From 1976 to present, the applicant has had an option agreement, with the previous owner, and currently with the Conservancy, to purchase the proposed Parcel A.

The proposed Parcel A does not contain any recreational public improvements, and except for some possible use by the public for access to the adjoining public park, there is no evidence that the property has been used as a public recreational site. However, the property is currently owned by the State's Santa Monica Mountains Conservancy. The Conservancy is dedicated to the preservation of open space and parkland, watersheds, trails and wildlife habitat for the public. Although proposed Parcel A does not currently provide a significant amount of recreational opportunities to the public, if the property was to remain in Conservancy ownership, it could be developed and recreational opportunities could be provided. Selling of State property to a private organization would impact the Conservancy's ability to expand the parkland and provide recreational opportunities to meet the ever increasing public demand for recreational areas. However, because the YMCA has held its option to purchase part of the subject site since before the site ever became public, the portion of the site subject to that option has never really been fully unencumbered public land. The California Court of Appeals explained this unique situation (in a recent ruling rejecting appellants' judicial challenge to the City's action) as follows:

> " . . . *plaintiff's argument fails to acknowledge that the Conservancy acquired a 140-acre parcel of open space property from a private owner, the Synod, contingent upon a contractual obligation to transfer a 3.95-acre portion, the option property, to the YMCA. The Conservancy did not acquire the larger parcel from the Synod for use as a public park and then decide to sell the option*

property to the YMCA. The YMCA's option to purchase the 3.95 acres predated the Conservancy's acquisition . . .. The option property . . . was never truly publicly owned open space. Since 1994, . . . the option property was at all times subject to the YMCA's right to purchase it."

In that sense, the current transaction does not involve the transfer of public lands into private hands at all, and the Commission cannot deny the application on the basis that it would facilitate such a transfer.

It is also worth noting that the YMCA is a long time user of the property, and a non-profit organization that provides indoor and outdoor recreational opportunities to all members of the public through its membership and non-membership programs. The YMCA provides memberships at reasonable costs compared with other private facilities that offer similar recreational activities. The YMCA also provides non-membership programs for the general public, such as the summer day camp program at the project site, at rates that are comparable to similar programs offered by public agencies.

The Palisades-Malibu YMCA's main facility is located on Via del la Paz, just over a ¼ mile southeast of the proposed subdivision property. The YMCA also operates and maintains the swimming pool on proposed Parcel B for swimming programs (the pool is shared with the Conservancy for their programs). Although the YMCA is a fee membership organization, it is open to all members of the public and currently provides, and will continue to provide, non-membership recreational opportunities to the general public on the proposed Parcel A. Therefore, the subdivision of the property and use by the YMCA will continue the recreational use of the property. To ensure that the property continues to be open to the public and any future development of the site will protect and provide low cost recreational opportunities, the Commission imposes Special Condition No. 4, which limits future use of the property to the existing uses, low cost public recreation and open space. Only as conditioned will the project be consistent with Section 30210, 30211, 30213 and 30223 of the Coastal Act.

The YMCA's tree and pumpkin sales are not recreational activities, but are seasonal sales to raise money for the non-profit organization to fund their programs. The sales do not involve the erection of any permanent structures and all structures associated with the sales, including the perimeter fencing and trailers, are removed from the site once the sales are over. After the sales are over the site is restored to its existing condition. Access along the perimeter of the property is not impacted by the sale activities. Therefore, the proposed subdivision and use of the property by the YMCA, including the seasonal sales, will not have a significant adverse impact on public recreational opportunities in the area.

3. Resale

Furthermore, the City's parcel map permit is conditioned (condition 10.c. of the City's permit) requiring that in the event the YMCA would to sell the property, they must offer it back to the

Conservancy, other public resource agency including the City of Los Angeles, or a non-profit organization. The condition reads as follows:

> *In the event that the YMCA determines to divest itself of this site and the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority fails to accept it, the property shall be offered first to the Department of State Parks and Recreation; second to any other public resource agency including the City of Los Angeles; and third to any interested non-profit organizations. At least 180 days shall be granted to exercise this transfer.*

The purchase agreement between the Conservancy and YMCA also requires that if the YMCA determines to sell the property, the property must be offered to the Conservancy to allow them to purchase the property at fair market value or the price at which the YMCA acquire the property from the Conservancy based on total payments to the Synod and increases in the Consumer Price Index for Los Angeles. The Conservancy, after written notice of the YMCA's intent to sell the property has 30 days to enter into an agreement with YMCA for the repurchase of the property. The agreement allows the Conservancy 180 days, following notice of its intent to repurchase, to consummate the reacquisition. As per the purchase agreement and as conditioned by the City, there is the possibility that the property will continue to provide public recreational opportunities through the repurchase by the Conservancy or purchase by another public agency. However, there is also the possibility that the YMCA, or any of the potential future owners, could eventually resell the property to a for-profit organization for non-recreational commercial use, since there is no limitation on future sales once the YMCA sells the property and no further restrictions as to the use of the property (other than the current zoning, which is subject to change). The use of this property for such purposes would be contrary to the policies cited above. Therefore, to prevent the loss of the recreational potential of this site, the Commission imposes Special Condition No. 4, which notifies the applicant that all future development of the property will require a Coastal Development Permit and limits future use of the property, by the existing, and any future landowners or lessees, to the existing uses, public recreation, and open space. All uses shall be open to the general public.

Furthermore, Special Condition No. 6 of this report incorporates the City's above stated condition (10.c.) of parcel map permit PMLA 7245, to ensure that public agencies and non-profit organizations have an opportunity to purchase the property if the YMCA determines to sell the property, thereby increasing the likelihood that, if the property is ever resold, it will be resold back to a public agency or non-profit organization. Moreover, the amount of time of 180 days provided in the purchase agreement and in the City's permit to consummate the sale of the property is adequate and does not affect any of the agency's ability to purchase the property. However, to ensure that all public agencies and non-profit organizations have adequate time to decide on purchasing the property from the YMCA, the City's condition is modified to ensure that the sale offer of the property to any of the public agencies or non-profit organizations is held open for at least one-year from notice by the YMCA and prospective buyers have adequate time to consummate the sale of the property.

4. Future Physical Development

The YMCA has indicated no future plans to further develop the site, and staff cannot speculate as to the type of uses that may be proposed in the future by either the applicant or future owners. As stated, the YMCA currently provides summer recreational youth programs and it can only be assumed that the YMCA will continue to offer and use this property for such programs. However, any proposed future development of the property will require a Coastal Development Permit and will need to be found consistent with the Chapter 3 policies of the Coastal Act. To ensure that the applicant is aware of the potential siting and design issues that will be evaluated once development is proposed, Special Condition No. 4 informs the applicant, that any future development will need to incorporate into the siting and design of any future development appropriate measures to reduce and mitigate any potential impacts to public access.

5. Summary

In sum, as conditioned, the proposed development will not impede any existing access or demonstrated rights of access, and it will not reduce recreational use of the site from their current levels. Although it will allow sale of the new Parcel A to a private entity, which may mean less opportunity for public recreational use of the site in the future, the YMCA has had the right to purchase the property since before the site ever became public to begin with, and the YMCA may provide as much or more opportunity for public recreational use of the site as the Conservancy. In any event, the YMCA's, and any future owner's, uses of the site will be limited to current uses, public recreation, and open space. Rights of first refusal will also ensure that the public has the first opportunity to take the property back in the future, should the YMCA decide to divest itself of the site. Finally, Special Condition No.6 requires a recorded deed restriction against the property that incorporates these conditions, in order to ensure that any prospective future owner is aware of these conditions. Therefore, as conditioned, the proposed development is consistent with Sections 30210, 30211, 30213, and 30223 of the Coastal Act.

E. <u>Environmentally Sensitive Habitat Areas</u>

Section 30240 of the Coastal Act states:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on 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.*

According to the City's record, the property to the north and west (Temescal Canyon Gateway Park) of the project site is owned by the Santa Monica Mountains Conservancy. Temescal Canyon Gateway Park is a 141 acre park within Temescal Canyon that is developed with a parking lot just north of Sunset Boulevard and west of the proposed Parcel A, information kiosks, restrooms, picnic areas trails, swimming pool, nature facility, conference facility, and other structures. The park property provides public access and recreational opportunities, such as hiking and biking, and provides access to Topanga State Park further to the north.

Temescal Canyon, including the park area, is identified as a Significant Ecological Area by the County of Los Angeles (Los Angeles County Significant Ecological Areas Study, 1976). According to the study, the canyon contains dry chaparral and coastal sage scrub plant communities, and riparian communities along the bottom of the canyon, which contains a blue-line stream.

The County-wide Significant Ecological Area Study states that medium intensity recreational uses are compatible with the resources of the area. The park area, adjacent to the proposed subdivision property is developed with a trailhead, parking lot, picnic and play areas, restrooms, nature facility/ranger residence, and walking paths (CDP No. 5-91-816). The southwestern portion of parcel A of the proposed subdivision provides ingress into the park from Sunset Boulevard.

According to a recent Biological Assessment that was conducted by Wilson Environmental Landscape Design (November 1, 2004), proposed Parcel A is considered upland habitat, and is not directly connected to the riparian corridor of the canyon due to roadway improvements, parking lot and pocket park development that separate proposed Parcel A from the riparian corridor. According to the report, the outer edge of the riparian corridor found on the adjacent park property begins 200 feet west of the proposed Parcel A boundary.

The report states that vegetation on proposed Parcel A is comprised of oak woodland, coastal sage scrub, ornamental and ruderal species. Coastal Sage Scrub (CSS) is located on the hillside in the northeastern third of proposed Parcel A, as well as throughout Parcel B (see Exhibit No. 5 for approximate location of CSS on Parcel A). According to the report this hillside area contains the greatest abundance and highest diversity of native plants and wildlife and provides the greatest biotic value to the entire proposed parcel (Parcel A).

The oak woodland includes the entire southern third of proposed Parcel A (see Exhibit No. 5). This area contains approximately 20 live oak trees, ranging in diameter from 6 to 18 inches. This area is the most impacted area of the proposed parcel with a significant percent cover of exotic trees and invasive understory weeds, and compacted soils. Because of the limited size and number of oak trees, presence of exotic trees, invasive understory, and compacted soils, proposed Parcel A does not meet the criteria as a riparian oak woodland. The applicant's biologist states that:

Proposed Parcel A does not possess botanical, hydrologic or geologic characteristics of a riparian corridor. Its physiognomic position as a riparian/upland ecotone is unfortunately severely compromised by an asphalt parking lot and road, and maintained parkland in between Parcel A and the riparian corridor. These factors in addition to the decades-old history of anthropogenic influence within Parcel A significantly reduce its community/habitat structure and value.

Furthermore, the report states that due to Parcel A's location at the bottom of the canyon immediately adjacent to Sunset Boulevard and surrounding development, the parcel provides only marginally functional habitat value to Temescal Canyon. The report concludes that the CSS hillside located in the northeastern portion of the proposed Parcels A and on Parcel B provides the most valuable and functional habitat.

The Commission's staff biologist, Dr. John Dixon, has reviewed the applicant's biological assessment report and agrees with the report's assessment. Dr. Dixon states that although the CSS located in the northern portion of proposed Parcel A is somewhat constrained by surrounding development; the CSS is part of the larger strip of CSS to the north (proposed Parcel B) that is contiguous with extensive, undeveloped and relatively undisturbed chaparral. Because of the location and undisturbed nature of the CSS, and use of the habitat as documented in the report, Dr. Dixon concludes that the CSS on the site would be considered Environmentally Sensitive Habitat Area (ESHA) under the Coastal Act. Dr. Dixon also recommends that the ESHA be protected from future development and include a 50 foot wide buffer around the ESHA. At the March hearing when this project was first before the Commission, there was concern expressed by the Commission regarding the adequacy of the 50 foot buffer. In further discussions with Dr. Dixon after the March hearing, Dr. Dixon continues to support a 50- foot wide buffer around the ESHA, as opposed to a larger buffer, due to the developed and disturbed nature of the area.

The location of the CSS in the northern third of the property would not preclude the applicant from siting and designing a project that will not have a significant impact on the CSS habitat. The remaining portion of the site, outside of the CSS habitat area, is relatively flat and consists of a disturbed area and does not provide a high native biotic value according to the biological report. In addressing cumulative impacts from potential future development, the biological report states that:

Development of proposed Parcel A and additional development within proposed Parcel B has the potential to incrementally increase deleterious cumulative impacts to wildlife habitat, water quality and downstream coastal resources. These impacts, however, would not be expected to significantly degrade these adjacent natural resources largely due to its geographic relationship to existing urban development. Existing development and infrastructure already exists within the riparian corridor throughout proposed Parcel B. Approximately two third of proposed Parcel A is and has been severely degraded for decades. Three sides of the site are surrounded by existing roads, condominiums, houses, apartment, domestic pets and a high school…

The proposed development includes only the subdivision of the land into two separate parcels and the continued use of Parcel A for seasonal sales and summer youth day camps. The sales and summer day camp activities occur in the lower portion of the site near Sunset Boulevard and away from the CSS area. No further development of the site is being proposed at this time and the biological assessment states that the continued use of Parcel A would not pose additional or significant impacts to any sensitive resources.

The biological assessment does recommend that in the event Parcel A is developed, in order to protect riparian and coastal biotic and water quality resources, the applicant should implement mitigation measures including protecting the entire coastal sage scrub hillside area from development; water quality measures; existing trees (oaks and eucalyptus) should be protected and removal of trees mitigated to protect the habitat value; implementation of a weed management program; and siting of future buildings in flat disturbed areas.

Opponents also raise the issue of the potential for oil exploration by the applicant or future property owners and the potential impacts such activity would have on the site and surrounding area. According to the applicant, they have no plans or desire to perform any mineral exploration on the property. Commission staff spoke with the Santa Monica Mountains Conservancy regarding mineral exploration, and they indicated that the applicant does not have any subsurface mineral rights, which belong to the State, and would not be allowed to do any oil drilling. However, the City of Los Angeles, to address this concern raised by the residents, required as a condition of the parcel map approval (PMLA 7245) that the applicant record a Covenant and Agreement stating that no oil drilling activities in any form are allowed on the property. This condition is also placed as a note on the parcel map, which will be recorded by the applicant. Furthermore, any oil drilling would require a separate coastal development permit and any impacts associated with such activity would be addressed at that time. Therefore, the potential for oil exploration is not an issue at this time.

In past Commission permit actions on proposed subdivisions, where there are known ESHA's, the Commission has required open space deed restrictions as conditions of approval of the coastal development permits, notifying the applicant and all future owners of the property of the significant biological resources on the site and the development restrictions. Although there is an existing dirt road that traverses through a portion of the CSS area, the area should be protected from future development. Therefore, to protect the existing ESHA from future impacts, the area identified in the biological assessment report as CSS habitat on proposed Parcel A (see Exhibit No. 5), including a 50 foot buffer surrounding the area within Parcel A, shall be restricted from any future development and designated as open space, pursuant to Special Condition No.1. The applicant shall submit a legal description and map showing the boundary area of the CSS habitat, including the 50-foot buffer, to establish the open space restriction. The restriction shall not cover the ESHA area within proposed Lot B because it will remain in the hands of a public conservation entity. However, it remains true that the ESHA extends onto Lot B and that any proposed development of that area would be restricted by the Coastal Act's protections for such sensitive areas. The applicant shall also record a deed restriction imposing all of the Special Conditions of this permit as restrictions on the use and enjoyment of the property, which will cause the open space restriction, as well

as all the other special conditions, to appear on the deed to the land to notify prospective future owners of these restrictions.

Once coastal development permit applications are submitted for any future development to the site, potential impacts to the biological resources of the site caused by future development can be minimized through the incorporation of the recommendations made by the applicant's biological consultant. To ensure that the applicant is aware of the potential siting and design issues that will be evaluated once development is proposed, Special Condition No. 4 informs the applicant that any future development proposals will need to incorporate into the siting and design of the proposed development appropriate measures to reduce and mitigate any potential impacts to public access and coastal resources that are found on and surrounding the property. Special Condition No. 6 requires a recorded deed restriction against the property that incorporates these conditions. As conditioned, the proposed land division and continuation of certain limited activities will not involve use or disruption of the habitat values of any ESHA. Therefore, the proposed division of land, as conditioned, is consistent with Section 30240 of the Coastal Act.

F. Scenic Resources

Section 30251of 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 subordinate to the character of its setting.*

and Section 30240 (b), in part states:

> *(b) Development in areas adjacent to ... 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 ... recreation areas.*

As stated the proposed property is located within Temescal Canyon, just north of Sunset Boulevard, in the Pacific Palisades area of the City of Los Angeles. The 56.78 acre parcel has approximately 300 feet of frontage along Sunset Boulevard and extends north from Sunset Boulevard approximately 5,000 feet into the canyon.

The property is mostly flat with slopes along the northeastern and eastern portion of the property. The property contains oaks, eucalyptus, and acacias, and coastal sage scrub, along with ornamental plants. The City's coastal act findings state that the setting of the site is "park-like".

Because the site is undeveloped, the property provides an undeveloped open space setting. However, the surrounding area is heavily developed. The surrounding area is developed with residential and commercial development, and a high school along Sunset Boulevard to the south. Adjacent to the property to the east, single family homes are located on the canyon ridge and a multi-residential development along Sunset Boulevard. To the west is the improved paved access road into Temescal Canyon Gateway park and the public parking lot and pocket park. To the north is an outdoor swimming pool operated by the YMCA and Santa Monica Mountains Conservancy and other Conservancy office and maintenance buildings.

Opponents to the project state that future development will detract from the visual quality of the park. Although the park is located to the west of the project site, the site is separated from the park by an improved access road and paved parking lot. This portion of the park provides a pocket park for picnicking and a trailhead for the trail leading into the northern portion of Temescal Canyon. The pocket park and trail within this portion of the park is located west of the parking lot.

Once the project is subdivided, the applicant could develop the site. Under the current open space zoning (OS), though, the applicant is limited in the type of uses allowed. Uses permitted under the current zoning include parks and recreation facilities, such as park areas, trails, picnic facilities and athletic fields. However, the applicant could also apply to the City to have the property rezoned to a zone that would allow other types of uses. Future development of the site with a structure could be visible from the public park and trailhead located to the west. Although no development is being proposed at this time and the City's parcel map approval required that no development can occur for a minimum of ten years, it is possible that in the future development could be proposed on the site. If the site were to be developed in the future, development could be visible from the park and have a visual impact on the park. However, Parcel A is located over 200 feet from the pocket park and trailhead and is separated from these recreational amenities by the park's access road and paved parking lot. This distance from the recreational area and the width of the parcel (approximately 300 feet) could provide an adequate buffer between future development and the park area. Proper siting and design including the incorporation of existing and new landscaping could significantly reduce any visual impacts that future development could have on the surrounding area.

As stated, the applicant is not proposing any physical development of the site, except for after-the-fact approval for the use of the property for seasonal sales and a day camp. These activities include moving onto the site one to two mobile trailers within the flat disturbed area of the proposed Parcel A, and erection of a perimeter chain link fence for security purposes. These continued uses do not significantly adversely impact the visual quality of the area. Therefore, the proposed subdivision of the property and continued use of the property will not adversely impact the scenic and visual qualities of the area. However, any future development of the site will require a coastal development permit and once a permit application is submitted, all development will be sited and designed to protect views and be

visually compatible with the character of surrounding area. Special Condition No.4 informs the applicant, that any future development will need to incorporate into the siting and design of any future plans appropriate measures to reduce and mitigate any potential impacts to public access and coastal resources that are found on and surrounding the property. Special Condition No. 6 requires a recorded deed restriction against the property that incorporates these conditions. Therefore, as conditioned, the proposed project is consistent with Section 30251and Section 30240 of the Coastal Act.

