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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

Request Filed: 9/11/06
Staff: Ford
Staff Report: 9/22/06
Hearing Date: 10/12/06



STAFF REPORT: REQUEST FOR RECONSIDERATION

APPLICATION NO.: 4-05-151-R

APPLICANT: Madalon Witter

AGENTS: Sherman Stacey and Peter Petrovsky

PROJECT LOCATION: 2100 McReynolds Road, Santa Monica Mountains, Los Angeles County

PROJECT DESCRIPTION: Lot line adjustment combining and resubdividing seven illegally subdivided parcels into four parcels totaling approximately 45.83 acres. The parcels contain a significant amount of unpermitted physical development, including grading for roads and building pads, major vegetation clearance, and numerous structures including four single family residences and 23 mobile homes, all of which is addressed in the April 27, 2006 staff report on Coastal Development Permit Application No. 4-05-150. The property also includes development that was determined to be vested by Vested Rights Claim Determination No. V-4-97-1, including a water well and pump on Assessor's Parcel No. (APN) 4465-006-054, a 600 sq. ft. garage on APN 4464-024-020, a 384 sq. ft. single family residence (location unknown), a 168 sq. ft. storage structure (location unknown), and electrical facilities serving the vested development. No physical development is proposed as part of this application.

COMMISSION ACTION: Permit Application was denied on May 11, 2006 by unanimous vote.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **deny** the reconsideration request. On May 11, 2006, the Commission denied a coastal permit for the proposed redivision that is the subject of this reconsideration request because the Commission found that the proposed redivision was inconsistent with the requirements of the Coastal Act and would adversely impact environmentally sensitive habitat areas, water quality, and scenic resources. The proposed redivision would have changed the density and/or intensity of use in the area, resulting in significant adverse impacts to chaparral, oak woodland, and riparian environmentally sensitive habitat areas (ESHA). The proposed redivision would have also reconfigured the previously approved lots in a manner that fails to minimize cumulative impacts on coastal resources, and impacts to ESHA, water quality, and visual resources as required by Sections 30230, 30231, 30240, 30250, 30251, and 30253 of the Coastal Act.

The applicant contends that the Commission committed five errors in fact and/or law that have the potential of altering the initial decision. Specifically, the applicant alleges that:

1. The Commission committed an error of fact and law in deciding Permit Application No. 4-05-151 based on the impacts of the development of the property as though the property was unsubdivided and not from the impacts from the changes in boundaries sought by the applicant;
2. The Commission committed an error of law in determining that it had discretion to deny the minor changes to boundaries;
3. The Commission committed an error of fact and law in finding that the existence of separate tax assessment parcels and separate tax bills constituted separation of property for purposes of the Subdivision Map Act or of the Coastal Act.
4. The Commission committed an error of fact and law in finding that Assessor's Parcel No. 4464-024-019 constitutes a separate parcel.
5. The Commission committed an error of fact and law when it refused to acknowledge the lawful existence of four legal parcels still within the applicant's ownership.

Staff does not agree that any of these contentions constitute errors in fact or law that have the potential of altering the initial decision or that the contentions constitute new, relevant evidence, which in the exercise of reasonable diligence, could not have been presented at the hearing.. Each of the applicant's claims will be examined in detail in the findings below. The full text of the Applicant's reconsideration request is attached in **Exhibit 1**. The adopted findings are included as **Exhibit 2**.

PROCEDURAL NOTE

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the Commission grant a reconsideration of the denial of an application, or of any term or condition of a coastal development permit which has been granted (California Code of Regulations, Title 14, Sections 13109.1 et seq.) The regulations state further that the grounds for reconsideration of a permit action shall be as provided in Coastal Act Section 30627 which states in applicable part: "The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the initial decision".

I. Motion and Resolution

MOTION: *I move that the Commission grant reconsideration of the conditional approval of Coastal Permit No. 4-05-151.*

STAFF RECOMMENDATION TO DENY RECONSIDERATION:

The Staff recommends a **NO** vote on the motion. Failure to adopt the motion will result in denial of the request for reconsideration and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

RESOLUTION TO DENY RECONSIDERATION:

The Commission hereby denies the request for reconsideration of the Commission's decision on Coastal Development Permit No. 4-05-151 on the grounds that there is no new relevant evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has there been an error of fact or law that has the potential of altering the Commission's initial decision.

II. Findings and Declarations

The Commission finds and declares as follows:

A. Background:

1. Project Site

The property is an approximately 45.83-acre site in the Santa Monica Mountains area of unincorporated Los Angeles County, and is characterized by mountainous terrain with elevations ranging from 1800 feet to 2200 feet above sea level. The site is accessible by a series of private, unpermitted dirt roads and McReynolds Road, which connects the south-east boundary of the property to Latigo Canyon Road. While scattered residential development is located south of the project site, the site is surrounded on the west, north, and east by the Castro Crest complex of the Santa Monica Mountains National Recreation Area. The project site is located in a scenic area, surrounded by public open space and recreation areas and is visible from various public viewing points, including along the Backbone Trail, that afford scenic vistas of the relatively undisturbed natural area (**Exhibits 5, 7, 9**).

The parcels contain a significant amount of unpermitted physical development, including grading for roads and building pads, major vegetation clearance, and numerous structures including four single family residences and 23 mobile homes, all of which is addressed in the April 27, 2006 staff report on Coastal Development Permit Application No. 4-05-150. The property also includes development that was determined to be vested by Vested Rights Claim Determination No. V-4-97-1, including a water well and pump on Assessor's Parcel No. (APN) 4465-006-054, a 600 sq. ft. garage on APN 4464-024-020, a 384 sq. ft. single family residence (location unknown), a 168 sq. ft. storage structure (location unknown), and electrical facilities serving the vested development (**Exhibits 7 and 9**).

The property is located within a wildlife corridor¹, and contains large, contiguous areas of chaparral and oak woodlands, as well as an intermittent blue-line stream, recognized by the United States Geological Survey (USGS), and its associated riparian oak woodland habitat. Although significant areas of the site have been cleared, graded and developed with mobile homes and other structures, no clearance or other development has been permitted in any CDP and only limited development has been determined by the Commission to be vested. Therefore

¹ The Malibu/Santa Monica Mountains Land Use Plan designates certain areas as wildlife migration corridors, and considers them to be "Sensitive Environmental Resources".

the condition of the site must be considered as it was prior to the unpermitted development. As discussed in the Commission's April 27, 2006 findings in support of denial, with the exception of development determined to be vested by Vested Rights Determination No. V-4-97-1, the entire site qualifies as environmentally sensitive habitat (**Exhibits 6 and 9**).

2. Lot Configurations

In Permit Application 4-05-151, the applicant proposed to combine and resubdivide seven illegally subdivided parcels into four parcels totaling approximately 45.83 acres. Following is a chart that details the existing and proposed size of the subject parcels:

LOT AREAS:

CCC Approved Parcel	Approved Area (in acres)	Unpermitted Parcel No.	Existing Area (in acres)
Lot 1, CDP 5-82-377	13.57	4464-024-024	13.57
Lot 2, CDP 5-82-377	15.97	4464-024-022	7.14
" "		4464-024-023	8.83
Lot 3, CDP 5-82-377	10.46 ²	4464-024-020	8.94
" "		4464-024-021	1.00
Parcel 48, CDP P-78-2706	5.83	4465-006-054	5.59
" "		4465-006-055	0.24

Lot No.³	Proposed Area (in acres)⁴	Included APN Nos.	Included CCC Approved Parcel
Lot 1	22.39	4424-024-024 4424-024-023	Parcel 1, CDP 5-82-377 Part of Parcel 2, CDP 5-82-377
Lot 2	7.13	4424-024-022	Part of Parcel 2, CDP 5-82-377
Lot 3	11.00	4424-024-020 4465-006-055	Part of Parcel 3, CDP 5-82-377 Part of Parcel 48, CDP P-78-2706
Lot 4	5.44	4424-024-021 4465-006-054	Part of Parcel 3, CDP 5-82-377 Part of Parcel 48, CDP P-78-2706

3. Previous Commission Action

² Parcel 3 of CDP No. 5-82-377 has been illegally subdivided into two lots. One of the two illegal lots, a 0.52 acre parcel, was transferred to an adjacent landowner. This 0.52 acre parcel is identified as Assessor's Parcel No. 4464-024-019.

³ The lot numbers listed below were applied by staff in order to more clearly identify the proposed lots, which are identified on the submitted plans by Certificate of Compliance numbers and the lot numbers as shown in the various Certificates of Compliances referenced (i.e, Lot 1, CC 100, 243).

⁴ Proposed areas differ slightly from those on the Los Angeles County Assessor's Parcel Maps. Proposed areas are therefore approximate.

On April 10, 1978, the Commission conditionally approved CDP No. P-2-17-78-2706, authorizing the subdivision of a 15.33-acre parcel into three, approximately 5-acre parcels identified as APNs 4465-006-047, 4465-006-048, and 4465-006-049. The Commission, to address its concerns regarding increased residential density on the parcels and in the surrounding area, imposed a special condition requiring recordation of a deed restriction limiting development on the parcels to one-single family residence per parcel, and prohibiting future subdivision of the parcels. The deed restriction was recorded on July 7, 1978. Parcel Map No. 7155 was recorded pursuant to CDP No. P-2-17-78-2706, creating the parcels identified as APNs 4465-006-047, 4465-006-048, and 4465-006-049 (**Exhibit 4**).

On March 12, 1980, Chris Brookes and Richard Brookes Jr. submitted CDP Application No. 5-82-377 to subdivide a 39.41-acre parcel, identified as APN 4464-024-004, into three 12-acre parcels and one 6-acre parcel. The 39.41-acre parcel was located immediately north of the 15.33-acre parcel that was subdivided pursuant to CDP No. P-2-17-78-2706. On August 25, 1982, the Commission approved CDP No. 5-82-377, authorizing the subdivision of the parcel into three parcels, even though the applicant had proposed a four parcel subdivision. Parcel Map Waiver No. 7154 was recorded on March 8, 1984, in accordance with the CDP (**Exhibit 4**).

The 15.33-acre parcel (subject of CDP No. P-2-17-78-2706) and the 39.41-acre parcel (subject of CDP No. 5-82-377) are adjacent to each other. Subsequent to the approval of these CDPs (P-2-17-78-2706 and 5-82-377), the applicant carried out four unpermitted subdivisions involving approximately 45.83 acres of land (including all of the 39.41-acre parcel, and part of the 15.33-acre parcel) that were accomplished through a complicated series of grant deeds, boundary line adjustments, and Certificates of Compliance obtained through the Los Angeles County Department of Regional Planning, and without the benefit of any coastal development permit. The result of these unpermitted actions was the purported creation of more than four parcels where the Commission had permitted the creation of four parcels (**Exhibit 4**). One of these unpermitted parcels, identified as APN 4464-024-019, has been transferred to an adjacent landowner.

Commission staff first became aware of the presence of unpermitted development on the subject property on May 19, 1992. Subsequent site visits confirmed that extensive development had been undertaken on the property and a search of Commission records concluded that no CDPs were obtained for the development. Since 1992, Commission staff has made efforts to address the unpermitted development through cease and desist orders and other enforcement action. In addition, on August 11, 1998, the Commission made a vested rights determination with regards to development on the property. The results of that determination are included as **Exhibit 4** of this report. In October 1998, the Commission, the applicant, Madalon Witter, and Douglas Richardson (who is the property manager and a prior owner of the site) entered into a settlement agreement, to avoid further enforcement action and litigation. The settlement agreement directed Ms. Witter and Mr. Richardson to file complete CDP applications to remove or retain the unpermitted development and to correct the unpermitted subdivision of the property by reconfiguring the parcels owned by Ms. Witter and Mr. Richardson to conform with the permits previously issued by the Commission. Ms. Witter submitted separate applications for a lot line adjustment and a restoration/development plan on October 29, 2002. The applications remained incomplete for almost a year, were not completed as required, and were ultimately returned to Ms. Witter on September 18, 2003.