G. Unpermitted Development

Development has occurred on site without benefit of the required coastal development permit including the placement of two trailers, a chain link fence, portable restrooms, and storage containers on a seasonal basis, and the operation of an annual retail sales facility for the sale of Christmas trees between December 1st and 25th and annual retail sales of Halloween pumpkins between October 15 and 31st; and operation of a youth day camp in the OS-1XL and OS-1-H Zones in proposed Parcel A of Parcel Map PMLA No. 7245. This application includes the request for after-the-fact approval of the above referenced unpermitted development.

The site has been used since 1976 for Christmas tree sales. However, the sale activity for pumpkins and placement of the trailers occurred after the Coastal Act and have not received a coastal development permit. To ensure that the unpermitted development component of this application is resolved in a timely manner, Special Condition No. 7 requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 120 days of Commission action.

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

H. Local Coastal Program

Section 30604 (a) of the Coastal Act states that:

> *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 coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

The City of Los Angeles has not prepared a draft Land Use Plan for this planning subarea. Approval of the proposed development, as conditioned to protect access and coastal resources, will be consistent with the policies in Chapter 3 of the Coastal Act and, therefore, will not prejudice the City's ability to prepare a certifiable Local Coastal Program. The Commission, therefore, finds that the proposed project is consistent with the provisions of Section 30604 (a) of the Coastal Act.

I. California Environmental Quality Act

Section 13096 of the California Code of 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)(i) 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 impact which the activity may have on the environment.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

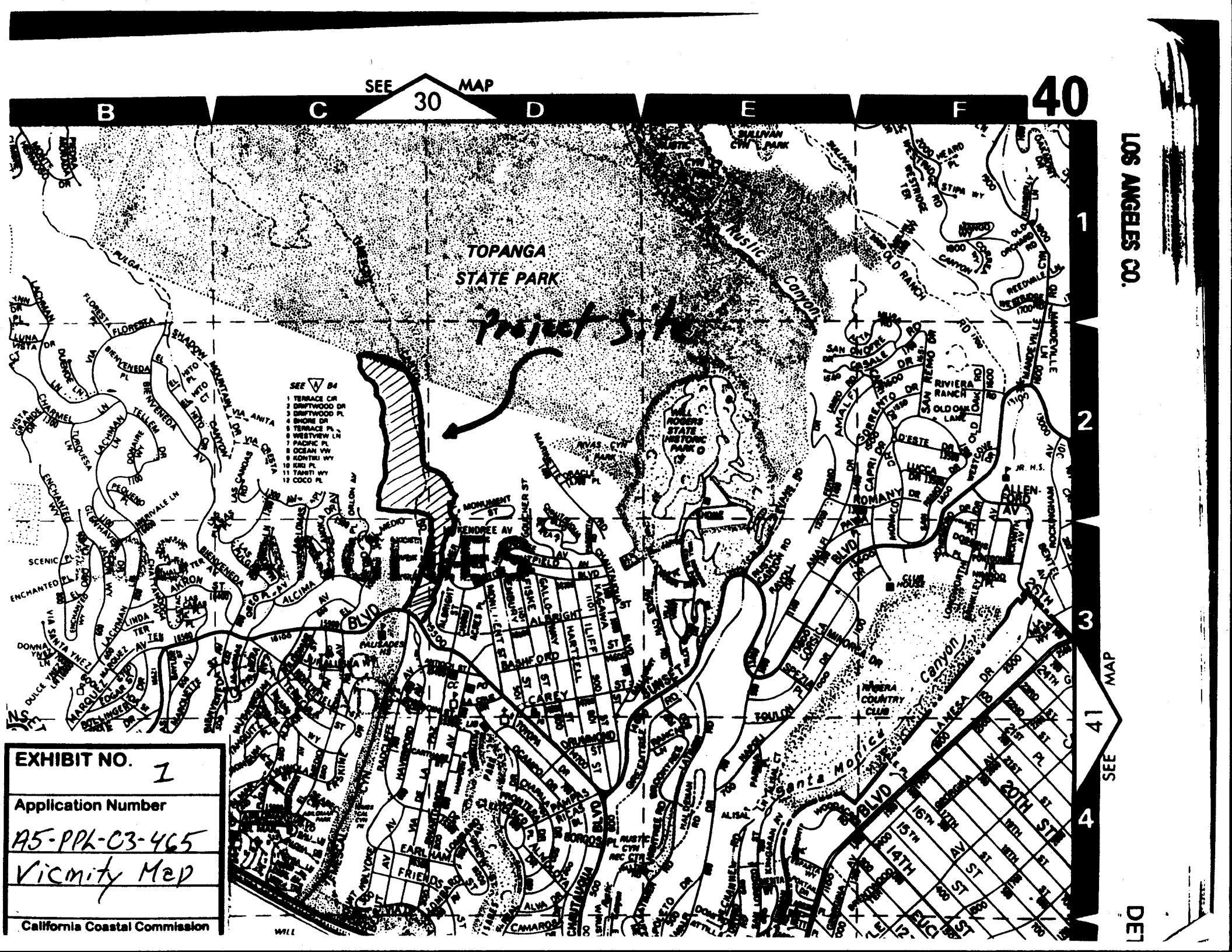


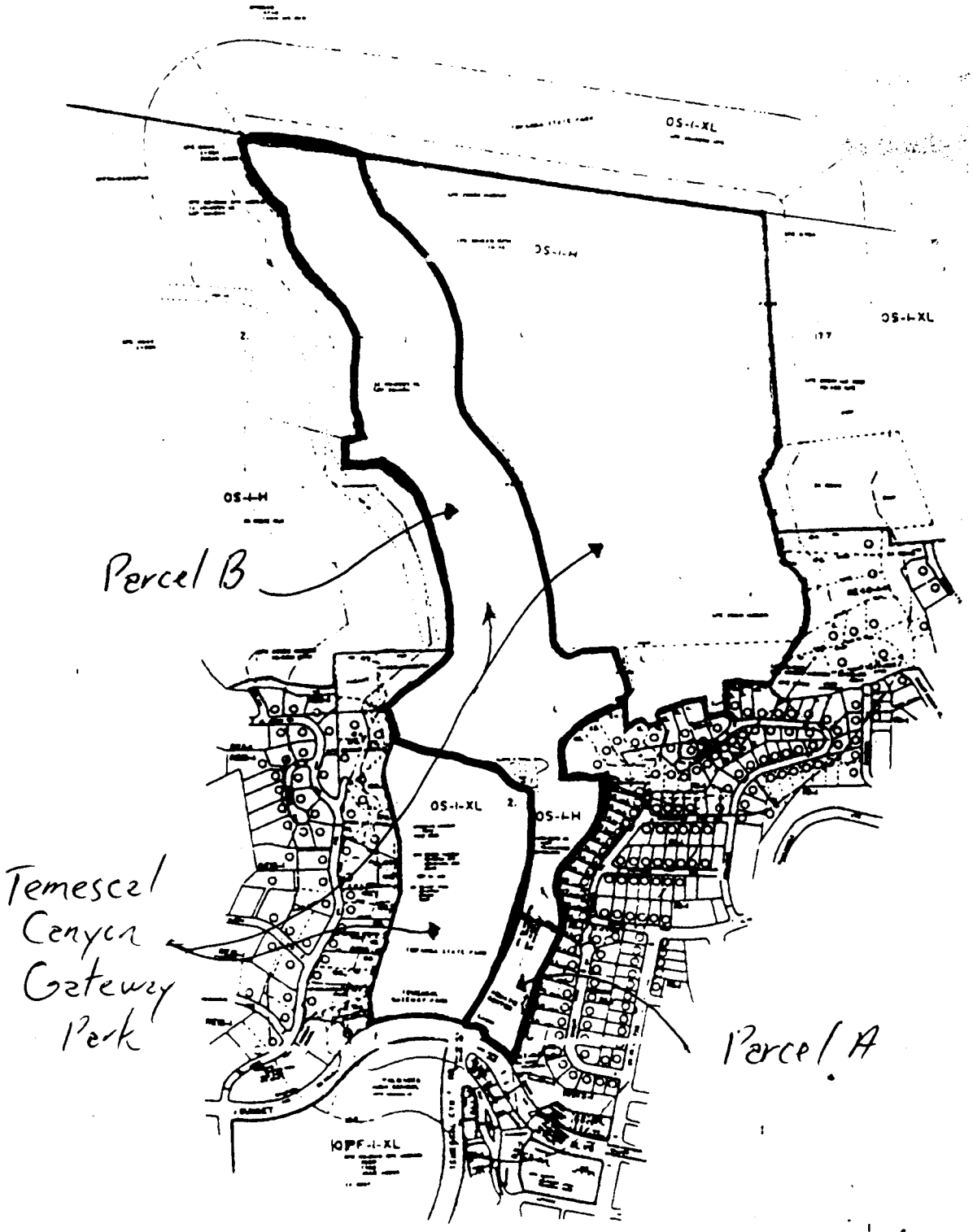
EXHIBIT NO. 1

Application Number

A5-PPL-03-465

Vicinity Map

California Coastal Commission



COASTAL DEVELOPMENT

ENVIRONMENTAL ASSESSMENT

EXHIBIT NO. 2

APPLICATION NO.

A5-PPL-03-46

Parcel Map of Surrounding Ar

California Coastal Commis

EXHIBIT NO. 3

Application Number

A5-PPL-03-465

Preliminary Parcel Map

California Coastal Commission

RECEIVED
South Coast Region

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CALIFORNIA
COASTAL COMMISSION

CD

REMAINDER PARCEL DATA

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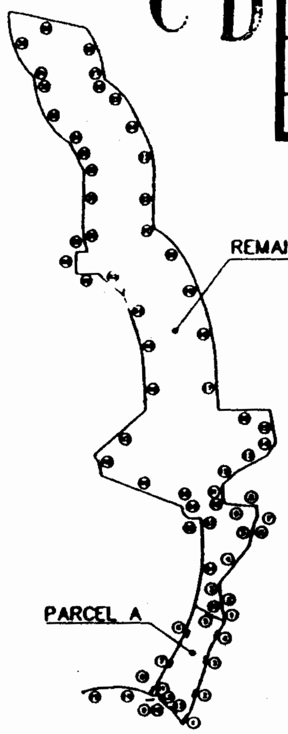

PARCEL "A" DATA

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PRELIMINARY PARCEL MAP L.A. No. ______

BEING A DIVISION OF A PORTION OF LOT "A" OF TRACT NO. 9300, M.B. 125 PAGES 55 TO 78, INCLUSIVE, OF MAPS, RECORDS OF LOS ANGELES COUNTY.

December 23, 1997

General Notes

Property Zoned RE 40-1
Total Area: Parcel A 3.95 Acres
Remainder 52.83 Acres
No known hazardous materials on site.
All structures to remain.
There are 80 Eucalyptus Trees (12" - 30" dia.) under tree canopy, as shown.
There are 20 Oak Trees (12" - 16" dia.), as shown.
All trees to remain.
To create a 3.95 acre parcel out of a 56.78 acre State-owned parcel, allowing the YMCA of Metropolitan Los Angeles to purchase the property and continue only those uses already allowed under the existing agreements between the YMCA and the State Conservancy. No construction of new structures is proposed, and construction is prohibited for 10 years from the date of issuance of City approvals. Note: This property could be sold to the YMCA without any public process because the State of California is exempt from the Subdivision Map Act requirements. However, the referenced existing agreements stipulate that the parcel to be sold to the YMCA is to be created through a Parcel Map procedure. ... acquisition, the Santa Monica Mountains Conservancy owns the property fronting Sunset Blvd, north of Temescal Canyon ... of sale, the parcel shall be deed restricted to prohibit subsurface drilling.

... Sunset Boulevard - Pacific Palisades, CA.

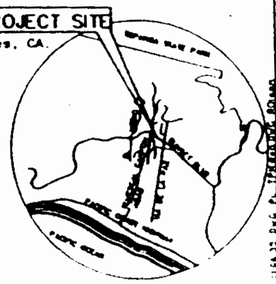
... Monica Mountains Conservancy
... Franklin Canyon Drive
... Hills, CA 90210
... Edmiston
... 7272

... Metropolitan Los Angeles
... New Hampshire Avenue
... CA 90017
... A. Rosen

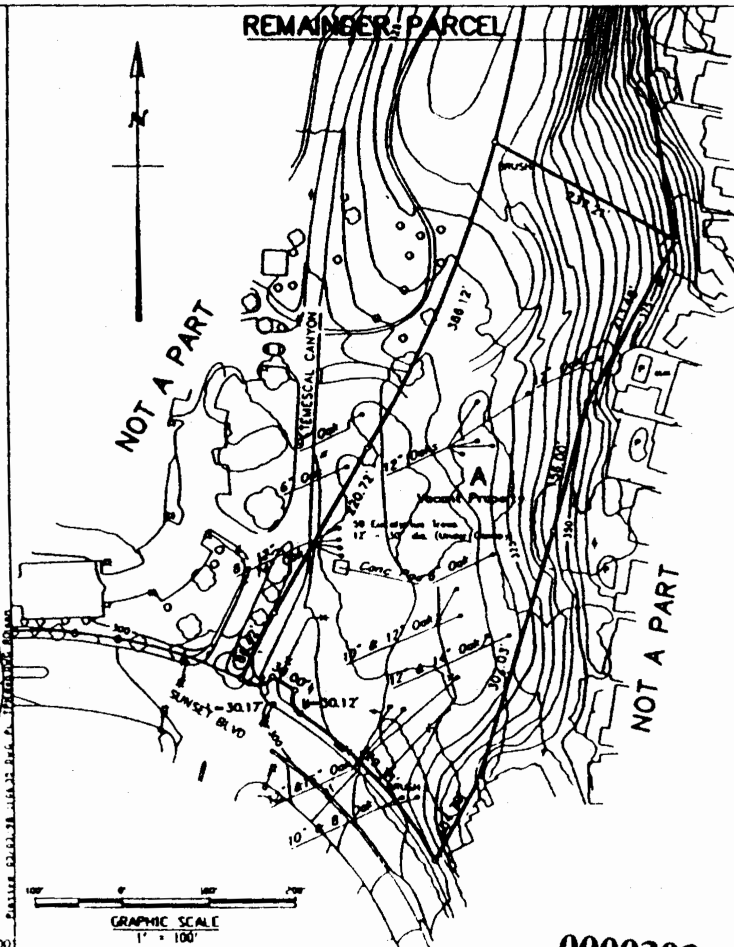
... PLS 5490

... 90405

Engineers
Surveyors
Planners



Project No. 11MC0201 Task 001



0000393

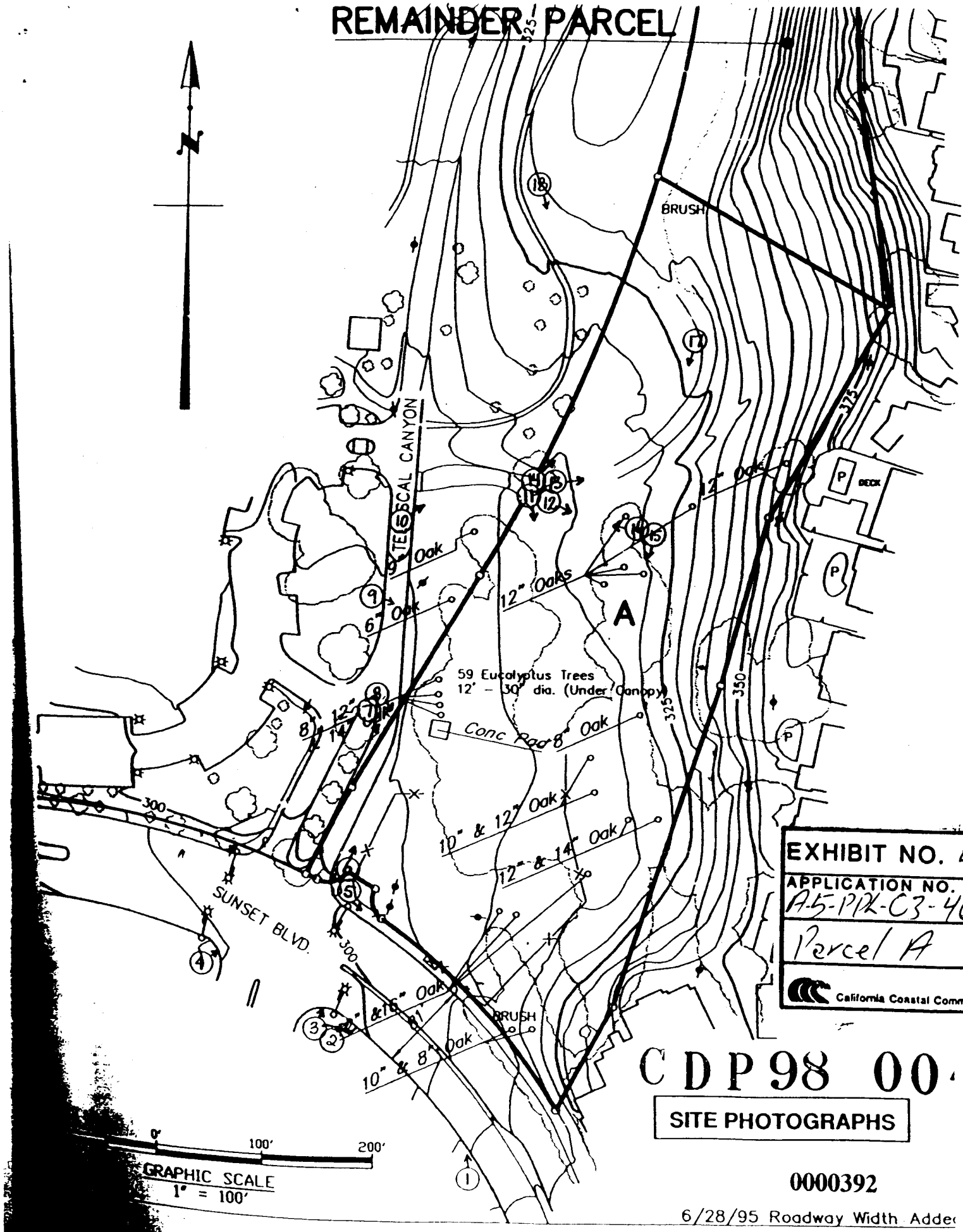


EXHIBIT NO. 4

APPLICATION NO. A-5-PPL-C3-465

Parcel A

California Coastal Commission

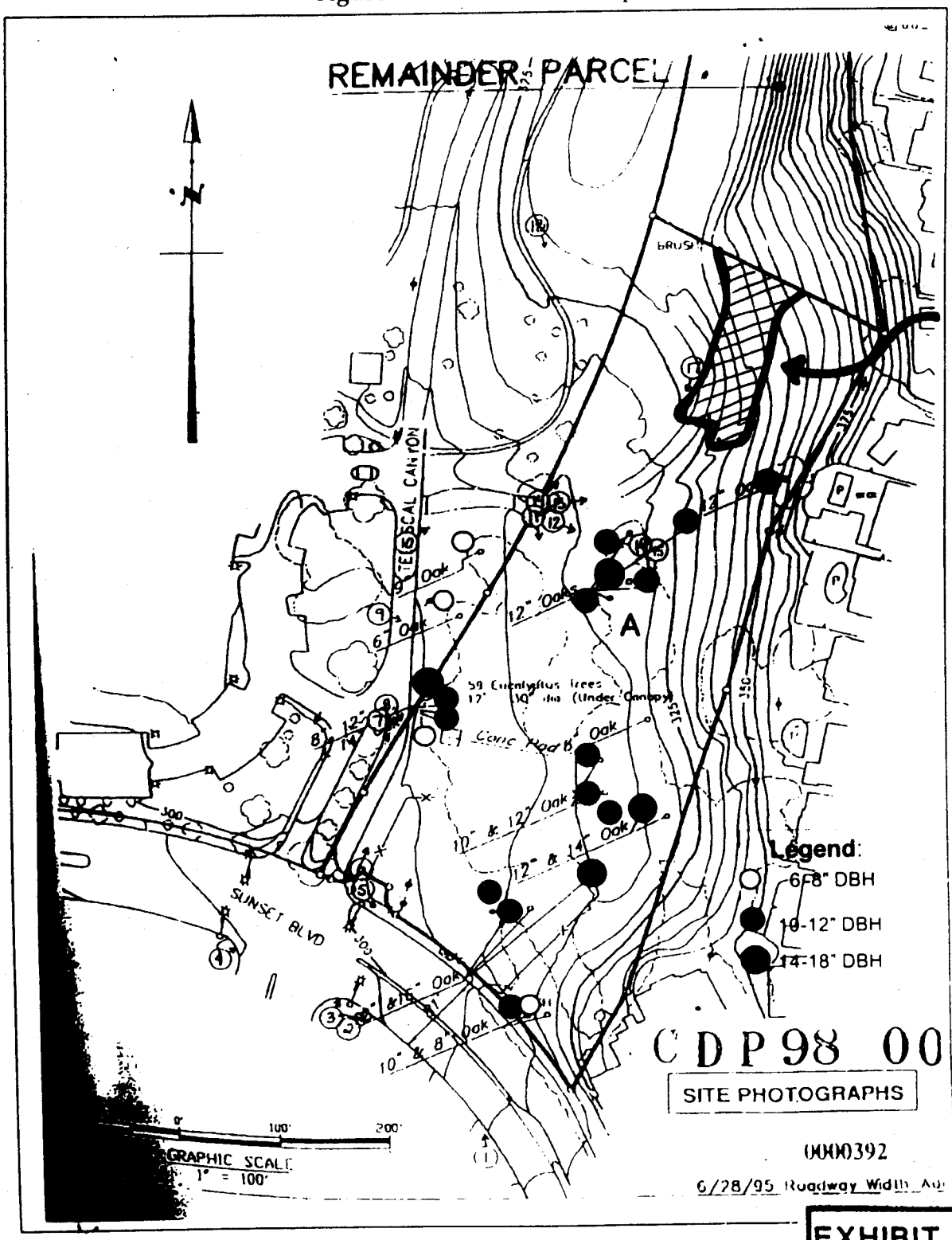
CDP 98 00

SITE PHOTOGRAPHS

0000392

6/28/95 Roadway Width Adde

Figure 4: Live Oak Tree Map

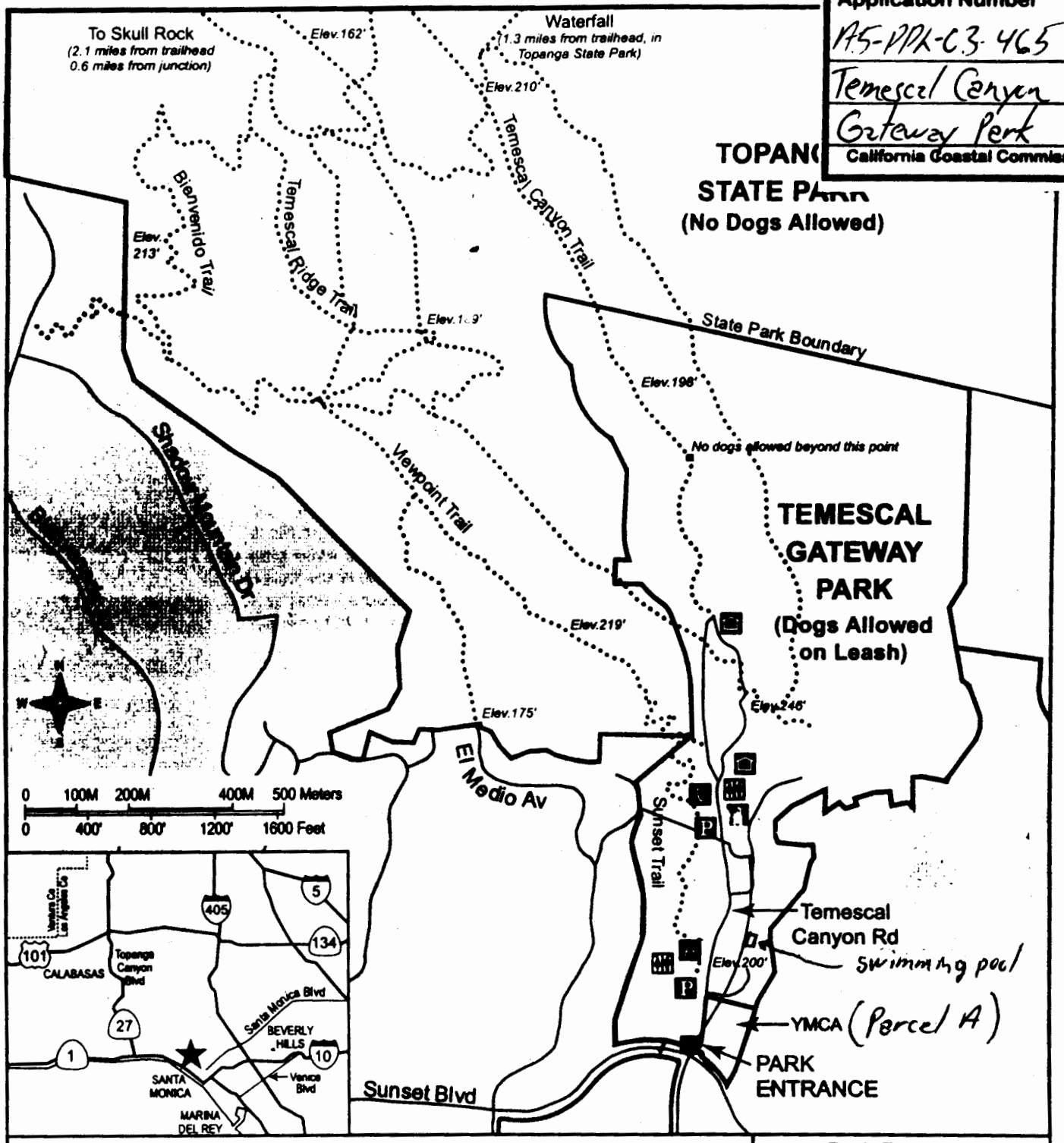


Note: This live oak base map is taken directly from the Coastal Commission's locations of oak trees are approximate and should be verified for exact locations

EXHIBIT NO. 5
APPLICATION NO. A-5-PPL-03-465
Coastal Sage Scrub and Oak Tree Map
California Coastal Commission

TEMESCAL GATEWAY PARK
LEGEND
Possible Future Intersection
EXHIBIT NO. 6
APPLICATION NO.
A-6-PPK-C3-465
Park Improvements under #5-91-816

EXHIBIT NO. 7
Application Number A5-PPL-C3-465
Temescal Canyon Gateway Park
California Coastal Commission



Temescal Gateway Park

15601 Sunset Boulevard, Pacific Palisades, CA 90272

Located in Pacific Palisades, Temescal Gateway Park is one of the most popular parks in the Santa Monica Mountains. The park encompasses 141 acres of oak and sycamore canyons, a waterfall, ridgetop views, and access to miles of trails in Topanga State Park, Will Rogers State Historic Park, and the 20,000-acre "Big Wild."

Directions: Take the Santa Monica Freeway (10) to Pacific Coast Highway (PCH). Continue west on PCH. Turn right (north) on Temescal Canyon Road and continue for a mile. You enter the park immediately after crossing Sunset Boulevard. Fee parking is available for $5 a day.

Park Features

- Camp Store
- Event Facility
- Historical Site
- Parking Lot
- Hiking
- Filming Location
- Pay Phone
- Dogs on Leash
- City Views
- Restrooms
- Drinking Water
- Weddings
- Picnic Tables
- ADA Access
- Minor Road
- Park Boundary
- Major Road
- Trail

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

State of California
Department of General Services
400 "R" Street, Suite 5000
Sacramento, CA 95814

92 1522907

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN PAST. 4 P.M. AUG 14 1992

FREE 39M

ORIG: TR92 0170

RECIPROCAL GRANT OF EASEMENTS AND DECLARATION OF COVENANTS

THIS RECIPROCAL GRANT OF EASEMENTS AND DECLARATION OF COVENANTS ("the Agreement") is made as of the 13th day of March, 1992 by the SYNOD OF SOUTHERN CALIFORNIA & HAWAII, PRESBYTERIAN CHURCH, U.S.A., a California non-profit corporation (the "Church") formerly known as The Presbytery of Los Angeles, and the STATE OF CALIFORNIA (the "State"), with reference to the following facts:

RECITALS

A. The Church is the owner of certain real property located in the City of Los Angeles, County of Los Angeles, State of California, more particularly described on Exhibit "A" attached hereto (the "Church Property").

B. The State is the owner of certain real property which is under the custody and control of the Santa Monica Mountains Conservancy and which is located in the City of Los Angeles, County of Los Angeles, State of California, more particularly described on Exhibit "B" attached hereto (the "State Property").

C. The Church and the State desire to improve the access to both the Church Property and the State Property by relocating and constructing the entrance off Sunset Boulevard which is common to both the Church Property and the State Property and which, upon such relocation and construction, will be located on both the Church Property and the State Property (the "Entrance"), all as shown on and in accordance with those certain plans and specifications for Temescal Canyon Road and Sunset Boulevard intersection improvements dated August 19, 1985, prepared by Spindler Engineering Corporation, and approved by the City Engineer on August 1, 1986 under Construction Permit B-8027 (the "Plans").

D. To effect the foregoing purpose, the Church and the State desire to grant reciprocal easements over the portions of the Church Property and the State Property affected by the Entrance and to provide for the construction and maintenance thereof, all as more fully set forth herein.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

I. DEFINITIONS

1.01 The "Church Easement Parcel" shall mean that continuous strip of land, 25 feet in width and narrowing to a point, located within the Church Property, immediately adjacent to and easterly of the State Easement Parcel. A complete legal description of the Church Easement Parcel is attached hereto as Exhibit C.

1.02 The "State Easement Parcel" shall mean that continuous strip of land, 50 feet in width and narrowing to a point, located within the State Property, immediately adjacent to and westerly of the Church Easement Parcel. A complete legal description of the State Easement Parcel is attached hereto as Exhibit D. A drawing showing the location of the Church Easement Parcel and the State Easement Parcel is attached hereto as Exhibit E.

II. GRANT OF EASEMENTS

2.01 The Church hereby grants to the State, its successors and assigns, and their respective guests, employees, invitees, visitors, agents, contractors, licensees, and other persons who desire to access or leave the State Property, for the benefit of all such persons, a perpetual and non-exclusive easement over the Church Easement Parcel for the purpose of vehicular and pedestrian ingress to and egress from the State Property.

2.02 The Church hereby grants to the State, its successors and assigns, and their employees, agents, contractors and subcontractors, for the benefit of all such persons, a non-exclusive easement to and over the Church Easement Parcel for the purpose of grading, paving, drainage and other activities required in connection with the construction of the Entrance in accordance with the Plans.

2.03 The easements granted in Sections 2.01 and 2.02 shall be appurtenant to the State Property. The Church Property shall be held, developed, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the foregoing easements. The foregoing rights are for the benefit of the State Property, shall run with the land and shall inure to the benefit of all parties having or acquiring any right, title or interest in the State Property, any part thereof and any buildings thereon, and their successors and assigns.

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2.04 The State hereby grants to the Church, its successors and assigns, and their respective guests, employees, invitees, visitors, agents, contractors, licensees and other persons who may desire to access or leave the Church Property, for the benefit of all such persons, a perpetual and non-exclusive easement over the State Easement Parcel for the purpose of vehicular and pedestrian ingress to and egress from the Church Property.

2.05 The easement granted in Section 2.04 shall be appurtenant to the Church Property. The State Property shall be held, developed, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the foregoing easement. The foregoing rights are for the benefit of the Church Property, shall run with the land and shall inure to the benefit of all parties having or acquiring any right, title or interest in the Church Property, any part thereof and any buildings thereon, and their successors and assigns.

2.06 The easements established by Sections 2.01, 2.02 and 2.04 shall be used so as not to interfere unreasonably with (i) the use of the State Property, by the State, its successors and assigns and their respective guests, employees, invitees, visitors, agents, licensees and other persons who desire to access or leave the State Property, and (ii) the use of the Church Property by the Church, its successors and assigns, and their respective guests, employees, invitees, visitors, agents, contractors, licensees and other persons who may desire to access or leave the Church Property.

III. CONSTRUCTION AND MAINTENANCE

3.01 Grading and construction of the Entrance on the State Easement Parcel and the Church Easement Parcel shall be performed by or on behalf of the State in accordance with the Plans and in compliance with all applicable laws, regulations, orders and permits of governmental agencies having jurisdiction over the Church Property and the State Property.

3.02 The Church shall, at its sole cost and expense, maintain the portion of the Entrance located on the Church Easement Parcel in good condition and repair, and the State shall, at its sole cost and expense, maintain the portion of the Entrance located on the State Easement Parcel in good condition and repair. The obligations imposed in this Section 3.02 are for the benefit of the Church Property and the State Property, respectively, shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the Church Property or the State Property, as the case may be, and any part thereof and any buildings thereon, and upon their successors and assigns. If either party should fail to perform its obligation to maintain as required by this Section, then the other party may, but shall not be obligated to, perform such obligation for the non-performing party and shall be entitled to

be reimbursed by the non-performing party for any and all costs and expenses incurred in connection therewith immediately upon demand therefor.

IV. GOOD FAITH

4.01 Each party in good faith shall take such actions, grant such additional easements, licenses and/or rights of way, cooperate in the obtaining of all necessary governmental approvals and execute, acknowledge, record and deliver such documents as may be reasonably necessary to effectuate the terms and intent of this Agreement.

V. MISCELLANEOUS

5.01 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

5.02 Remedies. The parties agree that in the event of any breach or threatened breach of the provisions of this Agreement, money damages would not be an adequate remedy. Accordingly, this Agreement may be enforced by the temporary or permanent, mandatory or prohibitory injunction or other appropriate order or decree of a court of competent jurisdiction.

5.03 Effective Date. This Agreement shall take effect only upon its recordation in the Official Records of Los Angeles County, California.

5.04 Attorneys' Fees. In the event of any action, suit, arbitration or proceeding hereunder or in connection herewith, the prevailing party shall be entitled to collect its reasonable attorneys' fees, together with all its costs and expenses, from the unsuccessful party. The term "prevailing party" shall include, without limitation, a party which obtains legal counsel or brings an action or submits to arbitration a claim against the other by reason of the other's breach or default and obtains substantially the relief sought, whether by compromise, settlement or judgment.

5.05 Successors and Assigns. The easements granted and the duties and obligations imposed pursuant to the provisions of this Agreement are binding upon, and inure to the benefit of, all successors and assigns of the Church and all successors and assigns of the State.

5.06 Notices. Any notice, request, demand, instructions or other communication to be given to a party to this Agreement shall be in writing and sent by registered or certified mail, return receipt requested as follows:

If to the Church: SYNOD OF SOUTHERN CALIFORNIA & HAWAII
1501 Wilshire Boulevard
Los Angeles, California 90017
Attention: Synod Executive

If to the State: STATE OF CALIFORNIA
Dept. of General Services
400 "P" Street, Suite 3110
Sacramento, California 95814
Attention: Senior Real Estate Officer

and

SANTA MONICA MOUNTAINS CONSERVANCY
3700 Solstice Canyon Road
Malibu, California 90265
Attention: Executive Director

5.07 Captions. The title and captions in this Agreement are for convenience only, and shall not be construed to alter the meaning or effect of any provision of this Agreement.

5.08 Severability. The invalidity or unenforceability of any term, condition, covenant or other provision of this Agreement shall not be construed to affect the validity or enforceability of the remainder of this Agreement.

5.09 No Effect On Existing Rights. This Agreement is not intended nor shall it be interpreted or construed to effect any rights of any kind that either the Church or the State may have with respect to those portions of the State Property or the Church Property, respectively, that are outside the State Easement Parcel and Church Easement Parcel. Rather, it is the intent of the parties in this Agreement only to document and record their agreements with respect to the realigned entrance off Sunset Boulevard that will be common to both the Church Property and the State Property, and this Agreement is not intended and should not be interpreted or construed to serve any other purpose or have any other effect whatsoever.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first hereinabove written.

STATE OF CALIFORNIA
Department of General Services

By Phillip J. Salamy
Name: PHILLIP J. SALAMY
Title: ASST CHIEF, CREB

92-1522967

SYNOD OF SOUTHERN CALIFORNIA & HAWAII

By _____
Frances L. Hollis
Synod Stated Clerk

Approved:

SANTA MONICA MOUNTAINS CONSERVANCY

By _____
Joseph T. Edmiston
Executive Director

YMCA OF METROPOLITAN LOS ANGELES

By _____
John G. Duellet
President and Chief Executive Officer
As Holder of an Option to Acquire a portion of the Church Property including the Church Easement Parcel

92-1522907

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On March 19, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared Frances L. Hollis. Frances L. Hollis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity on behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

OFFICIAL SEAL
LISA ANN MARTINEZ
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My Comm. Exp. APR 11, 1993

92-1522907

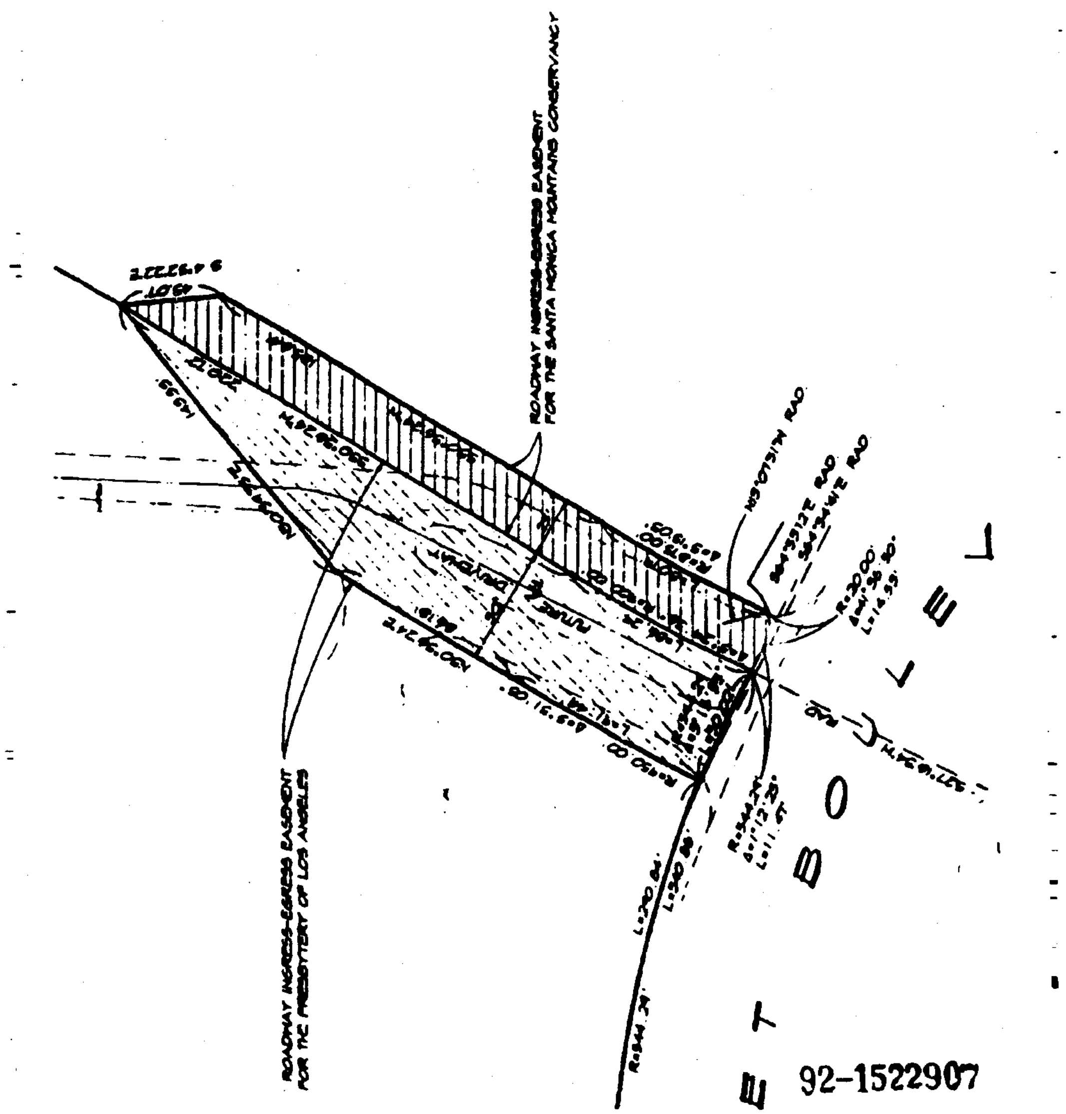

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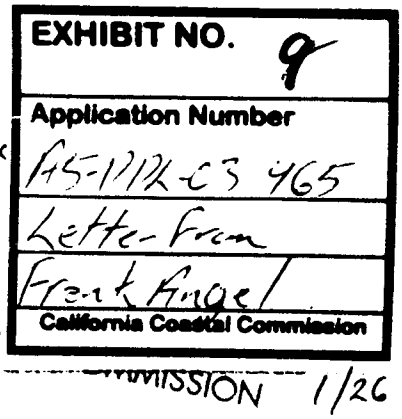
EXHIBIT E



Law Offices of
Frank P. Angel
3250 Ocean Park Boulevard, Suite 300
Santa Monica, CA 90405-3219
Tel.: (310) 314-6433
Fax: (310) 314-6434

February 8, 2005

California Coastal Commission
Attn: Mr. Al Padilla
Coastal Program Analyst
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: Appeal No. A-5-PPL-03-465 (YMCA of Metropolitan Los Angeles)

Dear Mr. Padilla:

I am forwarding additional documents which I believe will be helpful as you review the above-captioned application in preparation of the staff report for the Coastal Commission's de novo hearing in this case.