Commission staff commenced cease and desist and restoration order proceedings in January 2005 in order to compel removal of the extensive unpermitted development on the property and restoration of the severely impacted and extremely valuable habitat on the property. The hearing on Cease and Desist Order (CDO) CCC-05-CD-08 and Restoration Order (RO) CCC-

05-RO-05 was scheduled for the August 12, 2005 meeting; however, the hearing was postponed at the request of the applicant.

The applicant submitted Coastal Development Permit Application No. 4-05-151 on August 18, 2005. The hearing on the application was originally scheduled for the February 2006 Commission meeting, but was postponed at the applicant's request in order to allow the applicant additional time to review the staff recommendation. The Commission never acted on the January 27, 2006 staff recommendation. The January 27, 2006 staff report recommended approval of the proposed project, which, based on the applicant's submitted plans, appeared to entail merger of the unpermitted parcels into three parcels (**Exhibits 3, 8**). On March 6, 2006, the applicant's representative, L. Peter Petrovsky, submitted a comment letter on the staff recommendation, asserting that the proposed project included approval of four parcels, not three as stated in the staff recommendation. On March 15, 2006, staff met for several hours with Mr. Petrovsky in order to clarify the proposed project description for the subject application and a parallel application addressing unpermitted physical development on the same property (CDP Application No. 4-05-150). Following the meeting, staff sent a letter to Mr. Petrovsky, dated March 23, 2006, requesting submittal of a revised, detailed project description and project plans clearly delineating the proposed new lot lines and incorporating all proposed changes no later than April 3, 2006. On April 18, 2006, staff received a revised plan for the subject application (**Exhibit 7**). The revised plan differed substantially from the previously submitted plan, and, unlike the previous plan, has not been approved in concept by Los Angeles County.

The applicant asserted that the creation of APN 4464-024-019 was not included in Permit Application No. 4-05-151. The other unpermitted parcels are all owned by the applicant and were part of the subject CDP application to redivide the unpermitted lots into four lots. The proposed redivision did not restore the parcel configuration previously approved by the Commission, but instead consolidated the unpermitted parcels into four parcels in a different configuration than the previously approved parcels. Specifically, the proposed project merged APNs 4464-024-023 and 4464-024-024 to create a new Lot 1; retained APN 4464-024-022 to create a new Lot 2; merged APNs 4465-006-055 and APN 4464-024-020 to create a new Lot 3; and merged APNs 4464-024-021 and 4465-006-054 to create a new Lot 4. Although the applicant asserted that APN 4464-024-019 was not included in the permit application and that the applicant sought to reconfigure the other unpermitted parcels into four parcels, in fact, approval of the applicant's proposal would have resulted in five parcels – the four identified in the application and the lot that has been transferred to a third party (APN 4464-024-019).

At a public hearing on May 11, 2006, the Commission found that the proposed redivision was inconsistent with the requirements of the Coastal Act and would adversely impact environmentally sensitive habitat areas, water quality, and scenic resources. The proposed redivision would have changed the density and/or intensity of use in the area, resulting in significant adverse impacts to chaparral, oak woodland, and riparian environmentally sensitive habitat areas (ESHA) by reconfiguring the previously approved lots in a manner that would result in significant adverse cumulative impacts on coastal resources. The Commission also found that the proposed redivision would not allow for maximum clustering of building sites and thus would not minimize vegetation clearance, landform alteration, and the footprint of development and therefore would not minimize the associated impacts on visual resources, water quality, and environmentally sensitive habitat areas (ESHA), inconsistent with the requirements of Coastal Act Sections 30230, 30231, 30240, 30250, 30251, and 30253.

The current request for reconsideration was received on June 12, 2006.

B. Contentions and Responses:

Permit Application 4-05-151 was denied on May 11, 2006. The applicants' agent submitted a request for reconsideration on June 12, 2006. The applicants' agent's letter of June 12, 2006 contends that the Commission made five errors of fact or law in denial of the application that provide grounds for their request of reconsideration.

1. Applicant's First Claim of Error in Fact or Law

a. Text of Applicant's Claim:

The Commission committed an error of fact and law in deciding Permit Application No. 4-05-151 based on the impacts of the development of the property as though the property was unsubdivided and not from the impacts from the changes in boundaries sought by Witter. Application No. 4-05-151 was brought pursuant to a Settlement Agreement between Witter and the Commission. The Settlement Agreement required Witter to submit an application to adjust the boundaries among property which she owned such that there were (sic) be no more than the number of lots which the Commission approved in Permit No. P-78-2706 and in Permit No. 5-82-377.

Permit No. P-78-2706 provided for the subdivision of 15 acres into three parcels. Permit No. 5-82-377 provided for the subdivision of 40 acres adjoining and north of the 15 acres approved in Permit No. P-78-2706 into three parcels. A map depicting the parcel arrangement which was the subject of these two permits is attached hereto. The Commission approved subdivision of 55 acres into 6 parcels.

Subsequent to the Coastal Commission approval of Permit No. P-78-2706 and Permit No. 5-82-377, the County of Los Angeles approved modifications to the boundaries of the parcels contained in the subdivisions approved by the Commission. As the numbering on prior drawings has made differing references, I have attached three drawings: Original Approved Configuration, Configuration No. 1 and Configuration No. 2. I have numbered the parcels consistently in bold print "1" through "6". In accordance with her obligations under the Settlement Agreement, Witter made application to the Commission to approve new boundaries. Witter first proposed Configuration No. 1 which was submitted with the Application Form. Witter still prefers Configuration No. 1. When Staff had objections, Witter proposed Configuration No. 2. The change from the original configuration approved by the Commission to either Configuration No. 1 or Configuration No. 2 was immaterial insofar as application of Coastal Act policies was concerned. The following adjustments had been proposed:

[see **Exhibit 1**, Page 2 for chart containing permitted and proposed lot areas]

Parcel 5 and Parcel 6 have been sold by Witter. This leaves Witter with 4 parcels which were approved by the Commission. Parcel 5 was enlarged by about 0.5 acres through the addition of what had been a portion of Parcel 3. Parcel 6 was reduced by 0.57 acres. However, neither of these changes had any material effect upon the location of homes approved by the Commission on these parcels.

For the remaining Witter property, in Configuration 1 (Witter's desired configuration), Parcel 2 expanded to 25.43 acres and what had been Parcel 1 was generally split into 2 parcels. As an alternative, in Configuration 2, other than the reduction in size of

Parcel 2 and the expansion in size of Parcel 1, there are no material changes to the subdivision. The Commission made no findings why Parcel 1 at 13.57 acres and Parcel 2 at 15.98 acres was consistent with the Coastal Act (as found in Permit No. 5-82-377) but Parcel 1 at 22.38 acres and Parcel 2 at 7.13 acres was not consistent with the Coastal Act. That is the only material change. The boundary changes on Parcel 4 are minor.

Instead of focusing on the changes in the boundaries which Witter sought, the Commission claimed that it could deny the changes because of its false claim that the changes would be inconsistent with the Coastal Act for failing to cluster the development in a small area to avoid impacts on the land. The commission ignores that the approved configuration no more "clusters" the location of homesites than the proposed revised configurations. Denial of the permit for the revised configuration does not accomplish the Commission's objective because all the Commission can do is insist upon the configuration it already approved. The Commission cannot force Witter to reconfigure her subdivided property in a new manner to the satisfaction of the Commission and different from what the Commission already approved.

Impacts from the change in the configurations sought by Witter did not lead the Commission to deny Application No. 4-05-151. Changes in the Commission's regulation of the property in this area caused the Commission to treat Application No. 4-05-151 as though it were a new application to subdivide and not just an application to adjust boundaries to an already approved subdivision. Subdivision of this property was perfectly acceptable in 1978 and 1982. However, today the Commission has chosen to designate the property as an environmentally sensitive habitat area. Not only are new subdivisions prohibited, existing property is claimed to be limited to development of only 10,000 square feet of land area, effectively prohibiting the ranching uses to which this property has been operated since the 1940's. As an example, the original Parcel 1 was 696,000 square feet in area. Current Commission regulations would limit use of that land to 10,000 square feet or 1.43% with the remainder to be devoted to unusable open space.

b. Commission's Response:

Before discussing the substance of the applicant's claim, the Commission notes that the applicant's first claim contains several factual errors. First, the claim misrepresents the applicant's initial proposal, which it refers to as Configuration No. 1. As shown in **Exhibit 8** of this report, the drawing labeled as Configuration No. 1 that was submitted with the claim differs substantially from the map submitted with Permit Application No. 4-05-151. The map submitted with the application showed only four parcels, not the six shown on the drawing labeled Configuration No. 1. Furthermore, the parcel configurations shown in the two maps differ substantially. The map submitted with the application contains three new parcels outlined in bold and labeled "Pcl. 1", "Pcl. 2", and "Pcl. 3." Pcl. 1 and Pcl. 2 on the map submitted with the application correspond to Parcels 4 and 3 on the drawing labeled as Configuration 1; however, Pcl. 3 is split into Parcels 1 and 2 in Configuration 1. (This difference in configuration is also discussed under Claim No. 5 below.) Moreover, the fourth parcel shown on the map submitted with the application is Assessor's Parcel Map No. 4464-024-019. This parcel is shown as a separate parcel, with labeled metes and bounds on the map submitted with the application. In contrast, the area contained in Assessor's Parcel Map No. 4464-024-019 is shown as part of a Parcel 5 in the drawing labeled Configuration No. 1. These errors directly relate to claims made elsewhere in the applicant's request for reconsideration.

Second, the drawing labeled as Configuration No. 2 does not accurately represent the revised map, submitted by the applicant on April 18, 2006. Specifically, the revised map showed only four parcels, not six. Parcels 5 and 6, as depicted in Configuration No. 1 and Configuration No. 2, are not owned by the applicant and therefore were not included in the permit application. With the exception of the property known as Assessor's Parcel Map No. 4464-024-019, the area within Parcels 5 and 6 were not shown or addressed in any materials submitted with the permit application.

Regarding the substance of the applicant's first claim, the Commission does not agree with the applicant's claim that it committed an error in fact or law by treating the proposed "lot line adjustment" as a new division of land instead of as an application to adjust boundaries to an already approved subdivision. The Commission has considered several projects that the applicants and the County of Los Angeles treated as "lot line adjustments" which actually resulted in major reconfiguration of lot lines amongst several lots [4-96-28 (Harberger, et. al.) 4-96-150 (Rein, et. al.), 4-96-189 (Flinkman), 4-96-187 (Sohal), 4-04-026 (Malibu Ocean Ranches, LLC, et.al.)]. In these cases, the Commission has considered the proposed projects to actually be "redivisions" of land whereby existing property boundary lines are significantly modified to redivide the project site into the same number or fewer wholly reconfigured lots. The Commission has analyzed these proposals just as it analyzes any division of land. The Commission has only permitted such redivisions where adequate fire access and other public services are available and where the resultant lots could be developed without significant adverse impacts to coastal resources.

In fact, whether the division of land is characterized as a redivision or lot line adjustment, such division of land is new development requiring a CDP subject to the currently applicable standards of the Coastal Act. The California Court of Appeal decision in *La Fe v. Los Angeles County* (1999) 73 Cal.App.4th 231, resolved the question of whether lot line adjustments are development requiring a CDP. The Court of Appeal held in its published decision in *La Fe* that lot line adjustments are development as defined in 30106 because lot lines adjustments constitute a division of land *and* because lot line adjustments result in a change in the density of use of land:

Specifically, "development means "change in the density or intensity of use of land, including but not limited to subdivision...,and any other division of land, including lot splits..."The Legislature's stated intent was to grant the commission permit jurisdiction with respect to any changes in the density or intensity of use of land, including any division of land. Section 30106 by its terms recognizes that a subdivision of land or a lot split can result in changes in the density or intensity of use of property. A lot line adjustment can, as here, have the same effect. More to the point though, section 30106 explicitly applies to a "subdivision... and any other division of land. A lot line change constitutes a division of land. The key point is that section 30106 applies to a "division of land" and such occurred here.
[Emphasis added.]