I have enclosed: (1) a letter from the curator of the Pacific Palisades Historical Society, Randy Young, to the West Los Angeles Area Planning Commission, dated March 19, 2003; (2) another a letter from Mr. Young to the city's deputy advisory agency, dated September 13, 2002; (3) a letter from the former Chair of the Temescal Canyon Working Committee, Rubell Helgeson, to the City of Los Angeles' Environmental Review Committee, dated April 18, 1998; and (4) a letter from the Santa Monica Mountains Conservancy's executive director, Mr. Joseph T. Edmiston, to city planner Jean Gross, dated May 2, 1986 (commenting on a never-implemented Synod project then proposed on land now part of Temescal Gateway Park). These comment letters contain information and raise issues relevant to the Coastal Commission's own CEQA compliance and its de novo coastal permit review under Chapter 3 of the Coastal Act. Lastly, I have enclosed a copy of an appellate opinion referenced and discussed at page 3 below.

2/2c

Please note Ms. Helgeson's comment made seven years ago that "since it became a [public] park, the [Synod's historic] Conference Grounds has experienced swiftly expanding use by a diverse public." (Temescal Canyon Working Committee letter, p. 5.) As Ms. Helgeson further reported:

> "About 100,000 people per year already use the [park] as a trailhead into Topanga State Park, according to data based on mechanical sensors and head counts. Temescal [Canyon] is, by a substantial margin, the most popular entrance into Topanga State Park from the coastal side of the mountains."

(*Id.*, fn. 4.) Suffice it to say, public access conflicts raised by the project will only increase in severity in the future, as public demand and need for open space and free access to parkland increases (as a direct consequence of population increases in Los Angeles' metropolitan area in the years ahead).

The Coastal Act expresses the Legislature's intent to ensure "the permanent protection of the state's natural and scenic resources" (Pub. Resources Code, § 30001, subd. (b)), and to "maximize public recreational opportunities in the coastal zone ...." (*Id.*, § 30001.5, subd. (c), emphasis added.) Temescal Gateway Park unquestionably is a natural and scenic resource of the state. A coastal permit that allows for the loss of heavily used public parkland in the coastal zone -- a "[s]ensitive coastal area ...of vital interest and sensitivity" within the meaning of Public Resources Code section 30116 -- cannot by any stretch of the imagination be found to "maximize" public recreational opportunities. For the Commission's coastal permit decisions to maximize recreational opportunities in the coastal zone, the decisions cannot reduce or take away from these opportunities -- certainly not in the face of rising demand therefor.

The fact that public demand and need for open and free access to parkland increases as our metropolitan area's population grows shows how irrelevant the city's ten-year moratorium on development of a recreation center on the proposed YMCA parcel really is. What evidence is there, indeed, that ten years from now there will be less demand or need for public access to our parklands than today? What evidence is there that the substantial incremental traffic impacts of a local Y recreation center on Temescal Gateway Park's access road would be insignificant in ten years when the moratorium on development of such a center ends? There is no

3/25

such evidence, of course, and, without such evidence, the proposed land division cannot be found consistent with the Coastal Act's public access policies, or its basic goal to "maximize public recreational opportunities in the coastal zone ...." (*Id.*, § 30001.5, subd. (c); see *id.*, §§ 30213, 30223.) As the Santa Monica Mountains Conservancy's executive director aptly pointed out in his May 2, 1986 letter to city planner Jean Gross (at pages 2-3), a Y facility designed for intense community recreation would carry significant impacts on traffic, natural resources and ambient noise conditions in the public park.

Furthermore, contrary to the city and the YMCA, a ten year site-specific development moratorium does not exempt a permitting agency from disclosing and evaluating the reasonably foreseeable direct, indirect and cumulative adverse environmental impacts of such site-specific development. (See discussion and case authorities at pages 18-21 of the enclosed appellate opinion filed July 24, 2001, in the case of *Sierra Club et al.* v. *County of Los Angeles et al.* (No. B128157) concerning the now-defunct Soka University's expansion project in the Las Virgenes Valley (Soka case).) In the Soka case, the County of Los Angeles adopted general plan and LUP land use map amendments, which expanded an institutional land use designation on the Soka property, and approved site-specific permits for a site-specific campus expansion. The area covered by the general plan and LUP amendments allowed for additional future, unspecified site-specific development expansions. The county relied on a 25-year moratorium condition to avoid EIR review of the environmental effects of potential build-out under the general plan and LUP amendments, contending that such review would be speculative and not reasonably foreseeable "because Soka has no current plans for further development ...." (Enclosed opn. at p. 19.) The Court of Appeal rejected this reasoning. The court ruled that regardless of whether approval conditions allow additional physical development to occur only after 25 years, "the county must analyze the reasonably foreseeable future impacts of its present action, including those that may occur after the 25-year period." (*Id.*, at p. 21, fn. 13.)[1]

If a 25-year development moratorium is not an excuse for avoiding review of the indirect and cumulative effects of general plan and LUP changes,

---

[1] In this case, the Commission's Regional Guidelines (discussed in my February 5, 2005 comment letter) specifically emphasize the need for future cumulative project impacts assessment.

4/26

then, surely, a much shorter, ten-year moratorium cannot be an excuse for avoiding review of the indirect and cumulative effects of a land division. This conclusion is the more inescapable here since the land division applied for in this case is for the exclusive benefit of an organization universally known to build and manage high-intensity indoor gym/recreation facilities.[2] Thus, the specific type of physical development driving the land division permit applied for and its impacts are far more predictable than the specific type of physical development and long-term impacts that may occur under a general plan and LUP amendment expanding an institutional land use designation. As the Santa Monica Mountains Conservancy's executive director put it, "the intended [recreation center] use ... is already known ...." (May 2, 1986 letter, p. 3.)

Very truly yours,

LAW OFFICES OF FRANK P. ANGEL

Frank P. Angel

Encs: 5

[2] Such facilities are core to the YMCA's mission which is "[t]o put Christian principles into practice through programs that build healthy spirit, mind and body for all." (<http://www.ymca.com/index.jsp > [as of Jan. 8, 2005].)

5/26

TEMESCAL CANYON WORKING COMMITTEE

April 18, 1998

Environmental Review Committee
Los Angeles City Planning Department
221 N. Figueroa St., Room 1500
Los Angeles, CA 990012

Reference # 98-0105
Applications filed by Metropolitan YMCA of Los Angeles and the Santa Monica Mountains Conservancy:
ZA 98-0229; PM 7245; CDP 98-004; EAF 0105
15601 Sunset Blvd., Pacific Palisades 90272; CD 11
OPPOSITION TO THE ISSUANCE OF A MITIGATED NEGATIVE DECLARATION (MND-129-98-PL) for the proposed parceling of 3.95 acres

Dear Planners:

This letter is submitted on behalf of the Temescal Canyon Working Committee, which was appointed to advise the Santa Monica Mountains Conservancy (SMMC) board and staff on matters related to the Conservancy's 140+ acre holdings in Temescal Canyon north of Sunset Boulevard in Pacific Palisades. The Committee, which is broadly representative of homeowner, environmental and other community groups in the Palisades, has worked for more than four years to assist in the acquisition and planning of the former Presbyterian Conference Grounds as a unit of Topanga State Park.

We are distressed to learn that you propose to issue a Mitigated Negative Declaration for the parceling referenced above. It is the Committee's position[1] that all actions that facilitate the transfer of 3.95 acres in Temescal Canyon from SMMC to the Metropolitan YMCA of Los Angeles (Metro Y)--as all of the above are intended to do--require the preparation of an Environmental Impact Report.

AN MND IS DISALLOWED BY CEQA; WHERE IS THE IS? AN EIR IS REQUIRED

Issuance of a Mitigated Negative Declaration per CEQA must be based on an Initial Study, a public document that must be circulated. Where is the Initial Study on which this MND is based? None of us

---

[1]The Committee positions herein referenced have been unanimously adopted except for the abstention of the representative from the Palisades/Malibu YMCA.

most concerned about Temescal Canyon have received it or been told where to seek it out. The list of fees paid by the applicant indicates that the City charged $578 for the review of an Environmental Assessment Form (EAF), the same fee that applies to an Initial Study. But an EAF is in no way equivalent to an Initial Study and it is not allowed as a justification for an MND. In fact, the code lists no fee whatever for review of an EAF; it is so inconsequential a document that an agency could hardly justify a $10 fee for giving it a glance. This EAF is nothing more than a series of signature sheets. It provides no information whatever. It would appear that an EAF is posturing as a substitute for an Initial Study. This is not tolerable.

Without a circulated Initial Study, it is improper to consider an MND. The public notice of the MND in the Los Angeles Times of 4/16/98 should be formally withdrawn in the same newspaper.

The City's CEQA Guidelines provide (Art. IV.1) that an Initial Study is required for a nonexempt project "unless it is clear that the project will have a significant effect and an EIR is to be prepared." This project is not exempt.

The Guidelines further state that "If any aspects of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, then an EIR must be prepared.... All phases of the project must be considered in the Initial Study..." Cumulative effects are defined as including "probable future projects" (IV.3.b.[3]).

Since the parceling is likely to lead (whether in two years, ten or twenty is immaterial) to an application for a major facility on the property, probable future projects may have a significant effect on the environment that would not occur were the parceling denied. An EIR is required.

The Guidelines provide that "If any of the possible adverse environmental impacts of the project may be significant and will not be mitigated, the recommendation must be that an EIR be prepared." These possible impacts include those of probable future projects. A probable future project has been put forth in public by the applicant over and over again, as hundreds have witnessed and will readily testify. An EIR is required. The burden of proof is not upon the community to prove the contrary.

UNDEFINED USES INCLUDE ALL POSSIBLE USES; AN EIR IS REQUIRED

Even if it is claimed that the future project is yet undefined, an EIR is required. The Guidelines (IV.2.b) state that "where the precise nature of the ultimate project is not known, such as a zone change that would permit a variety of uses, the Initial

Study must consider the significant environmental implications of all uses permitted by the proposed project." (emphases added) Only if "approval of the project is to be conditioned upon a particular use" may the Initial Study consider only "the environmental implications of the use that will be permitted."

The parcel map is similar to the zone change used as an example, in that it makes possible (we believe probable) uses that could not otherwise occur, including the major health club/regional swimming facility that the Metro and local Y (jointly, "Y") have sought for years. Moreover, a residential development will become a de-facto by-right project. The impacts on adjacent state park of a residential project, as well as the impacts of a health/swim club of 40,000 to 90,000 sq ft (the size of projects previously proposed by the Y) require EIR analysis.

If the City wishes to take the Y at its word that no project is intended, then the parcel map must be conditioned to allow only present uses, and the condition must be defined as an environmental mitigation to preclude post-recordation tinkering. If the Y defines the project it clearly has in mind, the Initial Study will still, yet again, unequivocally, lead to a requirement to prepare an EIR.

If an environmental mitigation is required of the parceling, limiting the land to present uses and precluding major construction, the Committee will withdraw objections to the parcel map, and will ask only for common sense conditions.

CONSTRUCTION ON THE PARCEL IS CONTEMPLATED

We can predict with some confidence that the Y will not accept a condition allowing only present uses because it has already rejected a no cost-offer of the 3.95 acres plus the existing swimming pool and the land it sits on (with a proviso that no significant new structures would be allowed). This would have saved the Y the $315,000 price of the 3.95 acres and assured them of the continuance of all present uses at virtually no land costs.

This Committee supported the gift offered by SMMC and a de-facto parceling (which would avoid all the procedures now underway) because of the public benefit that would result from an end to a quarter-century of community conflict and planning uncertainty, and because the state park would be spared the impacts of a major project we all know will be put forward sooner or later. The Y's rejection of the gift makes it abundantly clear to us and to any rational person that more than present uses are planned.

The only reason to expend $315,000 rather than accept a gift worth at least twice as much is because there is an intent to build or an intent to speculate. Whether that intent is expressed now or in ten years is immaterial under CEQA.

The parceling, if allowed, creates building rights that do not now exist. If the Y is disallowed the grandiose project it has repeatedly sought in the past, it may well sell the land for by-right residential use.[2] Therefore, the Initial Study must identify and the consequent EIR must examine the impacts of as many homes as would be allowed if the 3.95-acre parcel existed at present.

THERE IS SERIOUS PUBLIC CONTROVERSY; AN EIR IS REQUIRED

The City's CEQA Guidelines further state (citing No Oil v City of Los Angeles) that "an EIR should be prepared when there is serious public controversy" concerning a project's environmental effects.

Since the big battle of the mountains was finally settled and oil drilling on the coast was at last defeated, no project proposed in this community has generated greater public controversy concerning environmental effects than the one for which you propose to issue an MND.

The proposed MND may not issue. An EIR is required.

THE REVIEW PERIOD MUST BE EXTENDED

Unless the MND is promptly rescinded, the review period must be extended for 32 days, since the site has not been posted[3] from the date of filing (3/18/98), as required by LAMC Sec. 12.20.E. The public--a very large public that passes this site--has been denied the notice required both by the City and by the Coastal Act.

THE CITY PREVIOUSLY REQUIRED AN EIR FOR PARCELING PURPOSES

The City previously determined that an EIR is required strictly for the purposes of parceling land sought for purchase by the Y from the Synod. Nothing has changed since then except for a proposed 10-year "no-build" restriction in the deed.

Nothing in CEQA says that its provisions are relaxed because a project is clearly anticipated to be developed in 10 years rather

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[2]Metro Y has a history of selling property (even after accepting City financial aid for improvements) that it does not believe returns adequate value. The Eagle Rock facility is the most recent example.

[3] I can testify to this fact of my own knowledge, since I have frequently passed the site during the past month; many others can do likewise.

than three or four. Y attempts to build on the site date back for a quarter century; another 10 years is a mere hiccough in the timeframe. Moreover, unless the deed restriction is defined as an environmental mitigation, not merely as a note or standard condition, it can be altered after recordation.

PROVISIONS OF THE OPTION SHOULD PREVAIL; AN EIR IS REQUIRED

Documents provided from the 3/18 filing repeat the nonsense that no EIR is required because no project is anticipated. As owners of this land, the Presbyterian Synod was too wise to fall for that gambit. The Agreement for Settlement and Option dated March 8, 1985 ("the Option"), signed by the Synod and the Y and extended (but not substantively altered) when SMMC acquired the property, requires Metro Y to prepare an EIR "prior to the City's formal acceptance and consideration of applications" for any permits and a parcel map. Surely the City can be no less protective than was the Synod of a property of great historic significance that provides the most popular access from the coastal edge of the Santa Monica Mountains into Topanga State Park.

The 1985 Option recognized that the proposed parceling of 3.95 acres from the larger ownership was problematic; it was structured to protect the interests of both parties. Since it became a state park, the Conference Grounds has experienced swiftly expanding use by a diverse public.[4] This public is now a third party with an equal if not overriding interest in the proper application of procedures as specified in the Option and by City regulations.

The Y has repeatedly and successfully used the Option to support its right to acquire the 3.95 acres. The same document that grants this right provides that the Y must prepare an Environmental Impact Report before asking the City to consider the project for which the MND is proposed. This language is taken directly from paragraph 4.1 of the Option; a copy of the paragraph, in its entirety, is attached. Only on completion of the Final EIR and certification of the document can the Y commence "simultaneous processing of applications for a parcel map, a CUP and a coastal development permit." (paragraph 4.1.(g).

The Y has ignored its obligations under the Option on the pretext that it has no intention to build a project, while insisting the Option provides an absolute right of purchase. This is not the case. That right is conditioned on prior preparation of an EIR. It

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[4]About 100,000 people per year already use the Conference Grounds as a trailhead into Topanga State Park, according to data based on mechanical sensors and head counts. Temescal is, by a substantial margin, the most popular entrance into Topanga State Park from the coastal side of the mountains.

is in the interests of a large and expanding public that the Y meet its obligations before claiming its rights.

The Y wishes the Option to be selectively rather than fairly enforced. Until an EIR is prepared, the City should not accept the application.

CONTINUANCE OF NON-CONFORMING USE IS NOT ALLOWED BY LAMC

The applicant requests continuance of non-conforming uses pursuant to Sec. 12.23 A6 of LAMC. However, this section provides only for the continuance of non-conforming uses[1] allowed in the A and C zones but "not in the R zones."

Christmas tree sales (to take one example of existing uses) in fact are allowed in several R zones (LAMC 12.22.A4.), but not in the RE40 zone which governs the 3.95 acres. The request for continuance of non-conforming uses therefore appears not to be allowable under this section of the code.

We regret having to take this position. The Committee has no desire to end the tradition of Christmas tree sales on this familiar corner. Indeed, our strong support for the Y's existing uses, properly conditioned, is one of our motivations for working to insure that major construction on the site does not displace them. Where will the Indian Guides and Princesses and the summer campers gather if the Y's only property in Temescal is converted to parking lots, structures and retaining walls?

It appears that the only safe option to allow continued nonconforming uses may be for the property to remain in state ownership subject to long-term lease. The Committee has supported this option.

In any event, the request for continuation of non-conforming use requires far more specificity and careful conditioning. We will not pursue that effort at present because it would appear the code renders it fruitless.