The broadly worded Coastal Act definition of development is intended to encompass a broader range of land divisions than those covered by the Map Act. Adjusting the boundary of a lot divides land not previously divided, even though the number of parcels is not increased. In addition, this change in configuration of parcels affects the density, intensity, location and character of subsequent development occurring on the parcels. Indeed, such changes are the reason that lot line adjustments are undertaken. Accordingly, a CDP consistent with the

currently applicable standards of the Coastal Act is required to authorize any newly proposed lot configuration.

In addition, the Commission's action on CDP 4-05-151 in no way failed to recognize the Commission's previous subdivision approvals. The staff report provided a detailed history of the previously approved subdivisions, including several exhibits, and referenced those subdivisions throughout the text of the report. Rather, Witter and her associate Douglas Richardson purported to reconfigure the lot lines contrary to the Commission's previous approvals. The Commission notes that the deed restriction required to be recorded for CDP P-2-17-78-2706 prohibited any further subdivision of the approved parcels. The Commission also notes that the proposed reconfiguration was inconsistent with other parts of the proposed project description which reference the Settlement Agreement between the applicant and the Commission because the terms of the settlement agreement require the applicant to reconfigure the parcels owned by the defendant "to conform with the permits previously issued by the Commission. "

Finally, although the applicant is free to pursue or not pursue the Commission's previous subdivision approvals, if the applicant chooses not to take advantage of these previous approvals, any newly proposed development will be subject to the currently applicable provisions of the Coastal Act and must conform with any development restrictions that have previously been recorded against the property. The standard of review for coastal development permits in the Santa Monica Mountains is Chapter Three of the Coastal Act, with the certified 1986 Malibu/Santa Monica Mountains Land Use Plan (LUP) serving as guidance. The standard of review is not the existing approved development. All newly proposed development subject to coastal development permit requirements in the Santa Monica Mountains, including lot line adjustments, other divisions of land and any other changes in the density or intensity of the use of land, must currently be found consistent with Chapter Three policies of the Coastal Act. The Commission notes that since the two subdivision permits were approved in 1978 and 1982, the LUP was certified which designates the project site as "wildlife corridor". Additionally, significant advances have been made, since the previous subdivisions were permitted, in scientific understanding of environmentally sensitive habitat areas (ESHA) and water quality protection. In addition, significant loss of habitat has occurred on a regional basis in the 25 years since the original subdivision permits were approved, thus rendering the remaining habitat areas more rare and valuable. Therefore, although the Commission acknowledged the existence of the previously approved subdivisions, the proposed reconfiguration of the parcels was rightly evaluated using the Commission's current interpretations of consistency with the Coastal Act and the LUP.

Therefore, for all the reasons stated herein, with regard to the applicant's first claim, the Commission denies the request for reconsideration of the Commission's decision on Coastal Development Permit No. 4-05-151 on the grounds that there is no new relevant evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has there been an error of fact or law that has the potential of altering the Commission's initial decision.

2. Applicant's Second Claim of Error in Fact or Law:

a. Text of Applicant's Claim:

The Commission committed an error of law in determining that it had the discretion to deny the minor changes to boundaries. The Commission committed

an error of law in determining that it had the discretion to deny the minor change sought in Application No. 4-05-151. These changes were not a change in the density or intensity of use of land. The Commission sought, and Witter had agreed in the Settlement Agreement, to review the minor modifications to bring divisions the Commission considered out of compliance, into compliance. But, the Commission instead used the occasion of such review to deny the modifications without any grounds to do so. The Commission made an error of fact in determining that the impact of the subdivision with the boundaries sought in Application No. 4-05-151 had any material difference in terms of Coastal Act policies or environmental effect that (sic) the original boundaries approved by the Commission.

b. Commission's Response:

The Commission does not agree with the applicants' assertion that the changes proposed by the applicant in Permit Application No. 4-05-151 were "minor changes" that did not constitute a change in the density or intensity of use of land. As noted above, the proposed project consisted of a redivision of illegally subdivided parcels into four parcels totaling approximately 45.83 acres. The illegal parcels, as well as an additional parcel, APN 4464-024-019, which is under separate ownership, are the result of four attempted unpermitted subdivisions that were accomplished through a complicated series of grant deeds, boundary line adjustments, and Certificates of Compliance obtained through the Los Angeles County Department of Regional Planning, and without the benefit of any coastal development permit. Prior to the unpermitted subdivisions, the Commission had, in two separate actions, approved four lots within the area now comprised of the subject parcels and APN 4464-024-019 (CDP Nos. P-2-17-78-2706 and 5-82-877).

The proposed lot line adjustment would not restore the approved parcel configuration, but would consolidate the unpermitted parcels still owned by the applicant into four differently configured parcels, and would legitimize the creation of the fifth parcel, APN 4464-024-019, a 0.52-acre fraction lot that was carved out of one of the parcels previously approved by the Commission, and which is now under separate ownership.

Thus, the applicant's proposed lot combination and resubdivision would result in five parcels: the four identified in the application and the 0.52 acre APN 4464-024-019. Given the existence of this fifth lot, the approval of the applicant's proposed four lots would result in an increase in the density of this area beyond that which was previously approved. Thus, the proposed reconfiguration does constitute a change in both the density and intensity of use of land.

Further, as stated above, whether the division of land is characterized as a redivision or lot line adjustment, such division of land is new development requiring a CDP subject to the currently applicable standards of the Coastal Act. The California Court of Appeal decision in *La Fe v. Los Angeles County* (1999) 73 Cal.App.4th 231, resolved the question of whether lot line adjustments are development requiring a CDP. The Court of Appeal held in its published decision in *La Fe* that lot line adjustments are development as defined in 30106 because lots lines adjustments constitute a division of land *and* because lot line adjustments result in a change in the density of use of land.

Finally, even if the applicant's proposal was viewed as an amendment to the commission's previous approvals, given the potential for adverse impacts on coastal resources, under Section 13166 of the Commission's regulations, the Commission could only approve the proposal if the development as amended conforms with the policies of the Coastal Act. The Commission would not confine its review of proposed amendments of previously approved permits to only

the proposed changes without considering the consistency of the entire development proposal as amended.

Therefore, for the reasons stated herein, with regard to the applicant's second claim, the Commission denies the request for reconsideration of the Commission's decision on Coastal Development Permit No. 4-05-151 on the grounds that there is no new relevant evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has there been an error of fact or law that has the potential of altering the Commission's initial decision.

3. Applicant's Third Claim of Error in Fact or Law:

a. Text of Applicant's Claim:

The Commission committed an error of fact and law in finding that the existence of separate tax assessment parcels and separate tax bills constituted separation of property for purposes of the Subdivision Map Act or of the Coastal Act. The Commission committed an error of fact and law in finding that the existence of separate tax assessment parcels and separate tax bills constituted a separation of property for purposes of the Subdivision Map Act or of the Coastal Act. The Los Angeles County Assessor has separated the tax bills into two bills on Parcels 3, 4, and 5 because (1) there is a boundary between books and pages of the Assessor's Maps (Map Book 4464, Page 24, and Map Book 4465, Page 6) which bisect Parcels 3, 4, and 5, and (2) the property on either side of that boundary are in distinct tax districts (property in Book 4464 is in County of Los Angeles Tax Rate Code 44-955 and property in Book 4465 is in County of Los Angeles Tax Rate Code 8-663.) The fact that the Assessor sends two tax bills does not mean that the property is subdivided for development or that Witter has violated the Coastal Act.

Exhibit 15 attached to the Findings is a false factual representation of the subdivision of the Witter property. Exhibit 15 purports to show each separate Assessor's Parcel as a separate subdivided parcel. This is not either fact or the law. The fact is that Parcels 3, 4, and 5 each contain two Assessor's Parcels to make up a single lawful subdivided parcel. This combination is as follows:

<i>Parcel 3</i>	<i>APN 4464-024-020</i>	<i>and</i>	<i>APN 4465-006-055</i>
<i>Parcel 4</i>	<i>APN 4464-024-021</i>	<i>and</i>	<i>APN 4465-006-054</i>
<i>Parcel 4</i>	<i>APN 4464-024-019</i>	<i>and</i>	<i>APN 4465-006-049</i>

The law is that each of these combination of two Assessor's parcels from different Assessor's Map Books and Pages and in different Tax Code districts, constitutes a single, unsubdivided parcel for development purposes.

b. Commission's Response:

The Commission does not agree with the applicants' assertion that the Commission made an error of fact and law that has the potential of altering the Commission's decision in finding that the existence of separate tax assessments and separate tax bills constituted a separation of property under the Subdivision Map Act and the Coastal Act.

First, the question of whether or not APN 4464-024-020 and APN 4465-006-055 are separate lots, and whether APN 4464-024-021 and APN 4465-006-054 are separate lots, was not an issue in the Commission decision, because these lots were shown as combined into two parcels as part of the applicant's proposal. Therefore, any error of fact in depicting these lots as separate lots would not have had the potential of altering the Commission's decision on the application. The Commission notes, however, that in Section II, Item 2b. of the permit application form for the subject application, the applicant lists these four lots as separate lots.

Second, the Commission's findings do not assert that APN 4464-024-019 is a separate lot by virtue of its separate assessor's parcel number. Rather, the findings regarding this lot state:

APN 4464-024-019 was a portion of Lot 3 of the subdivision approved by the Commission under CDP No. 5-82-377. This small fraction lot was created illegally by a grant deed from Douglas Richardson to Michael Burrett dated July 1, 1984 and recorded on December 8, 1987 (Recordation # 87-1940501). The applicant asserts that this lot has been combined with an adjacent lot. The applicant has submitted a copy of Certificate of Compliance for Lot Line Adjustment No. 100,200, which was recorded on August 6, 1984, and purports to combine APN 4464-024-019 with APN 4465-006-049, an approximately 5.49 acre parcel located immediately south of APN 4464-024-019 also owned by Mr. Burrett, as a new Lot 3. In a sworn deposition on July 10, 1997, Mr. Richardson stated that the lot was deeded to Mr. Burrett because Mr. Burrett had built his house without adequate setbacks from the property line. File materials for CDP No. 4-94-052 (Burrett), which authorized construction of a 440 sq. ft. guest house and 2,595 cu. yds. of grading, including restorative grading, confirm that the residence on APN No. 4465-006-049 was constructed partially on an area that is within APN 4464-024-019, although it is not identified as such in the file materials. The two parcels, APN 4464-024-019 and APN 4465-006-049 were sold in October 2005 to Force-Harris LLC.

Although evidence exists that APN 4464-024-019 was considered a part of APN 4465-006-049 by the previous owner, Mr. Burrett, and the lot was combined with APN 4465-006-049 under Certificate of Compliance for Lot Line Adjustment No. 100,200, which was approved by Los Angeles County and was recorded on August 6, 1984, the lot line adjustment combining the two parcels has not received a coastal development permit and has thus not been legalized. In addition, the grant deed that created APN 4464-024-019 as a separate lot was not recorded until 1987, three years after the recordation of the Certificate of Compliance that showed the two lots combined. Further, APN 4464-024-019 is shown as a separate lot on the Assessor's Parcel Map, and no symbol is shown that indicates that it is tied with APN 4465-006-049. An application could be made for a coastal development permit for a lot line adjustment combining the two parcels; however, such an application would have to include the current owners of the property as co-applicants. Unless and until a coastal development permit has been obtained to combine APN 4464-024-019 with the adjacent lot, APN 4464-024-019 must be considered a separate illegal lot that could be sold separately by the current owner. Therefore, even though the applicant asserts that the creation of APN 4464-024-019 is not a part of this permit application, approval of the proposed project would result in the creation of APN 4464-024-019 as a separate lot and therefore the creation of this lot must be considered as an effect of the project.

The findings thus summarized all of the information provided regarding APN 4464-024-019, including a grant deed recorded in 1987 (three years after the recordation of the lot line adjustment combining the parcels) that purported to create the parcel as a separate lot. The findings also state that a coastal development permit is required to address the creation of the new parcel, whether as a separate lot or as a part of the adjacent lot. The Commission concluded that unless and until a coastal development permit has been obtained to combine APN 4464-024-019 with the adjacent lot, APN 4464-024-019 must be considered an illegal lot.

Therefore, for all the reasons stated herein, with regard to the applicant's third claim, the Commission denies the request for reconsideration of the Commission's decision on Coastal Development Permit No. 4-05-151 on the grounds that there is no new relevant evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has there been an error of fact or law that has the potential of altering the Commission's initial decision.

4. Applicant's Fourth Claim of Error in Fact or Law:

a. Text of Applicant's Claim:

The Commission committed an error of fact and law in finding that Assessor's Parcel No. 4464-024-019 constitutes a separate parcel. The Commission committed an error of fact and law in finding that Assessor's Parcel No. 4464-024-019, consisting of 22,760 square feet of area, constitutes a separate parcel. By making the finding of fact that Assessor's Parcel No. 4464-024-019 is a separate parcel, the Commission falsely attributes the sale of the single Parcel 5 as shown in both Configuration 1 and Configuration 2 to Michael Burrett as a sale of not one, but two parcels. This is an error of law. Los Angeles County Certificate of Compliance No. 100,200 recorded on August 6, 1984 shows Parcel 5 as a single legal parcel described in said Certificate of Compliance as "Lot 1". Under California Government Code Section 66499.35, a certificate of compliance is a determination by a local agency of the fact that the real property described in the certificate of compliance complies with the provisions of the Subdivision Map Act. Parcel 5 (Lot 1 of Certificate of Compliance No. 100,200) is a single parcel for purposes of the Subdivision Map Act and not two parcels.

b. Commission's Response:

The Commission does not agree with the applicants' assertion that the Commission committed an error in fact and law in finding that APN 4464-024-019 constituted a separate parcel. For one thing, as noted above, the Certificate of Compliance for Lot Line Adjustment No. 100,200 that the applicant relies upon for evidence that APN 4464-024-019 is not a separate lot, constituted a land division that was never approved by the Commission and therefore represents an unpermitted lot configuration. Further, the Commission's findings regarding APN 4464-024-019, included review of a grant deed recorded in 1987 (three years after the recordation of the lot line adjustment combining the parcels) that purported to create the parcel as a separate lot. The Commission concluded that unless and until a coastal development permit has been obtained to combine APN 4464-024-019 with the adjacent lot, APN 4464-024-019 must be considered an illegal lot.

Therefore, for the reasons stated herein, with regards to the applicant's fourth claim, the Commission denies the request for reconsideration of the Commission's decision on Coastal Development Permit No. 4-05-151 on the grounds that there is no new relevant evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has there been an error of fact or law that has the potential of altering the Commission's initial decision.

5. Applicant's Fifth Claim of Error in Fact or Law:

a. Text of Applicant's Claim:

The Commission committed an error of fact and law when it refused to acknowledge the lawful existence of four legal parcels still within the Witter's ownership. When the Commission approved Permit No. P-78-2706 and Permit No. 5-82-377, the Commission imposed certain conditions including the provision of transferable development credits to mitigate the impact of the creation of new parcels on the Witter property. Witter complied with all such conditions which thereby entitled her to 6 parcels. The Commission now seeks by subterfuge and artifice to take away from Witter one of the 4 parcels she has remaining. Witter has a property right to 4 parcels. The Commission has reduced it to 3 in breach both of its obligation under Permit No. P-78-2706 and Permit No. 5-82-377 and its obligations of good faith and fair dealing under the Settlement Agreement.

The Commission and the Commission Staff may have been confused by a map marked by the County of Los Angeles into a belief that the County had approved the division of Witter's remaining property as Configuration No. 1 into only 3 parcels. This is not true. On the map attached as Exhibit 14 to the Findings, there are dark lines with designations of "Pcl 1", "Pcl. 2", and "Pcl. 3". In fact what is shown as Pcl. 3 is two parcels. On the map itself, the west portion of what is bounded as Pcl. 3 states that the 7.13 acre parcel is "Lot 1 of CC [Certificate of Compliance] 100.243" and "NOT A PART OF THIS LLA [LOT LINE ADJUSTMENT]". The lot line adjustment approved by the County of Los Angeles for Configuration No. 1 was intended to be carried into effect by recording a new certificate of compliance showing three parcels. As the boundary of the 7.13 acre parcel was not being changed, it was not a part of the lot line adjustment. The metes and bounds descriptions shows that Pcl. 3 is only the easterly 7.70 acres marked new "LOT #3". Thus when marked as "PROPOSED PARCEL CONFIGURATION", Exhibit 14 is misleading.

b. Commission's Response:

The Commission does not agree with the applicants' assertion that the Commission is attempting to "take away" one of the four parcels to which the applicant claims a right. Throughout its findings on Permit Application No. 4-05-151, the Commission acknowledges that the Commission had, in two separate coastal development permit actions for two land divisions, approved four lots within the area now comprised of the seven subject parcels and APN 4464-024-019. Nowhere do the findings state that those four parcels would not be allowed within the area of the previously approved four parcels. In fact, on page 9 of the staff report, the findings note that four lots within the subject area would be consistent with the density requirements of the certified Malibu-Santa Monica Mountains Land Use Plan (LUP). Rather, the findings note that the proposed project would result in the establishment of five lots (including APN 4464-024-019) where the Commission had previously approved four, inconsistent with the resource protection policies of the Coastal Act.

As stated above, although the applicant is free to pursue or not pursue the Commission's previous subdivision approvals, if the applicant chooses not to take advantage of these previous approval, any newly proposed development will be subject to the currently applicable provisions of the Coastal Act and must adhere to any development restrictions that have been previously recorded against the property.

In addition, the Commission also does not agree with the applicant's assertion that Exhibit 14 of the staff report is misleading. Exhibit 14 (attached to this report as **Exhibit 3**) is a reduced but otherwise unaltered copy of the map submitted with the applicant's permit application. The map clearly shows three parcels, outlined in bold marker (the parcel outline is shown on the original map in color), with a line and the notation of Pcl. 3 drawn across the whole area. Close inspection of the map reveals a small note on the far left side that reads "LOT 1, CC 100,243 NOT A PART OF THIS LLA," that appears to have been superseded by the bold "Pcl. 3" written across the parcel line dividing "Lot 1, CC 100,243" from the adjacent lot. The Commission notes that showing the proposed parcel configuration in this manner is the common practice of the Los Angeles County Department of Regional Planning in giving approval in concept to lot line adjustments. Further, the application form submitted by the applicant did not shed any light on the number of parcels proposed as it describes the proposed project only as: "LOT LINE ADJUSTMENT PER "AGREEMENT TO COMPROMISE AND SETTLE DISPUTED CLAIMS AND MUTUAL RELEASE OF CLAIMS:, DATED OCT. 23, 1998, SECTION 4.1.25". Close inspection of the permit application form reveals that the area of Lot 1, CC 100,243 was not included in Section II, Item 2b of the form; however the omission of that area from Section II, Item 2b is contrary to the submitted map and the proposed project description which references the settlement agreement between Witter and the Commission. The terms of the settlement agreement require the applicant to reconfigure the parcels owned by the defendant to "conform with permits previously issued by the Commission." The five parcels referenced in this statement are five of the six parcels previously permitted by the Commission that were still owned by the applicant. These five parcels include the area contained within Lot 1, CC 100,243.

The January 27, 2006 staff report was prepared under the reasonable assumption that three lots were proposed. However, the February 2006 hearing was postponed upon the applicant's request, and the applicant subsequently asserted, in a letter dated March 6, 2006, that "Lot 1, CC 100,243" was not to be included as part of Parcel 1. On April 18, 2006, the applicant submitted a revised parcel map that included four parcels on the applicant's property. This is the map that was found by the Commission to be inconsistent with the Coastal Act in their May 11, 2006 denial of the permit. Exhibit 14 depicting the applicant's original proposal was included in the staff report to illustrate the applicant's original proposal, which was discussed briefly in the background section of the report. Exhibit 14 is labeled, "Original submittal, proposed lot line adjustment" in order to distinguish it from the revised proposal that was the subject of the report. So, when the Commission acted, it was clear which reconfiguration was being proposed by the applicant.

Therefore, for all the reasons stated herein, with regards to the applicant's fifth claim, the Commission denies the request for reconsideration of the Commission's decision on Coastal Development Permit No. 4-05-151 on the grounds that there is no new relevant evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has there been an error of fact or law that has the potential of altering the Commission's initial decision.

C. Conclusion

In conclusion, for all the reasons stated herein, the Commission denies the request for reconsideration of the Commission's decision on Coastal Development Permit No. 4-05-151 on the grounds that there is no new relevant evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has there been an error of fact or law that has the potential of altering the Commission's initial decision. .

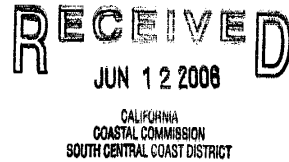
FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE

LAW OFFICES OF
GAINES & STACEY
1111 BAYSIDE DRIVE, SUITE 150
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE
(949)219-2000
FAX
(949)219-9908

June 9, 2006

California Coastal Commission
South Central Coast District
89 S. California Avenue, 2nd Floor
Ventura, CA 93001



Re: Request for Reconsideration
Application for Permit No. 4-05-151 (Witter)
2100 McReynolds Road, Malibu

Dear Ms. Ford:

On behalf of Madalon Witter, and in accordance with California Public Resources Code §30627, I hereby request reconsideration of the decision of the California Coastal Commission made on May 11, 2006 to deny Application for Permit No. 4-05-151. Public Resources Code §30627(b) provides the basis for reconsideration as follows:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the initial decision.

The grounds for the reconsideration requested herein is that the Commission committed errors of fact and law which have the potential of altering the initial decision.

1. **The Commission Committed an Error of Fact and Law in Deciding Permit Application No. 4-05-151 Based on the Impacts of the Development of the Property as though the Property was Unsubdivided and Not from the Impacts from the Changes in Boundaries Sought By Witter.**

Application No. 4-05-151 was brought pursuant to a Settlement Agreement between Witter and the Commission. The Settlement Agreement required Witter to submit an application to adjust the boundaries among property which she owned such that there were be no more than the number of lots which the Commission approved in Permit No. P-78-2706 and in Permit No. 5-82-377.

Exhibit 1
CDP No. 4-05-151-R
Request for reconsideration

Permit No. P-78-2706 provided for the subdivision of 15 acres into three parcels. Permit No. 5-82-377 provided for the subdivision of 40 acres adjoining and north of the 15 acres approved in Permit No. P-78-2706 into three parcels. A map depicting the parcel arrangement which was the subject of these two permits is attached hereto. The Commission approved subdivision of 55 acres into 6 parcels.

Subsequent to the Coastal Commission approval of Permit No. P-78-2706 and Permit No. 5-82-377, the County of Los Angeles approved modifications to the boundaries of the parcels contained in the subdivisions approved by the Commission. As the numbering on prior drawings has made differing references, I have attached three drawings: Original Approved Configuration, Configuration No. 1 and Configuration No. 2. I have numbered the parcels consistently in bold print "1" through "6". In accordance with her obligations under the Settlement Agreement, Witter made application to the Commission to approve new boundaries. Witter first proposed Configuration No. 1 which was submitted with the Application Form. Witter still prefers Configuration No. 1. When Staff had objections, Witter proposed Configuration No. 2. The change from the original configuration approved by the Commission to either Configuration No. 1 or Configuration No. 2 was immaterial insofar as application of Coastal Act policies was concerned. The following adjustments had been proposed:

<u>Parcel</u>	<u>Original area</u>	<u>Configuration No. 1 Area</u>	<u>Configuration No. 2 Area</u>
1	15.98	7.13	7.13
2	13.57	7.70	11.00
3	12.54	25.43	22.38
4	5.96	7.12	5.44
5	5.52	6.02	6.02
6	4.02	3.45	3.45

Parcel 5 and Parcel 6 have been sold by Witter. This leaves Witter with 4 parcels which were approved by the Commission. Parcel 5 was enlarged by about 0.5 acres through the addition of what had been a portion of Parcel 3. Parcel 6 was reduced by 0.57 acres. However, neither of these changes had any material effect upon the location of homes approved by the Commission on these parcels.