THE APPLICATION IS INCOMPLETE and INACCURATE

The application for a Coastal Development Permit states (p. CDA-6) that "there are no archaeological, paleontological, or historic sites located within the proposed parcel."

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[1]The section's provisions regarding structures are irrelevant in this instance.

This claim is refuted by the California Resources Inventory, UCLA Institute of Archeology. By letter filed with this application, the Institute states that prior surveys of the site were faulty, and that their omissions "jeopardize the conclusions reached." Moreover, "although no development...is planned for the project area at this time...our office recommends that the parcel be resurveyed by a qualified archaeologist. Since the time of previous surveys, field methodology has become more rigorous and greater attention is paid to historic archaeological remains (which may be present given the five structures that once sat on the parcel)."

We submit that the parcel itself is an important historic site, part of the birthplace of the Palisades and one of the few more or less intact Chautauqua sites west of the Mississippi. Many trees on the site were planted by the founders of Pacific Palisades and are of historic significance.

Although paleontological remains may not have been identified, the area is defined as rich in this resource, and any consideration of parceling must be conditioned to protect them.

The claim that there are no cultural resources to worry about cannot stand the light of day.

The CDP application includes one single scrap of information: no parking spaces will be provided, but "temporary parking is available on-site (15-20 spaces)." Parking impacts even for existing uses are significant and require careful examination.

In the Master Land Use Application, the applicant has not provided the signatures of owners/occupants of adjoining properties ("not required but helpful, especially for projects in single-family areas"). Most of the site is surrounded either by residential uses (about 7/8ths of it single-family) or by parkland, a landuse that merits the highest level of protection.

THE PARCELING IS SUBJECT TO SLOPE DENSITY ANALYSIS

The parcel has a greater than 15% slope and is located in a minimum density zone in a hillside area and a mountain fire district subject to mud flows and flooding, subsidence, erosion and seismic activity, including liquefaction. Any parceling of the 56+ acre parcel of which the proposed parcel is a part must depend on a slope density analysis of the larger parcel. It is entirely possible that the 3.95 acres are inadequate to qualify for parceling. Since the site became an illegal dumping ground for construction fill over a period of many years, its original contours were significantly steeper than the present topography indicates. Since the property, if severed, will have a by-right claim for single-family development, this issue must be fully examined in the EIR.

12/20

SUMMARY AND CONCLUSIONS

Stripped to its essentials, the rationalization for a Mitigated Negative Dec comes down to a blind acceptance of the argument that no project is intended. We know of nobody familiar with the issues outside of the Y who believes that; and Y representatives are incapable of speaking for more than five minutes without talking about the possible need, the probable need, the expected need, the inevitable need, and the deserved right, to develop a major project on the Sunset frontage 3.95-acre parcel. They have described the site as unworthy of protection, which bodes ill for its future stewardship should the parceling go forward.

We can--and will if required--provide evidence of a long history of statements by Y representatives that show a major project is intended on the 3.95-acre parcel, dating to the very recent past.

We can do so at our leisure. The MND cannot proceed without an Initial Study; the CDP cannot proceed without proper posting.

Thank you for considering the Committee's position. Please advise us of all future consideraion of this matter.

Yours very truly,

Rubell Helgeson

Rubell Helgeson
CHAIR, TEMESCAL CANYON WORKING COMMITTEE

c: Councilwoman Cindy Miscikowski
Senator Tom Hayden
Assemblywoman Shela Kuehl
Santa Monica Mountains Conservancy
Pacific Palisades Community Council
Pacific Palisades Residents Association
Palisadian Post

13/2C

PACIFIC PALISADES
HISTORICAL SOCIETY

March 19, 2003

West Los Angeles Planning Commission
200 North Spring Street, Room 532
Los Angeles, CA 90012

Re:PMLA 7245, ZA98-004 (CDP), ZA 98-0229 (NC)

There are several major errors and inconsistencies in both the CEQA checklist and staff report.

ZONING IS INCONSISTENT WITH PRIVATE OWNERSHIP

During the AB283 process all inconsistencies in zoning were cleaned up. Private OS zoning was eliminated (exception being golf courses) and replaced with residential low density zones. At the time Planning Staff insisted that OS was a public land zoning and that private ownership was inconsistent. This fact was reiterated when the subject parcel was rezoned during the June 17, 1998 Brentwood-Pacific Palisades Community Plan Update 95-0351 CPU 98-0771. Staff wrote in their November 13, 1997 report (adopted by City Planning Commission):

> M. Subareas: 92 through 99 (The Conservancy's Subarea is 93) These changes to the Community Plan Map and zoning are for areas owned by public agencies such as the City of Los Angeles, Santa Monica Mountains Conservancy and the State of California and dedicated as permanent open space. Therefore, in keeping with the intent of the Plan to preserve open space for public use, these subareas are designated to the Open Space category on the Plan and rezoned from RE40-1-H to Open Space (OS-1H).

The inconstancy is inadvertently reinforced by planning staff with a significant error in the Initial Study and Checklist of the CEQA document.. It lists the existing zoning as "RE 40-1-H" which was the previous zoning before the June 17, 1998 City Council vote approving the governmental ownership designation of OS-1H.

The City of Los Angeles is required by AB283 with consistency in their zoning. This zoning is inappropriate and inconsistent for this private property parceling.

THIS PROJECT PREJUDICE THE LOCAL COASTAL PLAN AND VIOLATES THE PLANNING GUIDELINES OF THE SANTA MONICA MOUNTAINS COMPREHENSIVE PLAN (1979)

The subject property is a major feeder trail as defined by the Coastal Commission. Setback requirements for development are stringent and have to be defined. Fencing and other, even modest, hardscape are severely restricted along these corridors. On weekends over 1000 people pass over this land to access the park and the ocean. Staffs contention that this project would have no impact is incorrect. Making a five foot wide concrete walkway is an inadequate protection for the resources that the hiker, biker and park visitor comes to the park to enjoy.

Box 1299 Pacific Palisades CA, 90402 Phone 310-454-5037

Brentwood-Pacific Palisades Community Plan Update refers to planning documents that govern these open space areas.

> There are three major planning documents for this portion of the Santa Monica Mountains. (1) The General Development Plan for the Santa Monica Mountains, State Department of Parks and Recreation; Santa Monica Mountains Comprehensive Plan, State of California; and the Santa Monica Mountains Land Protection Plan, U.S. Department of the Interior.

The Santa Monica Mountains Comprehensive Plan of 1979 states in the first of four methods of acquiring trail easements:

> 1. Regulation. Dedication of trail rights should be required as condition for development. The Coastal Commission Guideline for preserving trail access should be applied; "Where trail routes established by customary use of hikers, equestrian, or bicycle riders cross properties proposed for developments, the dedication of trail right-of-way should be required as a condition of approval."

The Brentwood-Palisades Community Plan reinforces this idea:

> **4-1.5 Provide access to and facilities for equestrian, hiking and cycling trails.**
> **Program: Conform to the standards set forth in the Major Equestrian and Hiking Trails element and the Bicycle Plan Element of the General Plan. All major parks and open space areas should ultimately be connected with the Mulholand Scenic Parkway system, with trails provided wherever possible.**
> **Program: A comprehensive trail plan must be produced among the several different government agencies to set guidelines for the trail system. Some trails cannot or should not have mechanical devices (such as bicycles or rollerblades) on them for safety and environmental reasons. Only an interagency approach can weigh the needs and produce a plan.**

The Santa Monica Mountains Comprehensive Plan goes so far as to make a standard for a feeder trail and the reason why:

> B. Design criteria should assure that:
> 1. Trails will be buffered from adjacent development:
> a. Major Feeder Trails should include a 100 yard or more corridor, where possible, in effect, making the trail a linear park.

The Brentwood-Pacific Palisades Plan reaffirms this protection to the trail by saying:

> 1-6.6 The scenic value of natural land forms should be preserved, enhanced and restored. Wherever feasible, development should be integrated with and be visually subordinate to natural features and terrain. Structures should be located to minimize intrusion into scenic open spaces by being clustered near other natural and man made features such as tree masses, rock outcrops and existing structures.
> .....Program: Condition new development to protect views from public roadways and parklands.

The Santa Monica Mountains Conservancy, who are the legal stewards of this land for the people of the state of California, make no mention of there governing document. The Conservancy is obligated in recent building permits granted by the Coastal Commission for facility upgrades; are requiring to improve this very access into the park that goes through the subject land.

Los Angeles City planning staff make no mention of a trail master plan as demanded by the Community Plan. This project will severely prejudice the LCP with a project that will intrude visually on a very valuable park resource. Mitigations consistent with the governing planning documents are required before this parceling can go forward.

CULTURAL RESOURCES WILL BE IMPACTED

There are several recorded Native American sites within very close proximity to the subject parcel site. LAn-224, discovered in 1960 by archeologist Roberta Greenwood, is within 100 yards of the parcel. As recently as the year 2000 a Native American skeleton was found while a sewer was being excavated very near the subject land. This area is rich in Native American artifacts and a study must be done to gauge the impacts. The Brentwood-Palisades Plan:

> 17-1.2 Protect and preserve archaeological sites of Native Americans.
> Program: Support studies to identify and protect archaeological resources and landmarks.

The historic landscape and trees planted by the Methodists as part of the original Assembly Grounds in 1922 are still in place and comprise a significant element at the canyon entrance. Each tree must be mapped and evaluated as to historical importance, resource protection, and screening value. Trees have been landmarked in Pacific Palisades in the past, the most significant example being Founders Oak (LA City Cultural Heritage Landmark #36), the Bienveneda Sycamores, and the Rustic Canyon Forestry Station (a state landmark). The subject area was an original part of an Olmsted Brothers plan, and several of the specimens may have been planted at that time.

Any development, no matter how minor, should adhere to historically appropriate architecture and siting. The Santa Monica Mountains Conservancy went to great lengths and expense in developing the adjacent gateway park to be compatible with the Craftsman architecture of the historic structures. Standards must be defined for any structure, no matter how insignificant. The Conservancy spent over $200,000 to make the restroom look appropriate to the surrounding resources..

CONCLUSION

In the Pacific Palisades we have worked for years to protect and maintain our natural and cultural resources. This parceling is situated in a location that has so many possible impacts that it is necessary to go the extra mile to assess all the resources. This is not my opinion but the opinion of at least two planning staffs in 25 years. The YMCA was required to do an EIR by Planning in both 1978 and in 1991. In that time CEQA laws are even more stringent. The Brentwood-Palisades Community Plan (Community Issues and Opportunities page 1-2) highlighted that the community was most concerned about:

- Need to protect environmentally sensitive areas, scenic views and scenic corridors.
- Need to preserve open space and the natural character of mountainous areas.
- Cultural resources need to be identified within the community.
- Protection of historical, archaeological and cultural monuments. cultural resources.

It is you obligation to protect the resource and not be a tool to help the YMCA skirt the planning and CEQA processes.

Randy Young
curator

Palisadian-Post

Serving the Community Since 1928

22 PAGES | THURSDAY, SEPTEMBER 21, 2000 ◆ PACIFIC PALISADES, CALIFORNIA | 50¢

In This Issue:

Gina Diamond hands out a free sampling of fruit to Lori Diamond on opening day of the farmers' market on Swarthmore last Sunday. At right, shopper Amber Wenagler checks out the flowers.

UPDATES

Republicans Host Barbecue Friday

Steve Cooley, candidate for Los Angeles District Attorney, will speak at the Pacific Palisades Republican Club's fundraising barbecue on Friday, September 22, at the Highlands home of Diana and Doug Purdy.

Tickets are $50 per person, and the social hour begins at 6:30 p.m. Cooley, who is challenging incumbent Gil Garcetti, will speak at 8:30. Please call 454-5345 for reservations and directions. Generous parking is available, and complimentary shuttle service will be provided.

The event will support the newly opened Republican Party election headquarters at 15233 La Cruz, next to the old post office. The headquarters will be staffed from 10 a.m. to 4 p.m. Monday through Friday, 9 to 3 on Saturdays and 12-4 on Sundays by volunteers and members of the Palisades Republican Women's Club. Fundraiser, hosted by Diana Milstein.

Palisadian-Post To Hold Mixer

The *Palisadian-Post* will host the monthly Chamber of Commerce Mixer next Thursday, September 28, in the newspaper's pressroom, 820 Via de la Paz. The party will begin at 5 p.m. (instead of the usual 5:30) in order to allow people to attend 7 p.m. meetings.

Everyone is invited to enjoy hosted hors d'oeuvres provided by Mort's Palisades Deli, a no-host bar and a drawing for gifts donated by Chamber members.

In addition, guests can view the *Palisadian-Post* graphics and pressing department, meet staff members and watch a special run of the web press that churns out 5,000 copies of the *Post* every Wednesday afternoon. Jim Hennessey will also stand up his Handibug 2-color press.

Bumper Day for Farmers' Market

By LIBBY MOTIKA
Senior Editor

When the Kinkos figs, ruby grapefruit and heirloom tomatoes sold out last week at the debut of the Palisades Farmers' Market, owner Jennifer McCohen was astounded. Estimating that 700 people showed up between 8 a.m. and noon to buy everything from fruits and vegetables to beef jerky and organic plants, McCohen said that she has already received calls from residents who want to join the market this week.

There is a lot riding on this market for McCohen, who runs Gourmet a temporary 4-week pavilion from the edge, pending feedback from the community.

According to McCohen, "Everybody had the most positive things to say. I had three people working around with questions, and I got over 300 signatures before I ran out of paper. "In addition, McCohen called Councilwoman Cindy Miscikowski's office in response if there had been any complaints. There had not been.

The market attracted residents who strolled not only the fresh produce but the crowds.

"We really enjoyed the whole Sunday market experience," said Judith and Jim Hoem of Alcona St. "The offerings were top quality and running over friends and neighbors was an added treat."

Gloria Moeller of Swarthmore was equally charmed. "It warmed my heart to see all my neighbors with their children walk up to the Farmers' Market, a memory of the markets in the cities and villages of Europe."

Thirty-five vendors, including Columbia Mountain Farms, Swarthmough Farm of Oxnard and Simon Rosendahl of Fresno, set up their wares in the 1000 block of Swarthmore, some spreading out into two or three 10-by-10-foot spaces.

Based on the overwhelming response,

(Continued on Page 6)

Gabrielino Indian Skeleton Unearthed In Temescal, Killed By an Arrowhead

By LIBBY MOTIKA
Senior Editor

The ancient bones of a Gabrielino Indian were discovered in Temescal Gateway Park two weeks ago, once again reminding us that there were residents in the Palisades perhaps as long as 9,000 years ago.

The skeleton was discovered in a burial position with a stone arrowhead (3-1/2 cm.) embedded in the vertebrae of the lower back, and another arrowhead lodged within the body cavity, indicating a sub-lumbar wound. While carbon dating and DNA analysis have yet to reveal details as to the age, sex and morphology, the individual is a Native American, belonging to the Gabrielino tribe.

"This person was killed by whoever means," said Sam Dunlap, a Gabrielino descendent who has mentored Native Americans cases in Southern California for 10 years. Dunlap said that the body had received a commended burial, laid out in a "flex" or fetal position instead of fully extended, with rock ochre on top.

The ancient stone-work stones on top of the bowl will be treated as burial appropriate, Dunlap added. "There were three stones underneath as well, the largest being 14 inches by 10 inches by 3 inches."

The human skeleton was discovered during excavation for a city sewer project in Temescal, directly across from the historic country store. When workers began trenching in May, an archeologist was assigned to monitor the site, standard procedure because there are known Native American sites in the canyon, and explorers discovered human remains many years ago.

According to Palisades archeologist Rebecca Greenwood, whose company is monitoring the site, when human remains are first exposed, some law requires that the death must be reported to the county coroner, who determines whether it is a recent victim of a crime or the more ancient death of a Native American.

After examining the situation, the coroner determined the body to be a Native American based on commended burial and the teeth pattern and dental condition—the teeth were ground down almost flat, indicating the heavy amount of grit in the Palisades prehistoric diet.

The state then designated a "most likely descendent" to evaluate the situation and make recommendations and proper disposition for re-burial. Gabrielino tribal chief Anthony Morales designated this authority to Dunlap, who has served as a "most likely descendent" since 1994.

The remains have been shipped to Dr. Phillip Walker, a forensic anthropologist at UC Santa Barbara, for DNA analysis and carbon dating.

According to Greenwood's essay in the book "Pacific Palisades: Where The Mountains Meet The Sea," Pacific Palisades was most likely occupied by the Gabrielinos during the Late Prehistoric age in the Los Angeles basin (about 500 A.D. until the Spanish arrived in 1542). Along the coast, the southern boundary of the Chumash is usually accepted at Malibu, or perhaps Topanga Canyon. The Santa Monica Mountains, and perhaps the Palisades, are particularly important to anthropological research precisely because of the potential for find-

(Continued on Page 3)

The remains of a Gabrielino Indian were uncovered at this location, directly across from the country store in Temescal Gateway Park.

Church Hosts Family Day & Checkers Event

Community United Methodist Church, the founding church of Pacific Palisades, will hold a Family Fun Day for community bonding and goodwill this Sunday, September 24, at 850 Via de la Paz. All friends and neighbors are invited.

Featured events will include a pancake breakfast (8 a.m.), adult Sunday School (9:45), family worship service (10 a.m.), barbecue on the patio (noon) and goodhearted wrestler Linda Vitale, who will sing her theodore at 3 p.m.

In addition, the first annual Community Checkers Tournament will be held at 1 p.m., with with registration at 12:30. There will be three categories (12-and-under, teens, and 20-and-up), each having its own prize. Other board games such as dominoes, Uno, scrabble, tiddly dee tournament of backgammon, Parcheesi and Pictionary will be available.

Refreshments will be served all afternoon and organist Jimmie will be playing continuously.

Gabrielino:

(Continued from Page 1)

ing evidence of contacts between the Chumash and the Gabrielino.

Although Greenwood would not speculate as to the age of the individual, she did suggest that archeologists have certain clues.

"We know that later on (Palisades) prehistoric sites, the Gabrielino reacted to the Spanish after the San Gabriel Mission was established (mentioned above). Greenwood added that the fact that the projectile was an arrowhead rather than a spear point indicated that it was the Late Prehistoric period.

Scientific analysis is also of interest to Dunlap, who would like to correlate DNA with modern day descendants, such as himself. "We're planning to date the tribe as in the process of seeking federal recognition," he said, explaining that such recognition brings a number of benefits including higher education grants and medical and dental provisions.

"So much of the Gabrielino history has been destroyed," Dunlap lamented. "There are 3,000 recorded archeological sites in L. A. County. How many others have been covered up?

"These bones will be brought back to Temescal and reburied with the assistance of the Santa Monica Mountains Conservancy with an impact, but where people can pay homage

with suggested various—sun, passage, sunset offset.

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PACIFIC PALISADES
HISTORICAL SOCIETY
BOX 1299 PACIFIC PALISADES, CALIFORNIA 90272

September 13, 2002
Deputy Advisory Agency
Los Angeles City Planning Department
200 North Spring Street, Room 763
Los Angeles, CA 90012

File # 98-0105

Applications filed by Metropolitan YMCA of Los Angeles and the Santa Monica Mountains Conservancy.:
ZA 98-0229; PM 7245; CDP 98-004; EAF 0105
15601 Sunset Boulevard, Pacific Palisades 90272; CD 11

Opposition to the issuance of a Mitigated Negative Declaration (MND-129-98-PL) for a 3.95 acre parcel.

The YMCA has proposed the parceling of OS zoned state parkland for the sole purpose of selling pumpkins and Christmas trees. This odd story should be put in the context of the many attempts of the YMCA to avoid the stringent requirements that a coastal riparian park land parcel would have to go through in this city. In the Pacific Palisades they tell everyone they can that really what they want is a swimming facility and health club. Whatever the story du jour, your duty is to put conditions that will protect the rights not only of the people of the City of Los Angeles but of the State of California. The property has many environmental and planning issues and you should impose the proper tests and reviews.