For the remaining Witter property, in Configuration 1 (Witter's desired configuration), Parcel 2 expanded to 25.43 acres and what had been Parcel 1 was generally split into two parcels. As an alternative, in Configuration 2, other than the reduction in size of Parcel 2 and the expansion in size of Parcel 1, there are no material changes to the subdivision. The Commission made no findings why Parcel 1 at 13.57 acres and Parcel 2 at 15.98 acres was consistent with the

Coastal Act (as found in Permit No. 5-82-377) but Parcel 1 at 22.38 acres and Parcel 2 at 7.13 acres was not consistent with the Coastal Act. That is the only material change. The boundary changes on Parcel 4 are minor.

Instead of focusing on the changes in the boundaries which Witter sought, the Commission claimed that it could deny the changes because of its false claim that the changes would be inconsistent with the Coastal Act for failing to cluster the development in a small area to avoid impacts on the land. The Commission ignores that the approved configuration no more "clusters" the location of homesites than the proposed revised configurations. Denial of the permit for the revised configuration does not accomplish the Commission's objective because all the Commission can do is insist upon the configuration it already approved. The Commission cannot force Witter to configure her subdivided property in new manner to the satisfaction of the Commission and different from what the Commission already approved.

Impacts from the change in the configurations sought by Witter did not lead the Commission to deny Application No. 4-05-151. Changes in the Commission's regulation of the property in this area caused the Commission to treat Application No. 4-05-151 as though it were a new application to subdivide and not just an application to adjust boundaries to an already approved subdivision. Subdivision of this property was perfectly acceptable in 1978 and 1982. However, today the Commission has chosen to designate the property as an environmentally sensitive habitat area. Not only are new subdivisions prohibited, existing property is claimed to be limited to development of only 10,000 square feet of land area, effectively prohibiting the ranching uses to which this property has been operated since the 1940's. As an example, the original Parcel 1 was 696,000 square feet in area. Current Commission regulations would limit use of that land to 10,000 square feet or 1.43% with the remainder to be devoted to unusable open space.

2. **The Commission Committed an Error of Law in Determining That it Had Discretion to Deny the Minor Changes to Boundaries.**

The Commission committed an error of law in determining that it had the discretion to deny the minor changes sought in Application No. 4-05-151. These changes were not a change in the density or intensity of use of land. The Commission sought, and Witter had agreed in the Settlement Agreement, to review the minor modifications to bring divisions the Commission considered out of compliance, into compliance. But, the Commission instead used the occasion of such review to deny the modifications without any grounds to do so. The Commission made an error of fact in determining that the impact of the subdivision with the boundaries sought in Application No. 4-05-151 had any material difference in terms of Coastal Act policies or environmental effect that the original boundaries approved by the Commission.

3. **The Commission Committed an Error of Fact and Law in Finding that the Existence of Separate Tax Assessment Parcels and Separate Tax Bills Constituted Separation of Property for Purposes of the Subdivision Map Act or of the Coastal Act.**

The Commission committed an error of fact and law in finding that the existence of separate tax assessments and separate tax bills constituted a separation of property for purposes of the Subdivision Map Act or of the Coastal Act. The Los Angeles County Assessor has separated the tax bills into two bills on Parcels 3, 4 and 5 because (1) there is a boundary between books and pages of the Assessor's Maps (Map Book 4464, Page 24, and Map Book 4465, Page 6) which bisect Parcels 3, 4 and 5, and (2) the property on either side of that boundary are in distinct tax districts (property in Book 4464 is in County of Los Angeles Tax Rate Code 44-955 and property in Book 4465 is in County of Los Angeles Tax Rate Code 8-663.) The fact that the Assessor sends two tax bills does not mean that the property is subdivided for development or that Witter has violated the Coastal Act.

Exhibit 15 attached to the Findings is a false factual representation of the subdivision of the Witter property. Exhibit 15 purports to show each separate Assessor's Parcel as a separate subdivided parcel. This is not either the fact or the law. The fact is that Parcels 3, 4 and 5 each contain two Assessor's Parcels to make up a single lawful subdivided parcel. This combination is as follows:

Parcel 3	APN 4464-024-020	and	APN 4465-006-055
Parcel 4	APN 4464-024-021	and	APN 4465-006-054
Parcel 5	APN 4464-024-019	and	APN 4465-006-049

The law is that each of these combination of two Assessor's parcels from different Assessor's Map Books and Pages and in different Tax Code districts, constitutes a single, unsubdivided parcel for development purposes.

4. **The Commission Committed an Error of Fact and Law in Finding that Assessor's Parcel No. 4464-024-019 Constitutes a Separate Parcel.**

The Commission committed an error of fact and law in finding that Assessor's Parcel No. 4464-024-019, consisting of 22,760 square feet of area, constitutes a separate parcel. By making the finding of fact that Assessor's Parcel No. 4464-024-019 is a separate parcel, the Commission falsely attributes the sale of the single Parcel 5 as shown in both Configuration 1 and Configuration 2 to Michael Burrett as a sale of not one, but two parcels. This is an error of law. Los Angeles County Certificate of Compliance No. 100,200 recorded on August 6, 1984 shows

Parcel 5 as a single legal parcel described in said Certificate of Compliance as "Lot 1". Under California Government Code §66499.35, a certificate of compliance is a determination by a local agency of the fact that the real property described in the certificate of compliance complies with the provisions of the Subdivision Map Act. Parcel 5 (Lot 1 of Certificate of Compliance No. 100,200, is a single parcel for purposes of the Subdivision Map Act and not two parcels.

5. **The Commission Committed an Error of Fact and Law when it Refused to Acknowledge the Lawful Existence of Four Legal Parcels Still within Witter's Ownership.**

When the Commission approved Permit No. P-78-2706 and Permit No. 5-82-377, the Commission imposed certain conditions including the provision of transferable development credits to mitigate the impact of the creation of new parcels on the Witter property. Witter complied with all such conditions which thereby entitled her to 6 parcels. The Commission now seeks by subterfuge and artifice to take away from Witter one of the 4 parcels she has remaining. Witter has a property right to 4 parcels. The Commission has reduced it to 3 in breach both of its obligations under Permit No. P-78-2706 and Permit No. 5-82-377 and its obligations of good faith and fair dealing under the Settlement Agreement.

The Commission and the Commission Staff may have been confused by a map marked by the County of Los Angeles into a belief that the County had approved the division of Witter's remaining property as Configuration No. 1 into only 3 parcels. This is not true. On the map attached as Exhibit 14 to the Findings, there are dark lines with designations of "Pcl 1", "Pcl. 2", and "Pcl. 3". In fact, what is shown as Pcl. 3 is two parcels. On the map itself, the west portion of what is bounded as Pcl. 3 states that the 7.13 acre parcel is "Lot 1 of CC [Certificate of Compliance] 100,243" and "NOT A PART OF THIS LLA [LOT LINE ADJUSTMENT]". The lot line adjustment approved by the County of Los Angeles for Configuration No. 1 was intended to be carried into effect by recording a new certificate of compliance showing three parcels. As the boundary of the 7.13 acre parcel was not being changed, it was not a part of the lot line adjustment. The metes and bounds descriptions of each of the three parcels approved by the County is contained in the certificate of compliance filed with Application No. 4-05-151. Careful review of these metes and bounds descriptions shows that Pcl. 3 is only the easterly 7.70 acres marked new "LOT #3". Thus when marked as "PROPOSED PARCEL CONFIGURATION", Exhibit 14 is misleading.

6. **Conclusion.**


Witter respectfully requests that the Commission grant this request for reconsideration, and, upon reconsideration, approve either Configuration No. 1 or Configuration No. 2. Failure to approve some configuration for 4 parcels which has no significant impact different from that

California Coastal Commission
June 9, 2006
Page 6

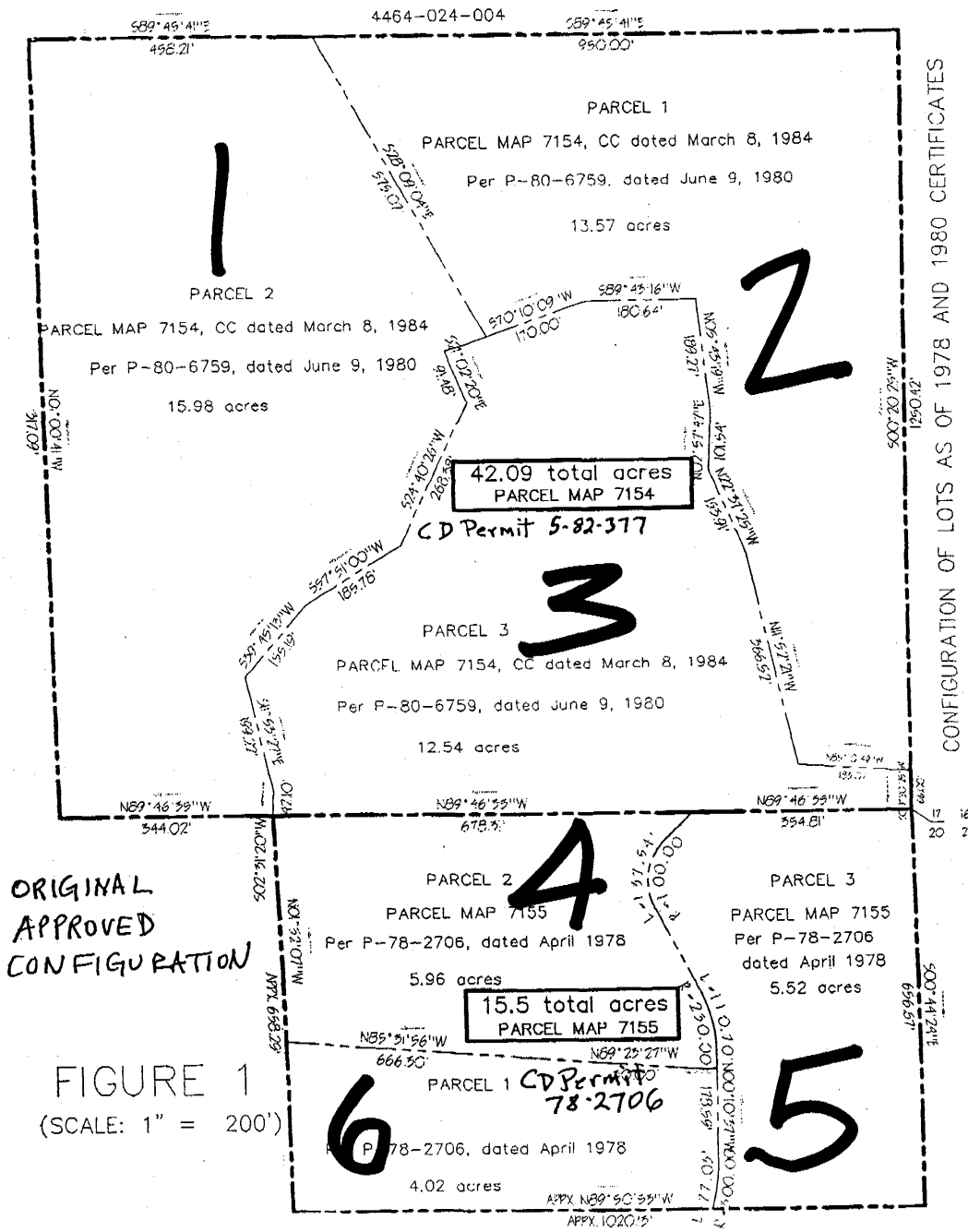
impact arising from the configuration originally approved in Permit No. P-78-2706 and Permit No. 5-83-377 leaves Witter in a state of limbo where she is unable to sell or dispose of her property because of the refusal of the Commission to approve any changes to the boundaries. This deprives Witter of what the Commission approved when allowing the subdivision of the property and accepting from Witter the extinguishment of other property through transferable development credits.

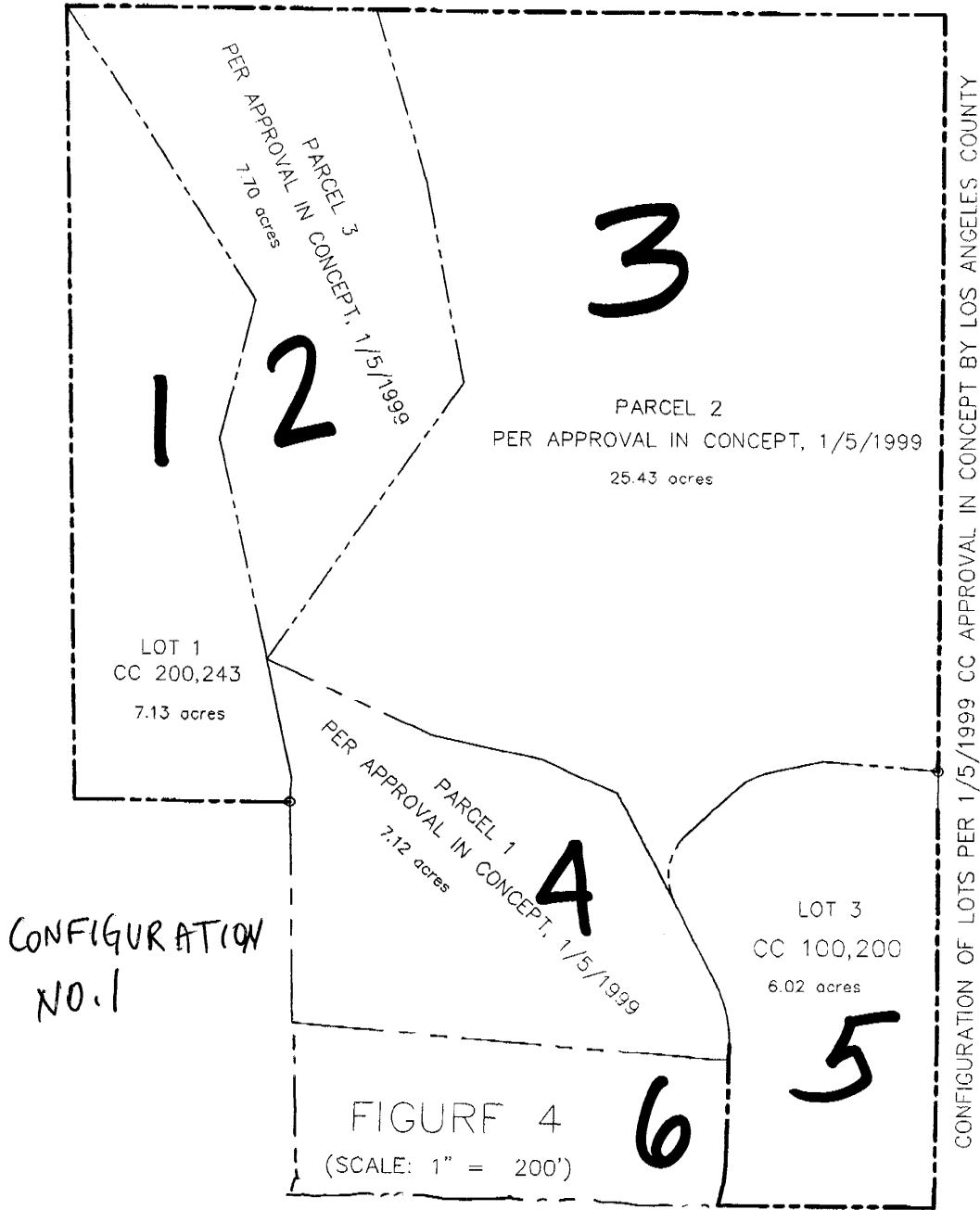
It is unfair for the Commission to keep the benefits of its bargain through extinguishing the use of other property through transferable development credits. Witter paid to accomplish that extinguishment. The Commission is using immaterial changes to what Witter desires to be the boundaries of her property to prevent her making use of the subdivision which she lawfully complied with the Commission's conditions.

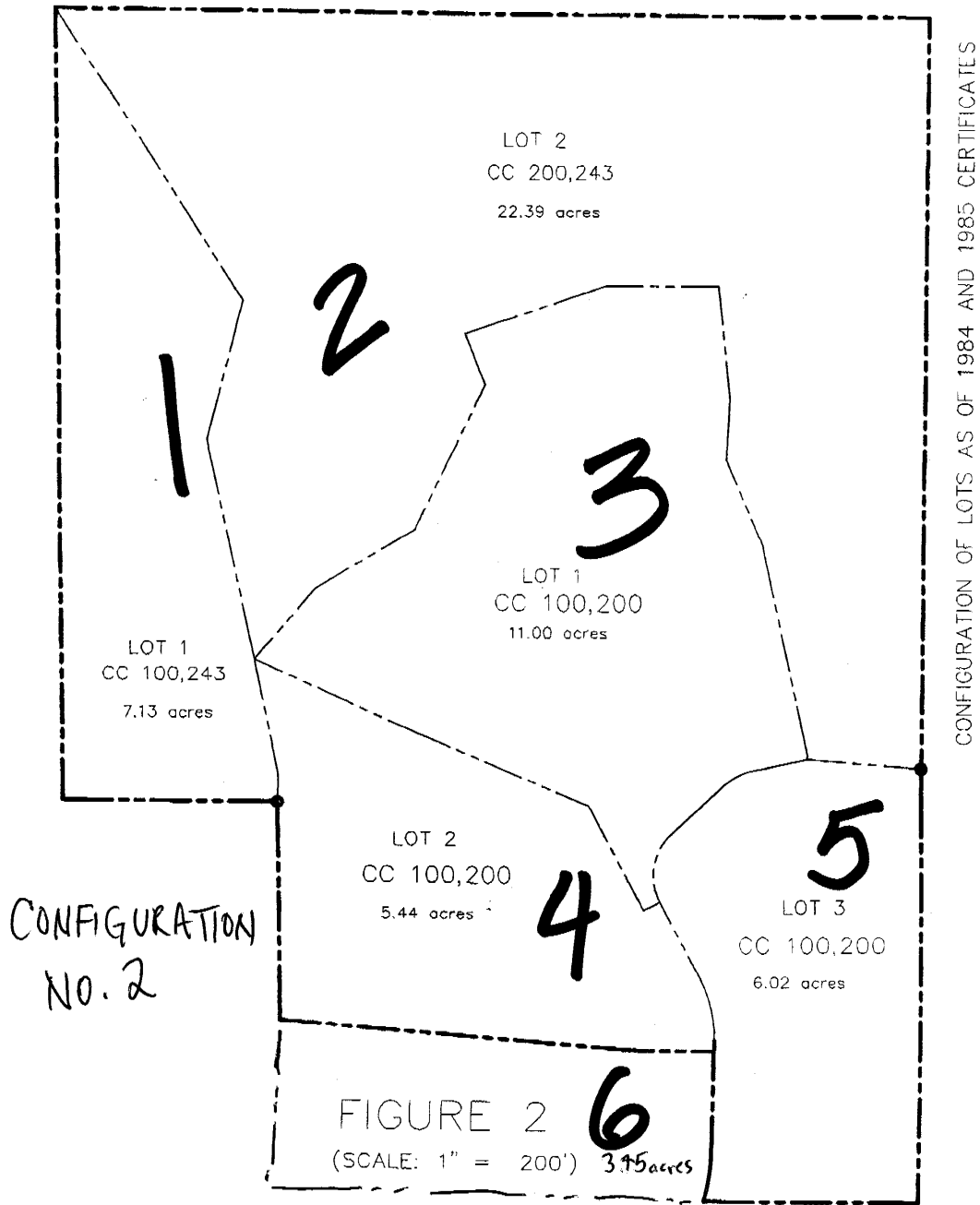
A check in the amount of \$400.00 in payment of the filing fee for requests for reconsideration is enclosed.

Sincerely,

SHERMAN L. STACEY

SLS/sh
cc: (w/o encl.)
Madalon Witter
Mr. Douglas Richardson
Mr. Peter Petrovsky
Morton Devor, Esq.







CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 89 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 585 - 1800



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 Commission Action:

Th 19h

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-05-151

APPLICANT: Madalon Witter

AGENTS: Sherman Stacey and Pete Petrovsky

PROJECT LOCATION: 2100 McReynolds Road, Santa Monica Mountains (Los Angeles County)

APN NOS.: 4464-024-020, 4464-024-021, 4464-024-022, 4464-024-023, 4464-024-024, 4465-006-054, 4465-006-055

PROJECT DESCRIPTION: Lot line adjustment combining and resubdividing seven illegally subdivided parcels into four parcels totaling approximately 45.83 acres. The parcels contain a significant amount of unpermitted physical development, including grading for roads and building pads, major vegetation clearance, and numerous structures including four single family residences and 23 mobile homes, all of which is addressed in the April 27, 2006 staff report on Coastal Development Permit Application No. 4-05-150. The property also includes development that was determined to be vested by Vested Rights Claim Determination No. V-4-97-1, including a water well and pump on Assessor's Parcel No. (APN) 4465-006-054, a 600 sq. ft. garage on APN 4464-024-020, a 384 sq. ft. single family residence (location unknown), a 168 sq. ft. storage structure (location unknown), and electrical facilities serving the vested development. No physical development is proposed as part of this application.

STAFF NOTE

This application was filed on September 17, 2005. Under the provisions of the Permit Streamlining Act, the latest possible date for Commission action was March 16, 2006; however, the applicant extended the time limit for action on the item by 90 days. Therefore, the latest possible date for Commission action is **June 14, 2006**, which is the first day of the June 2006 Commission meeting. There can be no assurance at this time that the subject application could be scheduled on that day to meet the provisions of the Permit Streamlining Act. As such, the Commission must act on Application No. 4-05-150 at the May 2006 Hearing.

Exhibit 2
 CDP No. 4-05-151-R
 Staff report, CDP No. 4-05-151 (exhibits omitted)

LOT AREAS:

CCC Approved Parcel	Approved Area (in acres)	Unpermitted Parcel No.	Existing Area (in acres)
Lot 1, CDP 5-82-377	13.57	4464-024-024	13.57
Lot 2, CDP 5-82-377	15.97	4464-024-022	7.14
" "		4464-024-023	8.83
Lot 3, CDP 5-82-377	10.46 ¹	4464-024-020	8.94
" "		4464-024-021	1.00
Parcel 48, CDP P-78-2706	5.83	4465-006-054	5.59
" "		4465-006-055	0.24

Lot No.²	Proposed Area (in acres)³	Included APN Nos.	Included CCC Approved Parcel
Lot 1	22.39	4424-024-024 4424-024-023	Parcel 1, CDP 5-82-377 Part of Parcel 2, CDP 5-82-377
Lot 2	7.13	4424-024-022	Part of Parcel 2, CDP 5-82-377
Lot 3	11.00	4424-024-020 4465-006-055	Part of Parcel 3, CDP 5-82-377 Part of Parcel 48, CDP P-78-2706
Lot 4	5.44	4424-024-021 4465-006-054	Part of Parcel 3, CDP 5-82-377 Part of Parcel 48, CDP P-78-2706

LOCAL APPROVALS RECEIVED: None.

SUBSTANTIVE FILE DOCUMENTS: "Engineering Geology Feasibility Report," Earth Systems Southern California, March 6, 2003; Coastal Development Permit (CDP) No. P-2-17-78-2706 (Burrett); CDP No. 5-82-277 (Richardson/Brooke); CDP No. 4-94-052 (Burrett); Claim of Vested Rights File No. VR-4-97-1 (Witter); Violation File No. V-4-92-030; Cease and Desist Order and Restoration Order File Nos. CCC-05-CD-08 and CCC-05-RO-05.

¹ Parcel 3 of CDP No. 5-82-377 has been illegally subdivided into two lots. One of the two lots, a 0.52 acre parcel, was transferred to an adjacent landowner. This 0.52 acre parcel is identified as Assessor's Parcel No. 4464-024-019.

² The lot numbers listed below were applied by staff in order to more clearly identify the proposed lots, which are identified on the submitted plans by Certificate of Compliance numbers and the lot numbers as shown in the various Certificates of Compliances referenced (i.e, Lot 1, CC 100, 243).