This property is so strategic that an improperly parceled lot could endanger both the historical and natural qualities of this State Park. In 1985 the Presbyterian Synod who owned the subject property, put as a condition for the YMCA owning the proposed parcel, contractually demanded that an EIR be done on the subject property. The Presbyterian Synod was fearful of an unbridled inappropriate development by the YMCA at the entrance of their Conference facility. The City in the early 1990's agreed by placing the condition of an EIR on the parceling of the land (Parcel 6900) The YMCA could not could not cut through the required Environmental Gordian Knot, when the state took over the parcel in 1994 they decided a spin a new tactic, no build for ten years. Their goal is still a large facility and they want you to help them skirt the proper environmental review.

DENIAL BY APPLICANTS OF HISTORIC RESOURCES ON SITE

The Historical Society is deeply concerned about the section on historic elements within the parcel site. This area has been recognized as being historic by both the YMCA and the Santa Monica Mountains Conservancy in public testimony and written documents. In 1985 the Santa Monica Mountains Conservancy was going for a negative declaration on a park development plan on the land surrounding the site in question. Experts were unanimous in the appraisal that the whole area was historic with major Native American sites in close proximity. The Conservancy reports highlight these cultural and historic features as very significant and worthy of extraordinary measures to protect them. The National Park went so far as to highlight the whole canyon as historical and said "Cultural resources by their very nature must be considered in their context, and the full range of cultural and historical resources must be considered." (National Park Service, July 11, 1985, Superintendent Daniel A Kuehn, author.)

The Conservancy in denying any historical value to the land is reversing its own prior written position. The Conservancy has ignored a wide range of expert opinions as to the cultural and historic features of this property. The current official position, as embodied by this parceling agreement, is misleading and false and serves to relinquish the agency's primary responsibility to protect the natural and cultural resources within its boundaries.

The Santa Monica Mountains Conservancy has recognized in the past and the Society recognizes presently the following:

1) There are several recorded Native American sites within very close proximity to the subject parcel site. LAn-224, discovered in 1960 by archeologist Roberta Greenwood, is within 100 yards of the parcel. In 2000 during an excavation for a sewer line a native American burial site was discovered and excavated by Roberta Greenwood and Associates. This discovery reaffirmed the importance of the whole area archeologically.

2) The historic landscape and trees planted by the Methodists as part of the original Assembly Grounds in 1922 are still in place and comprise a significant element at the canyon entrance. Each tree must be mapped and evaluated as to historical importance, resource protection, and screening value. Trees have been landmarked in Pacific Palisades in the past, the most significant example being Founders Oak (LA City Cultural Heritage Landmark #36), the Bienveneda Sycamores, and the Rustic Canyon Forestry Station (a state landmark). The subject area was an original part of an Olmsted Brothers plan, and several of the specimens may have been planted at that time.

3) Any development, no matter how minor, should adhere to historically appropriate architecture and siting. The Santa Monica Mountains Conservancy went to great lengths and expense in developing the adjacent gateway park to be compatible with the Craftsman architecture of the historic structures. The denial of cultural and historic

resources by the Conservancy when the YMCA parceling is involved is hypocritical to the whole planning philosophy for this major entrance to the Santa Monica Mountains.

OTHER ENVIRONMENTAL AND PLANNING CONCERNS

The various planning issues involved on this site are very complex and make an EIR essential. If this is not a prime candidate for such a procedure, no other site in the state of California is. Following are just a few of the problems and issues that will be affected by even a modest development:

A) The parcel borders a state park; any development should not impact the viewshed of the park. The architectural style and mass should not overpower the surrounding area, but should nestle and be unobtrusive.

B) The first gas station in the Palisades was built on this site in 1924. The question as to whether the fuel tanks have been removed and how many toxics leaked into the ground should be investigated. We have historic photos of the station that can show the approximate location for testing. The stated use of the site in the document by the YMCA would involve the presence of children and their possible exposure to contaminants.. Testing is essential to allay the community's fears.

C) The parcel is now OS zoning which is a governmental ownership designation (The only exception I am aware of are golf courses.) The parcel will have to be rezoned to an appropriate private zoning designation.

D) There are many geological problems in the area as evidenced by the complex water table. dangerous runoff and active landslides zones. At least 50% of the 3.95 acres is slide-prone hillside geology that has failed within 100 feet of the subject parcel as recently as the last El Nino storms. A flood-plane analysis and geological profile should be required.

E) Access onto the site at present is through state park land, and permission to pass over it would have to come from the state. A curb-cut directly from Sunset Boulevard exists, but the recent reconfiguration of the entrance from Temescal Canyon Road would force a modification of this access. The intersection is already very busy and dangerous.

F) Parking requirements in the coastal zone are far more stringent than the usual city planning guidelines. Even now the YMCA has to use the state park parking lot for their Christmas tree and pumpkin patch operations. Such an impact on a public facility should be analyzed and mitigating measures taken.

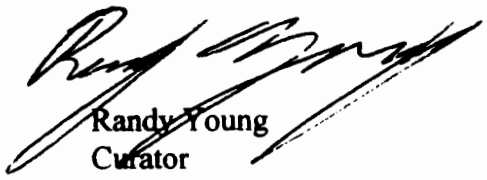
G) Huge cloth banners publicizing Y programs and chain link fences currently greet visitors to the park. This combination has been at odds with the otherwise tasteful and welcoming signage for the park.

H) The proposed parcel is presently a major pedestrian access into the state park from lower Temescal Canyon and Sunset Boulevard. An improved handicapped accessible path is planned through the proposed parcel property and connects with an existing path to the north of the proposed parcel. This trail should be platted and proper viewshed setbacks planned so as not to adversely impact this major pedestrian access into the Santa Monica Mountains.

YMCA SUPPORT FOR EIR

The contractual obligation to submit the project to all the planning bodies was a purposeful and useful requirement agreed to by the YMCA board in 1985. It would be wise for the city of Los Angeles to support that contractual decision. The location and inherent problems of the land demand an EIR; the community demands an EIR; the 1985 YMCA demanded an EIR. With unanimous support the only decision to be made by the city is to require one.

Sincerely,



Randy Young
Curator
310-454-8468

STATE OF CALIFORNIA — GEORGE DEUKMEJIAN, Governor

SANTA MONICA MOUNTAINS CONSERVANCY
[illegible] SOUTH BROADWAY, ROOM 7117
LOS ANGELES, CA 90012
(213) 620-2021

SYNOD DEIR
TEMESCAL CYN.
21/2C

May 2, 1986

Ms. Jean Gross, Project Coordinator
Department of City Planning
Room 655, City Hall
200 North Spring Street
Los Angeles, California 90012

Dear Ms. Gross:

Ref.: EIR 417-83-SUB(C)

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Presbyterian Conference Grounds.

Our comments reflect the Conservancy's mandate to protect and enhance the environment and recreational opportunities in the Santa Monica Mountains as well as our specific concerns relating to the adjacent 20.5 acre Temescal Canyon Park which we are currently developing. [redacted] Sunset Boulevard and the present entrance to the Presbyterian Conference Grounds. Our comments are organized as follows: major issues under CEQA for which mitigation must be assured, specific impacts on the Conservancy's park; and statements that require clarification or correction.

I. Major issues requiring mitigation under CEQA.

Temescal Canyon offers a rich assortment of environmental resources, both natural and historic. The creek, which runs virtually year round, supports a healthy riparian area. The canyon sides enclose the visitor, providing relief from the intensely urbanized area nearby. [redacted] an indication of the original state of the area and invite the visitor farther into the mountains.

a. Riparian areas. Given the increasing scarcity of riparian areas, those that remain should be thoroughly protected. In the Conservancy's view, therefore, an oak grove is an inappropriate location for a parking area for recreational or other vehicles. Such a parking area should be located within the conference center's buildable area or deleted.

For similar reasons, it would be more appropriate to require (P. 27) that mature oaks shall not be removed, that grading,

with extensive consultation with the Synod, the Palisades YMCA, community organizations, and city officials. For purposes of the subject Draft EIR, three items must be particularly emphasized: First, this is a park designed so that visitors can experience the natural environment of the Santa Monica Mountains. It is not a "community park" offering intensive use active recreation facilities. Second, mitigation for the increased visitor use of the canyon will be provided in the form of improvements to the intersection of Sunset and Temescal by the Conservancy and the City of Los Angeles. Third, the road north of Sunset will be so different in character from the road south of Sunset that it might even be appropriate to change its name.

A number of references to the Conservancy's property appear to suggest a similarity between the planned park and other projects existing or planned in the vicinity.

P. 31, "Environmental Setting:" There is (or soon will be) a public natural resource-oriented park adjacent to the subject development. That park should be recognized in all the descriptions of the setting and in the analysis of each of the specific impacts.

P. 16, "Cumulative Impact:" It is inappropriate to include the Conservancy's proposed park in this paragraph. The grading associated with the Conservancy's park project will restore to a more natural configuration an area altered by a previous owner. No alteration of the creekbed is proposed on Conservancy property. The Conservancy project is qualitatively different from the subject project. A 20.5 acre site developed for use as a park and trailhead, containing only one structure which will serve as an interpretive center and a caretaker residence, is far different from a conference center containing nearly 80,000 square feet of structures. Indeed, it is the impact on the Conservancy's natural resource-oriented park of the Synod and YMCA projects that most needs attention.

The proposed YMCA facility raises an additional problem. The land the YMCA intends to use is at present part of the site covered by the instant Draft EIR. The YMCA does not, at this time have a specific plan for the land it hopes to acquire. However, the YMCA has an option on three acres of the site and does have a proposal to use the land for intensive community recreation. Such a facility would significantly impact the park and probably the conference grounds as well. Therefore an environmental impact report should be required

to analyze its impact on natural resources, traffic, and noise. If such analysis is not included here, based on the fact that the intended use of the property is already known, regulatory agencies will not be able to assess adequately the cumulative impact of all proposed projects on canyon resources or to design appropriate mitigation for each project as it arises.

P. 28, "Cumulative Impact:" Once again, the development of a trailhead public park is qualitatively different from the development of an RV parking area in an oak grove and from the construction of 70,000 square feet of new buildings. The impact on plant life is also significantly different. It is inappropriate to discuss the impact of the Conservancy's park plan without reviewing the plan, and it is inappropriate in any case to agglomerate these particular items for discussion of impact on plant life.

P. 55, "Mitigation Measures:" We are concerned about the two different ingress/egress roads to accommodate major fire fighting apparatus. Where will these be located? The Conservancy's road was designed in consultation with the Presbyterian Synod to insure that no additional road would be needed in the canyon. It is our belief that the canyon cannot accommodate an additional road.

P. 15: Because hikers destined for Topanga State Park will pass alongside the proposed conference center, the Conservancy believes the center's design should be compatible with the rustic environment in which it is located.

P. 22, "Mitigation Measures:" In order to minimize alteration of the natural area, graded slopes should be landscaped with local native plants.

III. Clarification or corrections required.

Figure 3, and succeeding maps: The entrance to the park parking lot is inaccurately located. The main entrance will be as shown on the attached map. The location shown on the Draft EIR maps will ordinarily be used only for buses, handicapped access, and maintenance vehicles. Other traffic will only exit the parking lot at that point. Only if an evening event were scheduled at the park interpretive center, and the main (upper) parking lot entrance closed, would the lower entrance be used as an entrance by general traffic. Thus the road leading north from Sunset will carry park-bound traffic

P. 45: We are concerned that the Draft EIR does not consider the impact on park use of the fact that major shift changes at the expanded conference center will occur on weekends. Major park use will also occurs on weekends, and it should be taken into account that this park is an entry point for visitors to the State Parks located beyond the conference grounds as well as those visiting only this site.

P. 59: As suggested above, the description of the planned adjacent park is out of date and inaccurate. The Draft EIR describes a community park. See attached project description.

P. 66: Based on a survey conducted for the Conservancy in May 1985 by Louis Berger and Associates, we believe the data concerning site LAN-224 are out of date and incorrect. Our consultants were unable to locate the site at the Rosen and Walsh location but did find evidence at the original Greenwood location. It was their assessment that whatever archeological material exists is located adjacent to the creek at the north end of the Conservancy property and very likely extending under the existing parking area within the Synod property. Our consultant's report has been made available to the City and to the Synod.

The Conservancy has very much appreciated the Synod's cooperation during development of our park plan and throughout our ownership of the park property. We look forward to continuing that cooperative relationship.

Sincerely yours,

Joseph T. Edmiston
Executive Director

JTE:rg
Enc.
CC: Nancy Ehorn, SMMNRA
Bud Getty, CA Department of Parks and Recreation
Councilman Marvin Braude
Temescal Canyon Association
Pacific Palisades Residents Association
Pacific Palisades Historic Society
Palisades-Malibu YMCA

25/26

Frank Angel

From: Frank Angel [fangel@angellaw.org]
Sent: Saturday, February 05, 2005 3:06 AM
To: 'apadilla@coastal.ca.gov'
Subject: YMCA project in Temescal Gateway Park -- Appeal No. A-5-03-465

Dear Al:

As I mentioned in my letter to you mailed today (2-5-05), I am forwarding attached to this e-mail my client Friends of Temescal Canyon's opening brief in its legal challenge to the City of Los Angeles' approval of the YMCA-SMMC land division and the nonconforming YMCA fundraising activities in Temescal Gateway Park, and the city's adoption of a negative declaration for this project instead of an EIR.

I believe the attached brief, including its factual and historic background discussion, will be helpful to you when you prepare the staff report for the Coastal Commission's de novo hearing on the project, especially concerning the following items:

(1) The overriding public interest reasons that led to the creation of Temescal Gateway Park. In this regard, I reiterate my clients' requests that a comprehensive public access/recreation study be prepared (or included in the de novo staff report) so that the Coastal Commission is apprized of the high visitor use and popularity of Temescal Gateway Park, and can properly evaluate the adverse impacts of the proposed privatization of 3.95 acres in the park's historically significant entrance area (a) on public access to the park in general and to the area that would be lost (which is crossed by a trail running through the center of its flat portion), and (b) on the park's existence as a significant historic resource. Such a study should include a thorough review of existing and reasonably foreseeable access conflicts on the narrow park access road, parking conflicts and constraints, and adverse project impacts on the scenic and visual qualities of the park, that is, impacts of development associated with a Y recreation center *and* the YMCA's existing uses (such as its development without coastal permit of bamboo and chain link fences, a large inflatable moon bounce and other portable structures, including Andy Gump toilets, advertising signs, artificial lighting etc.). (See Public Recources Code section 30251.)

(2) The city's 1998 amendment to the Brentwood-Pacific Palisades Community Plan (BPPCP) which designated Temescal Gateway Park as *publicly owned* open space, and the city's 1999 zoning changes implementing this open space land use designation (now shown on the city's Comprehensive Zoning Plan map). The publicly owned open space land use designation and zoning applies to the entire park, including the 3.95 acres the YMCA would acquire if the Coastal Commission approved the coastal permit for the proposed land division. The declared purposes of the city's publicly owned open space designation and zone are: long-term protection and preservation of the park's very significant (free) public access, public recreation and open space resources. (See part I of legal discussion in attached brief.) It follows that the proposed land division, *the sole purpose of which it is to allow the YMCA to gain ownership of 3.95 acres in the park*, is inconsistent with the BPPCP and the city's implementing zoning ordinance. This inconsistency raises a significant coastal issue, especially in light of the fact that the city's approvals in this case consider the BPPCP as the draft land use plan (LUP) component of the city's future local coastal program (LCP) for the area. Because of this inconsistency, the Coastal Commission cannot make the finding mandated by the Coastal Act that the land division "will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 [of the Coastal Act] ...." (Public Resources Code section 30604, subdivision (a).) Such a finding is precluded given the proposed *privatization* of open space land that the BPPCP expressly designates as *publicly* owned open space, and given that this designation is specifically intended to preserve parklands' general *public* access, *public* recreation and ecological resources, which also are *coastal* resources and coastal zone benefits protected under Chapter 3 of the Coastal Act (as pointed out in my substantial issue comment letter dated July 14, 2004).

(3) The nature of the YMCA's overall project. Since Coastal Commission review of the project must comply with CEQA, and written findings of fact and reasoning are required to that effect (see Pub. Resources Code section 21080.5, subdivision (d) (2) & (3); Cal. Code Regs., title 14, sections 13057 & 13096, subdivision (a); CEQA Guidelines section 15215, subdivision (c)), the Commission's analysis under Chapter 3 of the effects of the land division cannot be limited to its direct impacts. The Commission's environmental review must include consideration of the land division's indirect and cumulative impacts. Simply put, the Commission's Chapter 3

consistency review must consider the impacts of a local Y recreation center *in addition to* the impacts of the existing nonconforming uses and Coastal Act violations for which the YMCA seeks coastal permit approval. (See CEQA Guidelines sections 15355, 15358; *Coastal Southwest Dev. Corp.* v. *California Coastal Zone Conservation Com.* (1976) 55 Cal.App.3d 525, 537 (upholding Coastal Zone Conservation Commission's denial of project based on project's secondary and cumulative impacts).)

Please make sure this e-mail and the attached brief are included in the administrative record in this case. If you have any questions, please feel free to call.

Best regards,

Frank P. Angel

Mrs. Shirley Haggstrom
17711 Sabbiadoro Way
Pacific Palisades, CA 90272

December 29, 2004

Chair California Coastal Commission
Stanford Law School, 559 Nathan Abbott Way
Owen House Room 6
Stanford CA 94305-8610

Subject: Temescal Gateway Park—YMCA Proposal

Dear Coastal Commission Members:

Over and over again I have heard members of the YMCA assure our community that they wish to continue using the 3.95 acres forming the corner of Temescal Gateway Park only "to sell pumpkins, sell Christmas trees and provide an affordable summer camp program for families in and around our community." They say they have no plans to develop this parkland now zoned as open space. Yet, the Metro YMCA is only willing to agree to an amendable 10-year no-build covenant.

During my years of community service, I have learned that promises no longer last even seven years. Sadly, amendable covenants have become a tool allowing development in the not so distant future. Removing this parcel from the public State Parkland and placing it in the hands of a n etropolitan board of businessmen would remove it from the public trust and free it for development.

If the YMCA is sincere in its commitment to the families of this community, it will voluntarily sign a deed restriction guaranteeing this part of Temescal Gateway Park as protected open space in perpetuity. Anything less looks like smoke and mirrors.

Sincerely,

Shirley Haggstrom

Shirley Haggstrom

cc: Sara Wan, CCC
YMCA of Metropolitan LA
Palisades-Malibu YMCA

Appeal from Coastal Permit
Decision of Local Government – Los Angeles City

CASE NUMBER
PMLA 7245-A10
ZA 98-004 (CDP) A10
ZA 98-0229 (NC) A10
Location: 15601 Sunset Blvd.
Plan Area: Pacific Palisades, CA 90272

CEQA: MND 98-0105 (PM) (CDP) (NC)
ZONE: 0S -1XL, OS-1-H
DISTRICT MAP 128B125, 132B125
LEGAL DESCRIPTION: PORTION OF LOT A OF TRACT NO. 9300

APPELLANT: No Oil, Inc.

Attachment: Reasons for Appeal

No Oil, is appealing the above case based on the inadequacy of Condition 10, specifically 10a of Attachment B, the adopted Conditions of the Deputy Advisory Agency dated January 15, 2003.