³ Proposed areas differ slightly from those on the Los Angeles County Assessor's Parcel Maps. Proposed areas are therefore approximate.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **denial** of the proposed project which would result in the creation of one more lot than was previously approved by the Commission on an approximately 45.83 acre site within chaparral, oak woodland, and riparian environmentally sensitive habitat areas and would reconfigure the previously approved lots in a manner that fails to minimize cumulative impacts on coastal resources, and impacts to environmentally sensitive habitat areas (ESHA), water quality, and visual resources as required by Sections 30230, 30231, 30240, 30250, 30251, and 30253 of the Coastal Act. The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu-Santa Monica Mountains Land Use Plan (LUP) serve as guidance.

The applicant proposes a lot line adjustment combining and resubdividing seven illegally subdivided parcels into four parcels totaling approximately 45.83 acres (**Exhibits 12, 15, 16**). The subject property is located in mountainous terrain near Latigo Canyon Road in the Santa Monica Mountains area of unincorporated Los Angeles County. The current configuration of the subject parcels, as well as an additional parcel, APN 4464-024-019, which is under separate ownership and is not included in this permit application, is the product of four attempted unpermitted subdivisions that were accomplished through a complicated series of grant deeds, boundary line adjustments, and Certificates of Compliance obtained through the Los Angeles County Department of Regional Planning, and without the benefit of any coastal development permit. Prior to the unpermitted subdivisions, the Commission had, in two separate coastal development permit actions for two land divisions, approved four lots within the area now comprised of the seven subject parcels and APN 4464-024-019. Thus, the Commission approved four lots in this area, the lots were illegally subdivided into eight lots by the applicant and/or her associate, one of the eight lots was sold to a third party, and now the applicant seeks to recombine the remaining seven lots into four lots. Because the eighth lot continues to exist as an illegally created parcel, the effect of the applicant's proposal is the establishment of five lots where the Commission had previously only approved four. The creation of an additional lot in this area is inconsistent with the resource protection policies of the Coastal Act. In addition, the proposed new parcel configuration does not allow for clustering of building sites to the maximum extent feasible, and does not minimize cumulative impacts to coastal resources, and impacts to environmentally sensitive habitat areas (ESHA), visual resources, and water quality.

The parcels contain a significant amount of unpermitted physical development, including grading for roads and building pads, vegetation clearance, and numerous structures including 23 mobile homes, all of which is addressed in the April 27, 2006 staff report on Coastal Development Permit Application No. 4-05-150. The property also includes development that was determined to be vested by Vested Rights Claim Determination No. V-4-97-1, including a water well and pump on Assessor's Parcel No. (APN) 4465-006-054, a 600 sq. ft. garage on APN 4464-024-020, a 384 sq. ft. single family residence (location unknown), a 168 sq. ft. storage structure (location unknown), and electrical facilities serving the vested development (**Exhibit 4**). No physical development is proposed as part of this application.

Since 1992, the Commission has made efforts to address the unpermitted development on the subject site, including the unpermitted subdivisions, through cease and desist orders and other enforcement action and litigation. To date, the unpermitted development remains on the project sites. An excerpt from the July 28, 2005 CDO and RO staff report, which details the history of

violations on the subject property and related Commission action, is included as **Exhibit 6** of this report.

The property is located near Latigo Canyon Road in the Santa Monica Mountains area of unincorporated Los Angeles County. The site is surrounded on the west, north, and east by the Castro Crest complex of the Santa Monica Mountains National Recreation Area and is visible from various public viewing points, including along the Backbone Trail, that afford scenic vistas of the relatively undisturbed natural area. The property is located within a wildlife corridor⁴, and contains large, contiguous areas of chaparral and oak woodlands, as well as an intermittent blue-line stream, recognized by the United States Geological Survey (USGS), and its associated riparian oak woodland habitat (**Exhibits 10, 11, 17**). The entire site, with the exception of the developed areas determined to be vested by Vested Rights Determination No. V-4-97-1, contains habitat that qualifies as environmentally sensitive habitat.

In summary, the applicant's proposal is inconsistent with Coastal Act policies for the protection of environmentally sensitive habitat, water quality, and visual resources, and the minimization of cumulative impacts on coastal resources; furthermore, alternatives exist that would be consistent with Coastal Act policies. Therefore, staff recommends denial of the subject application.

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-05-151 for the development proposed by the applicant.*

Staff Recommendation of Denial:

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

Resolution to Deny the Permit:

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of Chapter Three of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter Three. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

⁴ The Malibu/Santa Monica Mountains Land Use Plan designates certain areas as wildlife migration corridors, and considers them to be "Sensitive Environmental Resources".

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes a lot line adjustment combining and resubdividing seven illegally subdivided parcels into four parcels totaling approximately 45.83 acres (**Exhibits 12, 15, 16**). The parcels contain a significant amount of unpermitted physical development, including grading for roads and building pads, major vegetation clearance, and numerous structures including four single family residences and 23 mobile homes, all of which is addressed in the April 27, 2006 staff report on Coastal Development Permit Application No. 4-05-150. The property also includes development that was determined to be vested by Vested Rights Claim Determination No. V-4-97-1, including a water well and pump on Assessor's Parcel No. (APN) 4465-006-054, a 600 sq. ft. garage on APN 4464-024-020, a 384 sq. ft. single family residence (location unknown), a 168 sq. ft. storage structure (location unknown), and electrical facilities serving the vested development (**Exhibit 4**). No physical development is proposed as part of this application.

The property is an approximately 45.83-acre site in the Santa Monica Mountains area of unincorporated Los Angeles County, and is characterized by mountainous terrain with elevations ranging from 1800 feet to 2200 feet above sea level (**Exhibits 10, 17**). The site is accessible by a series of private, unpermitted dirt roads and McReynolds Road, which connects the south-east boundary of the property to Latigo Canyon Road. While scattered residential development is located south of the project site, the site is surrounded on the west, north, and east by the Castro Crest complex of the Santa Monica Mountains National Recreation Area (**Exhibits 10, 17**). The project site is located in a scenic area, surrounded by public open space and recreation areas and is visible from various public viewing points, including along the Backbone Trail, that afford scenic vistas of the relatively undisturbed natural area.

The property is located within a wildlife corridor⁵, and contains large, contiguous areas of chaparral and oak woodlands, as well as an intermittent blue-line stream, recognized by the United States Geological Survey (USGS), and its associated riparian oak woodland habitat (**Exhibits 10, 17**). Although significant areas of the site have been cleared, graded and developed with mobile homes and other structures, no clearance or other development has been permitted in any CDP and only limited development has been determined by the Commission to be vested. Therefore the condition of the site must be considered as it was prior to the unpermitted development. As discussed in Section C. below, with the exception of development determined to be vested by Vested Rights Determination No. V-4-97-1, the entire site qualifies as environmentally sensitive habitat.

The property is identified by the Los Angeles County Assessor as APNs 4464-024-020, 4464-024-021, 4464-024-022, 4464-024-023, 4464-024-024, 4465-006-054, and 4465-006-055 (**Exhibit 16**).⁶ The current configuration of these seven parcels, as well as an additional parcel, APN 4464-024-019, which is under separate ownership and is not included in this permit application, is the product of four attempted unpermitted subdivisions that were accomplished through a complicated series of grant deeds, boundary line adjustments, and Certificates of

⁵ The Malibu/Santa Monica Mountains Land Use Plan designates certain areas as wildlife migration corridors, and considers them to be "Sensitive Environmental Resources".

⁶ As discussed further herein, only four of these parcels are actually legal parcels under the Coastal Act.

Compliance obtained through the Los Angeles County Department of Regional Planning, and without the benefit of a coastal development permit. Prior to the unpermitted subdivisions, the Commission had, in two separate actions, approved four lots within the area now comprised of the seven subject parcels and APN 4464-024-019 (**Exhibits 15 - 16**).

On April 10, 1978, the Commission conditionally approved CDP No. P-2-17-78-2706, authorizing the subdivision of a 15.33-acre parcel into three, approximately 5-acre parcels identified as APNs 4465-006-047, 4465-006-048, and 4465-006-049 (**Exhibit 2**). The Commission, to address its concerns regarding increased residential density on the parcels and in the surrounding area, imposed a special condition requiring recordation of a deed restriction limiting development on the parcels to one-single family residence per parcel, and prohibiting future subdivision of the parcels. The deed restriction was recorded on July 7, 1978.

Parcel Map No. 7155 was recorded pursuant to CDP No. P-2-17-78-2706, creating the parcels identified as APNs 4465-006-047, 4465-006-048, and 4465-006-049. A current Assessor's Parcel Map indicates that one of the original 5-acre parcels, APN 4465-006-048, has been illegally subdivided into two parcels: APN 4465-006-054, a 5.59-acre parcel; and 4465-006-055, a 0.14-acre parcel (**Exhibits 15 - 16**). This subdivision was not approved under P-2-17-78-2706, and no additional CDP was issued for the subdivision. Therefore, the creation of 4465-006-054 and 4465-006-055 constitutes an attempted unpermitted subdivision undertaken in violation of the Coastal Act, the existing CDP, and the deed restriction, recorded pursuant to the CDP as a means of curtailing the density of development in the area.

On March 12, 1980, Chris Brookes and Richard Brookes Jr. submitted CDP Application No. 5-82-377 to subdivide a 39.41-acre parcel, identified as APN 4464-024-004, into three 12-acre parcels and one 6-acre parcel. The 39.41-acre parcel was located immediately north of the 15.33-acre parcel that was subdivided pursuant to CDP No. P-2-17-78-2706. On August 25, 1982, the Commission approved CDP No. 5-82-377, authorizing the subdivision of the parcel into three parcels (**Exhibit 3**). Parcel Map Waiver No. 7154 was recorded on March 8, 1984, in accordance with the CDP. A current Assessor's Parcel Map shows that, in addition to the three-parcel subdivision that was authorized under CDP No. 5-82-377, the original parcel, APN 4464-024-004, has been subject to three attempted unpermitted subdivisions, resulting in division of the original parcel into six parcels, three more than were legally created (**Exhibits 15 - 16**). None of the six parcels retain the same configuration as the three lots approved by the Commission in CDP No. 5-82-377.

The 15.33-acre parcel (subject of CDP No. P-2-17-78-2706) and the 39.41-acre parcel (subject of CDP No. 5-82-377) are adjacent to each other. Subsequent to the approval of these CDPs (P-2-17-78-2706 and 5-82-377), the applicant carried out four unpermitted subdivisions involving approximately 45.83 acres of land (including all of the 39.41-acre parcel, and part of the 15.33-acre parcel) that were accomplished through a complicated series of grant deeds, boundary line adjustments, and Certificates of Compliance obtained through the Los Angeles County Department of Regional Planning, and without the benefit of any coastal development permit. The result of these unpermitted actions was the creation of eight illegal parcels where the Commission had permitted the creation of four parcels (**Exhibits 15 - 16**).

One of these eight unpermitted parcels, identified as APN 4464-024-019, has been transferred to an adjacent landowner. The applicant asserts that the creation of that eighth parcel is not included in this permit application. The other seven unpermitted parcels are all owned by the applicant and are part of the subject CDP application to redivide, through a lot line adjustment, the seven lots into four lots. The proposed lot line adjustment would not restore the approved parcel configuration, but would consolidate the seven unpermitted parcels into four parcels that

are in a different configuration than previously approved parcels. Specifically, the proposed project would merge APNs 4464-024-023 and 4464-024-024 to create a new Lot 1; retain APN 4464-024-022 to create a new Lot 2; merge APNs 4465-006-055 and APN 4464-024-020 to create a new Lot 3; and merge APNs 4464-024-021 and 4465-006-054 to create a new Lot 4 (**Exhibit 12**). Although the applicant asserts that the eighth parcel is not included in the permit application and that the applicant seeks to reconfigure seven parcels into four parcels, in fact, approval of the applicant's proposal would result in five parcels – the four identified in the application and the lot that has been transferred to a third party (APN 4464-024-019).