No Oil, Inc. opposes oil drilling in the coastal zone of Los Angeles and in Pacific Palisades in particular. Condition 10a is not sufficiently protective of the property to prevent oil drilling on or below the property. Condition 10a does not specify the wording of the Covenant, does not specify the signatories, does not specifically forbid oil drilling activities or mineral extraction on and/or below the property in perpetuity, nor does it state that the Covenant and Agreement shall run with the land. The public has not been allowed the opportunity to read the wording of such a Covenant and Agreement. To be sufficiently protective, Condition 10 must specifically provide that oil-drilling activities are forbidden in perpetuity on and/or below the surface and that the Covenant and Agreement shall run with the land.

HARDING, LARMORE, KUTCHER & KOZAL

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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DIRECT E-MAIL ADDRESS:
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February 22, 2005

VIA EMAIL AND MESSENGER

Mr. Al Padilla
Staff Analyst
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, California 90802

Re: Applicant: Pacific Palisades - Malibu YMCA
Appeal No. A-5-PPL-03-465
Parcel Map No. 7245
Our File No. 1987.2

Dear Al:

I thought it would be helpful as you prepare your Staff report to provide some background information relating to the YMCA, its involvement with Temescal Canyon and its application for a coastal development permit to allow it to acquire a small 4-acre parcel along Sunset Boulevard, and to respond to the appellants' most recent opposition to that permit. This letter will deal with the latter while the former is contained in the attached Memorandum.

The YMCA has provided access to, as well as recreational and educational opportunities in, coastal areas for decades, activities which promote important Coastal Act policies. (See Public Resources Code Sections 30001.5, 30210 and 30213.) Through its summer day camp and other activities in Temescal Canyon, the YMCA exposes children between the ages of three and sixteen to the Canyon and other surrounding coastal areas and provides a meaningful learning experience for them. (See page 3 of the YMCA's 2005 summer camp brochure attached to this letter.) These programs have been particularly beneficial to working families who may be unable to devote the time necessary during the summer to provide these opportunities to their children. Allowing the YMCA to acquire this small site adjacent to Sunset Boulevard will permit it to continue these valuable services.

In sharp contrast, Mr. Angel and his clients seek to restrict, even eliminate, coastal access for those served by the YMCA and to disingenuously use the Coastal Act to do so. This appeal is not about the promotion of Coastal Act policies. It is brought by a small group of wealthy homeowners who own houses on the ridge above the site and prefer peace and quiet to the presence of children.

In my letter of July 9, 2004 to the Commission, I responded to various points made by the appellants at that time. Therefore, I will not repeat those here, although I have attached a copy of that letter. However, since that date, Mr. Frank Angel, appellants most recent counsel, has made new accusations in a letter dated February 5, 2005 and in an email message of that same date that require further response.

1. Mr. Angel forwarded a newspaper article from 1938 reflecting an interview with Mr. Everett Maguire, the then chairman of the YMCA's board, regarding a potential teen center on the Site. Setting aside the facts that the YMCA has no plans to develop this site, whether for a teen center or anything else, and that this 17-year old interview with one individual could hardly reflect the current intentions of the YMCA in any event, Mr. Angel's discussion of this article is outrageously inflammatory. By innuendo, Mr. Angel suggests that the YMCA intends to operate the site for the benefit of privileged children while excluding others. Nothing could be further from the truth. The YMCA prides itself on being open to membership from all ethnic and economic backgrounds and never turning away any child for financial reasons. The current operations of the YMCA, not only on the site but at all other locations, are dedicated to enhancing the lives of all. Anyone who has ever had any involvement with any YMCA will know that Mr. Angel's accusation is irresponsible .

2. In a similar vein, Mr. Angel characterizes the YMCA's seasonal sales of pumpkins and trees as "private fundraising purposes." (It seems unlikely that Mr. Angel would so characterize the "fundraising cruises" sponsored by the Sierra Club to the Channel Islands.) Although about one-third of the YMCA's total budget is generated from these sales (making retention of the site critical to its overall operations), the YMCA is a non-profit *public benefit* institution whose programs are available to all irrespective of ability to pay.

3. At the request of Staff, the YMCA commissioned a biological resource study to evaluate any environmentally sensitive habitat areas and other issues requested by Staff. Mr. Angel doesn't mention this study even though it had been available for three months when his letter was written. He also conveniently forgets that the permit is being sought *solely* for the land division - no development of any kind is being proposed or considered.

4. Mr. Angel asks the Commission to override the City's determination that acquisition of the site by the YMCA is consistent with the City's Brentwood-Pacific Palisades Community Plan. In addition to the fact that this determination is the City's role, not the Commission's, the argument that such an acquisition violates the Plan is nonsense. The Plan specifically contemplates the private ownership of open-space zoned land in the area covered by the Plan and the uses put to the site by the YMCA are fully consistent with those authorized in the Plan.

5. Mr. Angel contends that a picture he provides shows a water fountain and a trail across the middle of the flat portion of the site. I have been advised by Mr. Mark Elswick, Executive Director of the YMCA, that there is no water fountain on the site. Since Mr. Angel apparently took this picture in the Summer of 2004, he may have been referring to a temporary cooler which is used for the children during their day-camp activities. Also, according to Mr. Elswick, the only trail on the site is along the westerly boundary of the property in the access easement. The City approvals require that this trail be maintained for public access and that an easement be granted for it; the YMCA has no objections to such an easement or the maintenance of such a trail.

In all, Mr. Angel's letter presents a rather hysterical parade of horribles that has no relation to the facts. (Note, for example, his allegation that the YMCA's activities have resulted in the "Disneyfication" of the park.) Not only is no development of the site contemplated by the YMCA, no development will be legally permitted for at least ten years. Should the YMCA, after that time, desire to propose the development of some type of facility, it would be required to return to the Commission for another permit in addition to seeking a variety of discretionary land use approvals from the City. As the court said in *Billings v. California Coastal Commission,* 103 Cal.App.3d 729, 163 Cal.Rptr. 288 (1980), the Commission cannot base its refusal to issue a permit on "a speculative future contingency" where the Commission "has the authority to prohibit any future development whose cumulative effect is both significant and adverse." (103 Cal.App.3d at 741, 163 Cal.Rptr. at 295)

The YMCA has bent over backwards in an effort to come to terms with the appellants. It spent over six years in lengthy meetings at the request of the Conservancy and Councilmember Miscikowski and offered a variety of compromises. We met with them in settlement discussions during the litigation they instituted and encountered inflexibility rather than a willingness to discuss substantive issues.

In essence, the appellants will not take "Yes" for an answer. Their attitude can be clearly seen when they object on numerous occasions to the "moon bounce" - they simply don't like the fact that children make noise. This appeal is reminiscent of the efforts made by beach homeowners who seek to bar the general public from the coastal areas around their homes. To allow a small group of wealthy homeowners to hypocritically use the Coastal Act for their own private benefit by preventing the YMCA from continuing its programs for children in the coastal area would be a complete reversal of the Act's important policies. We urge the Staff to support approval of the permit and are available to discuss any appropriate conditions.

Sincerely,

Thomas R. Larmore

Thomas R. Larmore

cc: Sherman Stacey
Mark Elswick
Everett Maguire

1987.1/Corr/Padilla.2006.trl

5/10

MEMORANDUM

February 22, 2005

TO: **California Coastal Commission Starr**

FROM: **Harding, Larmore, Kutcher & Kozal**
Counsel for the Young Men's Christian Association
Of Metropolitan Los Angeles

RE: **Appeal No. A-5-PPL-03-465**
Parcel Map No. 7245

SUBJECT: **The YMCA and Its Activities in Temescal Canyon**

The YMCA movement, which began in London in 1844, now extends to over 120 countries worldwide with more than 2500 facilities in the United States alone. It is the largest community service organization in the United States serving about 19 million Americans, including over 9 million children, in over 10,000 communities. Its mission is to establish programs that build healthy spirit, mind and body for all.

The Pacific Palisades - Malibu YMCA is operated by the YMCA of Metropolitan Los Angeles, a California non-profit public benefit corporation initially incorporated in California in 1889. Through its main facility on Via La Paz Drive in Pacific Palisades and several satellite facilities, the YMCA offers a wide variety of community service programs to residents of surrounding cities. The YMCA's membership is open to all and scholarships are available for those unable to pay the standard membership dues or program fees - no one is turned away for financial reasons.

The YMCA has conducted limited activities in Temescal Canyon for several decades, including operation of an aquatics center, summer day camps and the sale of Christmas trees and Halloween pumpkins. Some of these - the seasonal sale of trees and pumpkins and a portion of the summer camp activities - have taken place on a site consisting of approximately 4 acres adjacent to the intersection of Sunset Boulevard and Temescal Canyon Road (the "Site") currently owned by the Santa Monica Mountains Conservancy. The summer camps also use other parts of Temescal Canyon Park for hiking and nature activities for children and the aquatics center is located on land adjacent to the Site which is leased from the Conservancy and is not a part of the Parcel Map application.

C/10

The YMCA and Temescal Canyon.

The current application relates only to the subdivision of property owned by the Conservancy into two parcels which will allow the YMCA to take title to the small 4-acre site which occupies the southeast corner of Sunset Boulevard and Temescal Canyon Road. No development permits are being sought because no development is contemplated and, in fact, under the terms of several documents, no development will even be permitted for at least ten years. Even then the Site is zoned Open Space by the City of Los Angeles in accordance with its General Plan drastically limiting the types of development that would be permitted even if requested. The YMCA seeks only to be allowed to continue its current uses on the Site - the seasonal sale of trees and pumpkins and a day camp for children during the summer months.

The area now known as Temescal Canyon Gateway Park consisting of approximately 140 acres was, until 1994, owned largely by the Presbyterian Synod of Southern California and Hawaii (the "Synod") which used it as their conference grounds, including a swimming pool. The YMCA began using the pool in 1969 through a lease with the Synod, a use which continues to this day on an area adjacent to the Site.

Between 1972 and 1976, the YMCA held discussions with the Synod concerning the establishment of a new YMCA facility on approximately 8.5 acres of the Synod's property on the east side of Temescal Canyon Road north of Sunset Boulevard, including the swimming pool site. These discussions culminated in a December 17, 1976 agreement in which the Synod gave the YMCA an option to acquire this 8.5-acre site for development of a new facility. Escrow was opened and the YMCA paid the Synod $27,000 outside of escrow.

During this same period, the Los Angeles Unified School District (the "District") was planning to build a new alternative high school for 450 students which would move from its then-interim site at Hamilton High School to approximately 20 acres on the west side of Temescal Canyon Road north of Sunset. The District acquired this site, which was immediately adjacent to the YMCA's option site, and prepared an EIR for the project. The high school would have included new soccer fields, an outdoor amphitheater, basketball courts, parking and a major extension and expansion of Temescal Canyon Road north of Sunset. (See the Summary from the EIR attached as Exhibit A.) At the time, development of a new YMCA facility directly across the street appeared logically connected to the new school and was strongly supported by the Palisades Community Council.

In order to facilitate the YMCA's acquisition of the 8.5-acre option site, a lot split application was filed with the City of Los Angeles. However, due to a variety of problems between the District and the Synod, the application was not pursued and expired in 1980. The YMCA requested that the application be refiled by the Synod; however, this did not occur and litigation between them was filed revolving around their respective rights and obligations under the 1976 agreement. Meanwhile, the plans for the new high school dissolved and the 20-acre site on which it was to be located was

transferred by the District to the Conservancy. Subsequently, litigation ensued between the Synod and the Conservancy over the Conservancy's alleged failure to honor certain agreements made by the District to the Synod when the District originally acquired the property.

The YMCA/Synod litigation was settled in 1985 pursuant to an Agreement for Settlement and Option, a copy of which is attached hereto as Exhibit B (the "1985 Option Agreement"). The 1985 Option Agreement gave the YMCA an option to acquire approximately 3 acres for an initial option price of $300,000 ($30,000 of which was to be paid within 6 months), increasing annually based on CPI until title was actually transferred to the YMCA. This 3-acre site excluded the pool area and the 140-foot Sunset Boulevard frontage consisting of approximately 0.85 acres. The 1985 Option Agreement also provided for the following:

- The YMCA would seek approval of an environmental impact report and a parcel map creating three parcels from the previous 8.5 acre parcel which had been the subject of the 1976 agreement: an approximately 3-acre parcel which was the subject of the new option; the 0.85-acre parcel consisting of the Sunset Boulevard frontage; and the balance, which included the pool site. An application was filed with the City for the EIR and this parcel map by the Synod and the YMCA. However, they were not pursued due to a City requirement that a geologic study be prepared for all of the 140 acres owned by the Synod and the applications expired in 1992.

- The YMCA would seek a conditional use permit for an unspecified recreational facility (which was anticipated to include a new pool) and a coastal development permit for the parcel map and the facility. A CUP was needed because, at the time, the property was zoned residential.

- The option was required to be exercised by March 8, 1988, subject to extension for unanticipated delays in six-month increments in exchange for a payment of $5000 for each extension. This payment would be applied to the purchase price only to the extent that the price had been increased by application of CPI; otherwise, the payment would be retained by the Synod without application to the price. (At least 34 such payments have now been made for a total of $170,000 with more than half going to the Conservancy. Coupled with other payments, the YMCA has now paid the Synod and the Conservancy an aggregate of about $250,000.)

- The YMCA would lease the pool for $1.00 per year and be responsible for all maintenance.

- The YMCA would have the right to continue use of the 0.85-acre parcel for the sale of Christmas trees and Halloween pumpkins which it had been doing since 1976 and 1983, respectively, subject to the Synod's right to terminate these uses at any time.

8/10

- The YMCA was given a right of first refusal to acquire the 0.85-acre site should the Synod intend to accept another offer to sell it.

- The access roadway from Sunset Boulevard was to be relocated and the Synod was to receive an easement over a portion of the 3-acre site for access to its remaining property further up in Temescal Canyon.

In 1988, the Synod agreed to add the 0.85-acre Sunset Boulevard frontage parcel to the property which was subject to the YMCA's option in exchange for an immediate payment of $20,000, bringing the total amount of property subject to the option to approximately 4 acres constituting the Site. That portion of the Site which is 100 feet north of Sunset Boulevard was to represent a setback area for any future building and the Synod would have the right to reserve an easement along the easterly boundary where the Site adjoined the 20-acre parcel then owned by the Conservancy for access, utility, sewer and road purposes. This agreement was embodied in an Amendment to Settlement Agreement and Option dated February 8, 1990, a copy of which is attached hereto as Exhibit C.

In March, 1992, the Synod and the Conservancy entered into a Reciprocal Grant of Easements and Declaration of Covenants providing for reciprocal access easements over the adjoining parcels owned by the Conservancy and the Synod and the relocation of Temescal Road north of Sunset. This agreement was recorded on August 14,1992 and a copy is attached as Exhibit D.

In September, 1992, the parcel map application expired (as a result of the Synod's and the YMCA's unwillingness to conduct a full geologic study of the 140 acres owned by the Synod) and was not refiled due to the dispute between the Synod and the Conservancy.

The litigation between the Synod and the Conservancy was resolved in 1994 with the Synod agreeing to sell its entire 140 acres to the Conservancy for $4,000,000. (A copy of the purchase agreement is attached hereto as Exhibit E.) As a part of the agreement between the Synod and the Conservancy, the Conservancy agreed to honor the YMCA's rights under the 1985 Option Agreement. (See Section 5 of Exhibit E.) In addition, the Conservancy entered into a separate Agreement dated November 8, 1994 with the YMCA, a copy of which is attached hereto as Exhibit F (the "1994 Agreement"). The most significant points in the 1994 Agreement are:

- Recognition that the YMCA no longer had any current intent to develop the Site but only to continue its prior uses, including certain camp activities. Therefore, the obligation to pursue a conditional use permit and other regulatory approvals for a new facility which was contained in the 1985 Option Agreement was deleted.

- The YMCA agreed to process a parcel map application, including issuance of a coastal development permit, for the resulting subdivision and the Conservancy agreed to assist in processing the relevant applications.

- The YMCA agreed that it would consult in good faith with the Conservancy regarding any permanent structures that might be placed on the Site in the future and to explore ways in which its programs might assist the Conservancy's at-risk youth programs.

- The YMCA agreed not to oppose the Conservancy's acquisition of the 140 acres and, correspondingly, the Conservancy agreed not to oppose the granting of the approvals needed for the YMCA's acquisition of the Site.

- The Conservancy agreed to honor the pool lease and to extend it for the life of the existing pool. Upon expiration of that useful life, the parties agreed to enter into negotiations regarding the continued use of the facility by the YMCA.

- The Conservancy agreed that the YMCA could continue its previous uses on the Site, including the seasonal sale of trees and pumpkins and as a staging area for camp activities in Temescal Canyon.

Before filing any of the parcel map and other applications, at the request of the Conservancy, the YMCA spent over three years meeting with a small number of neighboring residents, including those who make up "Friends of Temescal Canyon," to see if an agreement could be reached regarding the YMCA's acquisition of the Site. After several years, it became clear to the YMCA representatives that no such agreement could ever be reached because, in their opinion, these few neighboring residents will never be satisfied until the YMCA abandons the area entirely. As a result, the YMCA prepared to file the necessary approval applications with the City.

As a part of this preparation, the YMCA requested that the Conservancy sign the necessary papers as the property owner. In December, 1997, the Conservancy adopted a resolution approving the execution of the parcel map related applications, a copy of which, along with the associated staff report, is attached hereto as Exhibit G. As a part of this resolution, the Conservancy found that its action complied with the California Environmental Quality Act and that, as a condition of sale of the Site, the deed would prohibit surface and subsurface oil drilling and would also prohibit the commencement of development for ten years. The YMCA agreed to accept the ten-year restriction on development because, as it has consistently stated, it has no development plans.

The City Applications.

In March, 1998, the Conservancy and the YMCA filed applications with the City for (a) approval of the parcel map to divide the property owned by the Conservancy into two parcels - the Site and the remainder, (b) issuance of a coastal development permit for the subdivision, and (c) issuance of a permit to continue the sale of pumpkins and Christmas trees which, due to the then-residential zoning of the property, were then nonconforming uses. Shortly thereafter, the Site, along with other adjoining property,

was rezoned by the City as open space consistent with the City's applicable specific plan for the area.

For the next three years, at the request of Councilmember Miscikowski, the Councilmember for the relevant district, representatives of the YMCA held many more meetings with neighboring residents regarding issues of concern. As a result of these meetings, the YMCA agreed to a number of conditions, all of which were included in the final City approvals; however, the opponents remained intransigent and continued to oppose the acquisition.

City officials conducted public hearings in July of 2002 and in March and November of 2003 and approved all of the YMCA's applications, subject to various conditions, most of which had been requested by the opposing neighbors. The applications were unanimously approved by the West Area Planning Commission and the parcel map unanimously approved by the City Council. These approvals included various restrictions and conditions, such as a prohibition on oil drilling and execution of a covenant prohibiting development for ten years following conveyance (see Exhibit H).

The few vocal opponents of the YMCA's acquisition of the Site have filed all administrative appeals available to them, including this one. They have also filed litigation against the City and the YMCA contesting the validity of the approvals on an assortment of grounds and, after losing on all issues in the trial court, have filed an appeal which is currently pending. (Attached as Exhibit I is a copy of the trial court's ruling dismissing the action.)

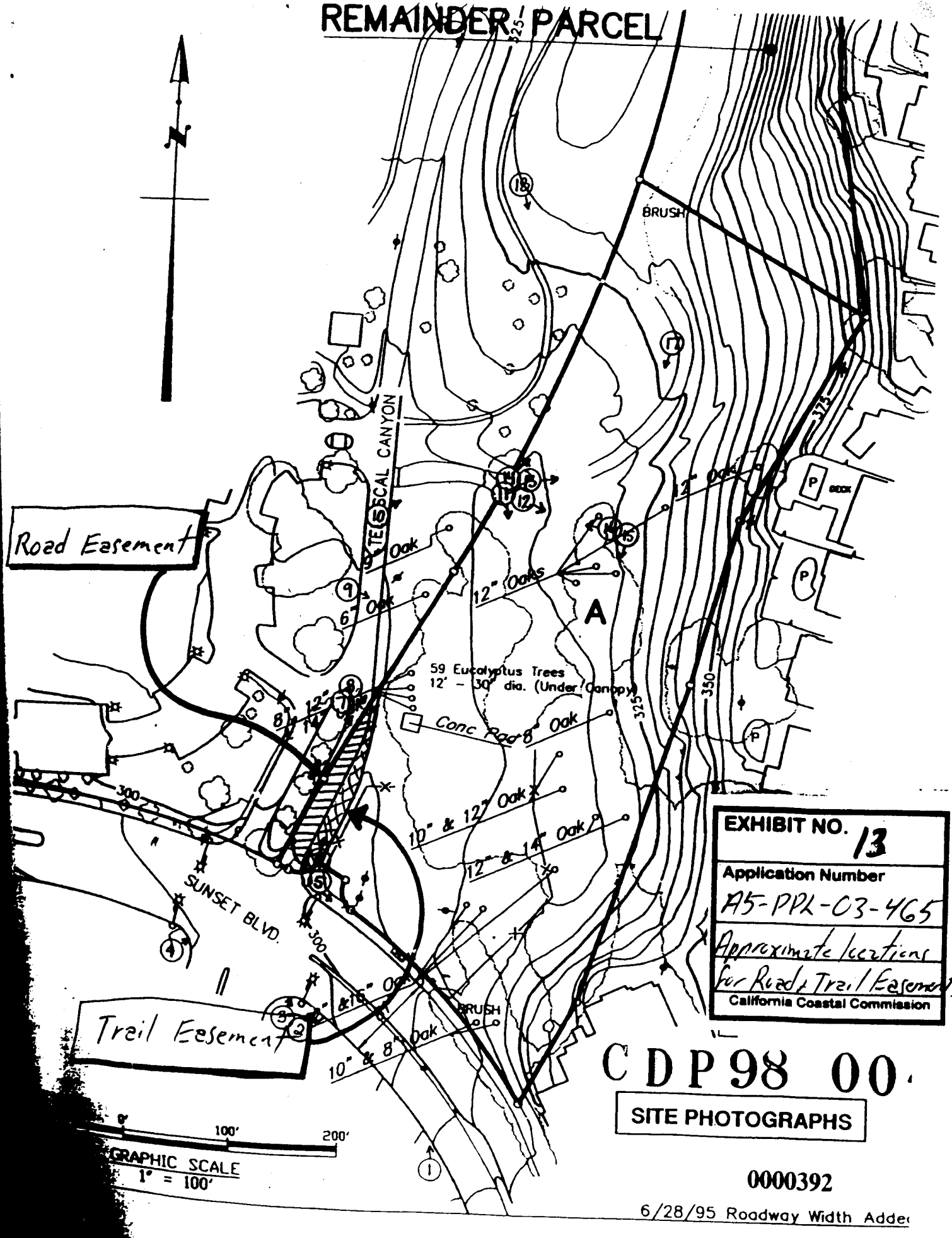

EXHIBIT NO. 13

Application Number

A5-PPL-03-465

Approximate locations for Road & Trail Easements.

California Coastal Commission

CDP 98 00

SITE PHOTOGRAPHS

0000392

6/28/95 Roadway Width Adde

West Los Angeles Area Planning Commission

200 North Spring Street, Room 532, Los Angeles, CA 90012-4801 (213) 978-1300
Website: http://www.lacity.org/pln/index.htm

TO: California Coastal Commission
South Coast District Office
200 Oceangate, Suite 1000
Long Beach, CA 90802

Mailing Date: October 8, 2003

CP Case No. PMLA 7245; ZA98-004 CDP-A1; ZA 98-0229 NC-A1
Address: 15601 SUNSET BL.
Plan Area: PACIFIC PALISADES
Council District: 11

FROM: West Los Angeles Area Planning Commission

NOTICE OF COASTAL DEVELOPMENT PERMIT ISSUANCE

Applicant name/address:
YMCA of Metropolitan Los Angeles
625 South New Hampshire Avenue
Los Angeles, CA 90005

Applicant Representative name/address:
Mark Elswick
821 Via Del La Paz
Pacific Palisades, CA 90372

The above-referenced Coastal Development Permit was **granted** effective **October 9 , 2003**, pursuant to a public hearing conducted by the West Los Angeles Area Planning Commission on March 19, 2003. An appeal was not filed with the City Council during the mandatory appeal period or no appeal to City Council was permitted from the Commission's action; whichever is indicated in the Commission's Determination Report.

Appeals must be filed within a 20 working-day appeal period, to be determined by the South Coast District Office of the Coastal Commission in accordance with said Commission's procedures.

( ) The proposed development **is in the dual permit jurisdiction area,** and will require an additional permit from the California Coastal Commission upon the expiration of the above 20-working-day appeal period.

(X) The proposed development **is in the single permit jurisdiction area,** and if the application is not appealed within the 20-working-day period the applicant may proceed with the subject project.

Attachments: Coastal Development Permit / Commission Determination Report
Zoning Administrator Determination
Miscellaneous relevant documents

cc: Applicant and Applicant's Representative (Notice, Coastal Permit/APC Determination)
APC Determination Report mailing list (Notice & Coastal Permit/APC Determination)

ATTACHMENT "A"

Changes made by the Commission at the March 19, 2003 meeting are delineated below. **RETAIN ALL OTHER CONDITIONS WITHOUT CHANGE.**

PMLA No. 7245 - Deputy Advisory Agency Decision dated January 15, 2003 (Attachment B)

New Conditions Imposed as follows:

13. No sound amplification shall be allowed on the subject property

14. The hours of operation for the daycamp shall be as follows: Monday thought Friday from 8:00 A.M. - 7:00 P.M. during the months of June through August. The operation of a day camp shall be inclusive of a maximum of 150 participating children.

15. The hours of operation for the Christmas tree lot shall be from 9:00 A.M. - 9 P.M. Monday through Friday and from 9:00 A.M. to 8:00 P.M. Saturday and Sunday, from December 1st - December 25th. No work, including preparation of trees, delivery of trees, or any other activity on the site may begin or end outside of these hours.

16. No gas powered saws shall be used on the Christmas tree lot, only electric powered machinery is allowed, so that the use is not as intrusive to the nearby homes.

17. Hours of operation for the pumpkin patch shall be from 9:00 A.M.- 9:00 P.M. Monday through Friday, and from 9:00 A.M - 8:00 P.M., Saturday and Sunday, from the third week of September until October 31st. No work including delivery of pumpkins or any other activities on the site may begin or end outside these hours. Lighting shall be shielded and directed onto the site and only allowed during the hours of operation of the above mentioned activities.

18. A plan for screening and or enclosure of trash dumptsters shall be required and such plan shall be submitted to the Deputy Advisory Agency for review and approval in consultaion with the Council Office for the district.

19. Beginning at Sunset Boulevard a 10 foot- wide public easement for hiking purposes be provided through the subject property to the Santa Monica Mountains Conservancy property and the fence setback from this hiking trail. Prior to recordation of the final map the Advisory Agency shall review and approve the above easement to ensure that the location follows the exiting trail.

20. Gas generators shall not be used on the subject property.

Modification to Existing Conditions as follows:

10c. In the event that the YMCA determines to divest itself of this site and the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority fails to accept it, the property shall be offered first to the Department of State Parks and Recreation; second to any other public resource agency including the City of Los Angeles; and third to any interested non-profit organizations. At least 180 days shall be granted to exercise this transfer.

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Add the following sentence to the NOTES section of PMLA No. 7245

Notes: The YMCA will file a private covenant to run with the land stating that their will be no development of the site for 10 years from approval of this parcel map.

CDP- 98-004, ZA 98-0229(NC) dated January 15, 2003 (Attachment C)

Delete the following language

Page 8, Finding No.7, second paragraph, third sentence, and after-school.
The sentence shall read as follows: "Providing summer youth activities in a natural park setting is a vital resource in an urban area such as Los Angeles."

ATTACHMENT "B"

DECISION DATE: **January 15, 2003**

Santa Monica Mountains Conservancy (O)
2600 Franklin Canyon Drive
Beverly Hills, CA 90210

YMCA of Metropolitan Los Angeles (A)
625 S. New Hampshire Avenue
Los Angeles, CA 90005

Re: PMLA No.: 7245
ZONE: OS-1-XL/OS-1-H
PLAN AREA: Pacific Palisades
COUNCIL DISTRICT: 11
CPC: West Los Angeles
FISH AND GAME: EXEMPT

On July 31, 2002, the Deputy Advisory Agency held a public hearing and placed the subject parcel map case under advisement. In accordance with Section 17.53 of the Los Angeles Municipal Code, the Deputy Advisory Agency approves preliminary Parcel Map No. 7245, at 15601 Sunset Boulevard for two parcels. The approval is subject to:

1. That any natural watercourse and the existing 8-foot wide sanitary sewer easement within the subdivision be delineated on the final map satisfactory to the City Engineer. (201 N. Figueroa Street, Suite 200)

2. That prior to recordation of the final map, a Covenant and Agreement be recorded, agreeing that subsequent to the recording of the parcel map, a lot tie agreement be recorded tying the "remainder" portion of Parcel Map No. 7245 in with the southwesterly adjoining Santa Monica Mountains Conservancy ownership, satisfactory to the Advisory Agency and the City Engineer. (201 N. Figueroa Street, Suite 200)

3. That all the proposed parcel map boundary lines be properly established in accordance with Section 17.07.D of the Los Angeles Municipal Code prior to the recordation of the final map satisfactory to the City Engineer. (201 N. Figueroa Street, Suite 200)

4. That the following improvements be either constructed prior to recordation of the final map or that the construction be suitably guaranteed: (West Los Angeles Engineering District)

   a. Improve Sunset Boulevard adjoining the subdivision by removing an existing concrete driveway approach access to Sunset Boulevard, approximately a 25-foot by 4-foot area, and construct a new integral curb and gutter to close the driveway.

   b. Construct a 5-foot wide concrete sidewalk along the parcel map boundary line.

5. That any required street tree removal, replacement, new street tree planting and tree well installation together with tree well covers along the property be completed satisfactory to the City Engineer and the Street Tree Division of the Bureau of Street Services.

6. That street lighting facilities to serve the subject property be installed to the satisfaction of the Bureau of Street Lighting. (600 South Spring Street)

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7. That prior to final map recordation, suitable arrangements be made with the Fire Department with respect to the following: (Room 920, City Hall East) (MM)

   a. Submit plot plans for Fire Department review and approval.

8. That a clearance be obtained from the Department of Building and Safety, Zoning Engineer regarding the items on a June 1 1998 report to the Deputy Advisory Agency showing that no violations of the Building or Zoning Codes are created. (Room 300, 201 North Figueroa Street and Room 763, 200 North Spring Street)

9. That two copies of a parking and driveway plan be submitted to the Citywide Planning Coordination Section of the Department of Transportation for approval prior to submittal of building plans for plan check by the Department of Building and Safety, or that a Covenant and Agreement be recorded agreeing to do the same. (Room 300, 201 North Figueroa Street) (MM)

   a. Vehicular access be limited to private road only within the parcel map boundary.

10. That prior to recordation of the final map, a Covenant and Agreement to the satisfaction of the Deputy Advisory Agency be recorded as follows : (Room 763, 200 North Spring Street)

   a. No oil drilling activities in any form are allowed on the subject property.

   b. No non-native vegetation shall be planted on the site other than grass.

   ~~c. In the event the YMCA determines to divest itself of this site and the Santa Monica Mountains Conservancy fails to accept it, the property shall be offered first to the Department of State Parks and Recreation; second to another public resource agency; and third to another non-profit group or groups. At least 180 days shall be granted to exercise this transfer.~~

   c. In the event that the YMCA determines to divest itself of this site and the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority fails to accept it, the property shall be offered first to the Department of State Parks and Recreation; second to any other public resource agency including the City of Los Angeles; and third to any interested non-profit organizations. At least 180 days shall be granted to exercise this transfer.

   d. Prior to erection of any permanent fencing on the subject property, plans shall be approved by the Deputy Advisory Agency in consultation with the Council Office of the district to ensure the fence design is open and rustic in nature and conforms to the design of existing Santa Monica Mountains Conservancy facilities on site.

   e. That all exterior lighting shall be shielded and directed onto the site.

11. That the applicant shall record a Covenant and Agreement identifying a registered civil engineer, architect or licensed land surveyor who will be obligated to provide certification, prior to the issuance of Certificate of Occupancy, that the foregoing mitigation items required by Condition Nos. 7, 9 and

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10e have been complied with. This Covenant shall run with the land. Should the applicant choose to change the previously designated professional or should the land be sold, such covenant may be terminated only after a new Covenant and Agreement is recorded guaranteeing that such a professional (to be identified) is available to certify the continuing implementation of the above-mentioned mitigation items. (Room 763, 200 North Spring Street)

12. All terms and conditions of Parcel Map 7245 shall be in substantial compliance with the Zoning Administrators Determination for the subject property under case No. ZA 98-0229(NC)

FINDINGS:

The site is not located in a designated flood hazard area of the Flood Hazard Management Specific Plan.

In connection with the approval of Parcel Map No. 7245, the Advisory Agency, (pursuant to Section 66411.1 of the State of California Government Code the Subdivision Map Act), makes the prescribed findings with regard to the required improvements prior to recordation of the final map as follows:

> "The required improvements are necessary for reasons of public health and safety and are a necessary prerequisite to the orderly development of the surrounding area and neighborhood."

The proposed division of land complies with such requirements as may have been established by the Subdivision Map Act (Government Code Sections 664109 et seq.) or Article 7, Section 17.50 of the Municipal Code as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other requirements of the Subdivision Map Act or said Article.

In adopting Mitigated Negative Declaration No. MND-98-0105-PM(CDP)(NC), the Deputy Advisory Agency finds that the declaration reflects the independent judgment of the lead agency.

THE DESIGN AND IMPROVEMENT OF THE PROPOSED SUBDIVISION ARE CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.

The adopted Brentwood-Pacific Palisades Community Plan designates the subject property for open space density with corresponding zones of OS, A-1. The 53.14 acre property is zoned OS. A Coastal Development Permit and Variance are being processed concurrently with the above parcel map case. The adopted Plan zone allows for the proposed subdivision, Coastal Development Permit and Variance.

The activities conducted by the YMCA on the subject property are all recreational in nature and allowed in the OS land use designation. In addition, the YMCA has been granted a variance (ZA-98-0229) for continuance of the non-conforming use of Christmas tree and Halloween pumpkin sales, as well as youth day camp.

THE DESIGN OF THE SUBDIVISION AND THE PROPOSED IMPROVEMENTS ARE NOT LIKELY TO CAUSE SUBSTANTIAL ENVIRONMENTAL DAMAGE OR SUBSTANTIALLY AND AVOIDABLY INJURE FISH OR WILDLIFE OR THEIR HABITAT.

The Initial Study and Mitigated Negative Declaration prepared for the project identifies no potential adverse impacts on fish, wildlife resources, or habitats pursuant to California State Code of Regulations Title 14, Section 753.5.

On April 8, 1998, the Environmental Staff Advisory Committee of the Planning Department granted the proposed project Mitigated Negative Declaration No. MND-98-0105-PM(CDP)(NC). The Committee found that potential impacts could result from:

- Major landform disturbance;
- potential seismic activity;
- potential health/fire risk area; and,
- land use (district plan).

The Deputy Advisory Agency, to mitigate the above impacts, required Condition Nos. 7, 9 and 10e, as a condition of approval for the Parcel Map and determined the project would not have a significant impact upon the environment. Other identified potential impacts not mitigated by these conditions are subject to existing City ordinances intended to mitigate such impacts.
Per Section 21081.6 of the Public Resources Code, the Deputy Advisory Agency has assured that the above identified mitigation measures will be implemented by requiring reporting and monitoring as specified in Condition No. 11.

In light of the above, the project qualifies for the De Minimis Exception for Fish and Game fees (AB 3158).

COASTAL FINDINGS:

(a) A primary objective of Chapter 3 of the 1976 California Coastal Act is coastal access. Parking is important to this objective because lack of parking inhibits general public access to the area. As conditioned, this project conforms to the objectives of Chapter 3 by maintaining all the existing parking on the site.

(b) The adopted Brentwood-Pacific Palisades Community Plan constitutes the current Local Coastal Program for the community. The project conforms with the Plan density of open space and all other provisions of said Plan. The YMCA has operated on the subject property for over 35 years. The YMCA has non-conforming rights to operate on the subject property. The activities conducted on the subject property by the YMCA are recreational in nature and therefore allowed in the Open Space land use designation. In addition the YMCA has been granted a variance for the continuance of the non-conforming use of Christmas trees and Halloween pumpkin sales as well as youth day camp as is permitted by existing agreements between the YMCA and the Santa Monica Mountains Conservancy. Therefore, the proposed development does not prejudice the goals and objectives of the said Plan or the ability of the City to prepare a more specific Local Coastal Program.

(c) The January 1, 1982 Interpretive Guidelines of the Coastal Commission as amended, have been reviewed and considered. All guidelines have been met by the project prima facie, or where appropriate, conditioned to conform to them.

(d) The decision of the permit granting authority has been guided by any applicable decision of the Coastal Commission.

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As the permit granting authority, the Deputy Advisory Agency is unaware of any applicable Coastal Commission decisions.

(e) The development is not located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

(f) Other than as conditioned by MND 98-0105-PM(CDP)(NC) and the parcel map, the California Environmental Quality Act provides no feasible alternative or feasible mitigation measures to substantially lessen any significant adverse impacts that the development may have on the environment; and therefore will not have a significant impact on the environment.

NOTES:

THE FOLLOWING NOTES ARE FOR INFORMATIONAL PURPOSES AND ARE NOT CONDITIONS OF APPROVAL OF THIS PARCEL MAP:

No construction of new facilities is allowed without first obtaining a General Plan Amendment, Zone Change, and a Coastal Development Permit.

On July 31, 2002, the Associate Zoning Administrator granted a Zoning Administrators determination to permit annual Christmas tree sales, Halloween pumpkin sales, and youth day camp under Case No. ZA-98-0229(NC).

As part of the construction of your project, you may wish to make arrangements, with the Telecommunications Bureau regarding the cable television franchise holder for this area, by calling (213) 847-2775.

The above action will become effective upon the mailing of this letter, unless an appeal to the Appeal Board has been submitted within 15 calendar days of the mailing of said letter. Such appeal must be submitted and receipted in person on Form CP-7190 before 5:00 p.m. **January 30, 2003**.

No sale of separate parcels is permitted prior to recordation of the final parcel map. The owner is advised that the above action must record within 36 months of the date of approval, unless an extension of time has been requested in person before 5:00 p.m. **January 15, 2006**.

No requests for time extensions or appeals received by mail will be accepted.

The YMCA will file a private covenant to run with the land stating that there will be no development of the site for 10 years from approval of this parcel map.

Con Howe
Advisory Agency

EMILY GABEL-LUDDY
Deputy Advisory Agency

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CH:EGL:ML:tlh

cc: Bureau of Engineering - 4
Central District Planning
Office & 1 Map
D.M. 135B125, 132B125, 129B125
Bureau of Street Lighting
Street Tree Division & 1 Map
Dept. of Building & Safety, Zoning & 2 Maps
Department of Building & Safety, Grading
Department of Fire
Department of Recreation & Parks & 1 Map
Department of Transportation, CPC Section
Room 600, 221 N. Figueroa Street

CP-1809 (03-01-01)

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