Other Commission Action

The project site has been the subject of Commission action subsequent to the issuance of CDP Nos. P-2-17-78-2706 and 5-82-377. Commission staff first became aware of the presence of unpermitted development on the subject property on May 19, 1992. Subsequent site visits confirmed that extensive development had been undertaken on the property and a search of Commission records concluded that no CDPs were obtained for the development. Since 1992, Commission staff has made efforts to address the unpermitted development through cease and desist orders and other enforcement action. In addition, on August 11, 1998, the Commission made a vested rights determination with regards to development on the property. The results of that determination are included as **Exhibit 4** of this report. In October 1998, the Commission, the applicant, Madalon Witter, and Douglas Richardson (who is the property manager and a prior owner of the site) entered into a settlement agreement, to avoid further enforcement action and litigation (**Exhibit 5**). The settlement agreement directed Ms. Witter and Mr. Richardson to file complete CDP applications to remove or retain the unpermitted development and to correct the unpermitted subdivision of the property. Ms. Witter submitted separate applications for a lot line adjustment and a restoration/development plan on October 29, 2002. The applications remained incomplete for almost a year, were not completed as required, and were ultimately returned to Ms. Witter on September 18, 2003.

Commission staff commenced cease and desist and restoration order proceedings in January 2005 in order to compel removal of the extensive unpermitted development on the property and restoration of the severely impacted and extremely valuable habitat on the property. The hearing on Cease and Desist Order (CDO) CCC-05-CD-08 and Restoration Order (RO) CCC-05-RO-05 was scheduled for the August 12, 2005 meeting; however, the hearing was postponed at the request of the applicant. An excerpt from the July 28, 2005 CDO and RO staff report, which details the history of violations on the subject property and related Commission action, is included as **Exhibit 6** of this report.

The applicant submitted the current applications on August 18, 2005. The hearing on the application was originally scheduled for the February 2006 Commission meeting, but was postponed at the applicant's request in order to allow the applicant additional time to review the staff recommendation. The January 27, 2006 staff report recommended approval of the proposed project, which, based on the applicant's submitted plans, appeared to entail merger of the unpermitted seven parcels into three parcels (**Exhibit 14**). On March 6, 2006, the applicant's representative, L. Peter Petrovsky, submitted a comment letter on the staff recommendation, asserting that the proposed project included approval of four parcels, not three as stated in the staff recommendation. On March 15, 2006, staff met for several hours with Mr. Petrovsky in order to clarify the proposed project description for the subject application and a parallel application addressing unpermitted physical development on the same property (CDP Application No. 4-05-150). Following the meeting, staff sent a letter to Mr. Petrovsky, dated March 23, 2006, requesting submittal of a revised, detailed project description and project plans

clearly delineating the proposed new lot lines and incorporating all proposed changes no later than April 3, 2006. On April 18, 2006, staff received a revised plan for the subject application. The revised plan differs substantially from the previously submitted plan, as discussed elsewhere in this report, and, unlike the previous plan, has not been approved in concept by Los Angeles County. The revised plan is included as **Exhibit 12**. The proposed development is this revised plan.

B. CUMULATIVE IMPACTS

Section 30250(a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30105.5 of the Coastal Act defines the term “cumulatively,” as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The Coastal Act requires that new development, including land divisions, be permitted within, contiguous, or in close proximity to existing developed areas or, if outside such areas, only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The basic goal of the Coastal Act is to concentrate development in or near developed areas able to accommodate it, thereby promoting infilling and avoiding sprawl into areas with significant resource value. Further, the Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu and Santa Monica Mountains area in past permit action. The Commission has reviewed land division applications to ensure that newly created or reconfigured parcels are of sufficient size, have access to roads and other utilities, are geologically stable and contain an appropriate potential building pad area where future structures can be developed consistent with the resource protection policies of the Coastal Act. In particular, the Commission has ensured that future development on new or reconfigured lots can minimize landform alteration and other visual impacts, and impacts to water quality and environmentally sensitive habitat areas (ESHA).

The Commission has considered several projects that the applicants and the County of Los Angeles treated as “lot line adjustments” which actually resulted in major reconfiguration of lot lines amongst several lots [4-96-28 (Harberger, et. al.) 4-96-150 (Rein, et. al.), 4-96-189 (Flinkman), 4-96-187 (Sohal), 4-04-026 (Malibu Ocean Ranches, LLC, et.al.)]. In these cases, the Commission has considered the proposed projects to actually be “redivisions” or resubdivisions of land whereby existing property boundary lines are significantly modified to

redivide the project site into the same number or fewer wholly reconfigured lots. The Commission has analyzed these proposals just as it analyzes a new subdivision of lots. The Commission has only permitted such redivisions where adequate fire access and other public services are available and where the resultant lots could be developed minimizing impacts to coastal resources.

The applicant proposes to combine and resubdivide seven illegally subdivided parcels into four parcels totaling approximately 45.83 acres. The current configuration of these seven parcels, as well as an additional parcel, APN 4464-024-019, which is under separate ownership, is the product of four attempted unpermitted subdivisions that were accomplished through a complicated series of grant deeds, boundary line adjustments, and Certificates of Compliance obtained through the Los Angeles County Department of Regional Planning, and without the benefit of any coastal development permit. Prior to the unpermitted subdivisions, the Commission had, in two separate actions, approved four lots within the area now comprised of the seven subject parcels and APN 4464-024-019 (CDP Nos. P-2-17-78-2706 and 5-82-877).

The proposed lot line adjustment would not restore the approved parcel configuration, but would consolidate the seven unpermitted parcels into four parcels, and would result in one more parcel than was previously approved. Specifically, the proposed project would merge APNs 4464-024-023 and 4464-024-024 to create a new Lot 1; retain APN 4464-024-022 to create a new Lot 2; merge APNs 4465-006-055 and APN 4464-024-020 to create a new Lot 3; and merge APNs 4464-024-021 and 4465-006-054 to create a new Lot 4.

The land use designations of the certified Malibu/Santa Monica Mountains LUP provide guidance with respect to the maximum allowable density and intensity of land use that may be permitted in any particular area. The Land Use Plan designates the proposed project site for three density categories: Mountain Land, which allows one dwelling unit for twenty acres of land; Rural Land I, which allows one dwelling unit for ten acres of land; and Rural Land II which allows one dwelling unit for five acres of land. Approximately 23 acres of the approximately 45-acre property is designated as Mountain Land; approximately 8 acres is designated as Rural Land I; and approximately 14 acres is designated as Rural Land II. Based on these designations, the LUP would allow a maximum of four units on the property. However, the applicant's proposed lot combination and resubdivision that will result in five parcels: the four identified in the application and the 0.52 acre AON 4464-024-019, that was illegally created and is now under separate ownership. Given the existence of this fifth lot, the approval of the applicant's proposed four lots would increase the density of this area beyond that which is consistent with Section 30250. Development of a greater number of parcels than consistent with the densities certified in the LUP would result in significantly greater adverse cumulative impacts associated with increased runoff from impervious surfaces, water quality impacts from polluted runoff and additional septic effluent, landform alteration, visual impacts, fuel modification, and other clearance of vegetation. Thus, the Commission finds that based on the LUP density designations, the proposed reconfigured parcels exceed the maximum allowable densities by one parcel and is therefore inconsistent with Section 30250.

APN 4464-024-019 was a portion of Lot 3 of the subdivision approved by the Commission under CDP No. 5-82-377. This small fraction lot was created illegally by a grant deed from Douglas Richardson to Michael Burrett dated July 1, 1984 and recorded on December 8, 1987 (Recordation # 87-1940501). The applicant asserts that this lot has been combined with an adjacent lot. The applicant has submitted a copy of Certificate of Compliance for Lot Line Adjustment No. 100,200, which was recorded on August 6, 1984, and purports to combine APN 4464-024-019 with APN 4465-006-049, an approximately 5.49 acre parcel located immediately south of APN 4464-024-019 also owned by Mr. Burrett, as a new Lot 3. In a sworn deposition on

July 10, 1997, Mr. Richardson stated that the lot was deeded to Mr. Burrett because Mr. Burrett had built his house without adequate setbacks from the property line. File materials for CDP No. 4-94-052 (Burrett), which authorized construction of a 440 sq. ft. guest house and 2,595 cu. yds. of grading, including restorative grading, confirm that the residence on APN No. 4465-006-049 was constructed partially on an area that is within APN 4464-024-019, although it is not identified as such in the file materials. The two parcels, APN 4464-024-019 and APN 4465-006-049 were sold in October 2005 to Force-Harris LLC.

Although evidence exists that APN 4464-024-019 was considered a part of APN 4465-006-049 by the previous owner, Mr. Burrett, and the lot was combined with APN 4465-006-049 under Certificate of Compliance for Lot Line Adjustment No. 100,200, which was approved by Los Angeles County and was recorded on August 6, 1984, the lot line adjustment combining the two parcels has not received a coastal development permit and has thus not been legalized. In addition, the grant deed that created APN 4464-024-019 as a separate lot was not recorded until 1987, three years after the recordation of the Certificate of Compliance that showed the two lots combined. Further, APN 4464-024-019 is shown as a separate lot on the Assessor's Parcel Map, and no symbol is shown that indicates that it is tied with APN 4465-006-049. An application could be made for a coastal development permit for a lot line adjustment combining the two parcels; however, such an application would have to include the current owners of the property as co-applicants. Unless and until a coastal development permit has been obtained to combine APN 4464-024-019 with the adjacent lot, APN 4464-024-019 must be considered a separate illegal lot that could be sold separately by the current owner. Therefore, even though the applicant asserts that the creation of APN 4464-024-019 is not a part of this permit application, approval of the proposed project would result in the creation of APN 4464-024-019 as a separate lot and therefore the creation of this lot must be considered as an effect of the project.

In addition, even if APN 4464-024-019 were to be combined with the adjacent lot, and therefore render the proposed project consistent with the number of lots that would be consistent with Section 30250, the proposed configuration of the four remaining lots does not minimize adverse impacts to coastal resources. As discussed in Sections C. through E. below, the proposed lot configuration does not allow for maximum clustering of building sites and thus does not minimize vegetation clearance, landform alteration, and the footprint of development and thus does not minimize the associated impacts on visual resources, water quality, and environmentally sensitive habitat areas (ESHA).

Furthermore, there are alternatives to the proposed project, including the three-lot configuration analysed by staff in their January 27, 2006 report, as modified by the special conditions recommended therein (**Exhibit 17**). This configuration would not increase the number of lots beyond that previously authorized by the Commission and thus would not result in significantly adverse cumulative impacts due to increased development potential. In addition, this configuration allows for three building sites clustered at the southern end of the property and further than 100 feet from the riparian oak woodland on APN 4465-006-054. The clustered building sites would minimize vegetation clearance, grading and landform alteration, and would contain the footprint of development within the portion of the site nearest existing legal roads, in contrast to the proposed project. Therefore, the Commission finds that there are feasible alternatives to the proposed project that would minimize cumulative impacts on coastal resources.

Therefore, for all the reasons set forth above, the Commission finds that the proposed redivision will not minimize impacts to coastal resources and is therefore inconsistent with Section 30250(a) of the Coastal Act.

C. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Section 30230 of the Coastal Act states that:

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

Section 30231 states:

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

Section 30240 states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.***
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***

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

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

Section 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Sections 30107.5 and 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values. Therefore, when considering any area, such as the Santa Monica Mountains, with regard to an ESHA determination one must focus on three main questions:

- 1) Is a habitat or species rare or especially valuable?
- 2) Does the habitat or species have a special nature or role in the ecosystem?

- 3) Is the habitat or species easily disturbed or degraded by human activities and developments?

The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is itself rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Therefore, habitat areas that provide important roles in that ecosystem are especially valuable and meet the second criterion for the ESHA designation. In the Santa Monica Mountains, coastal sage scrub and chaparral have many important roles in the ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. For these and other reasons discussed in **Exhibit 1**, which is incorporated herein, the Commission finds that large contiguous, relatively pristine stands of coastal sage scrub and chaparral in the Santa Monica Mountains meet the definition of ESHA. This is consistent with the Commission's past findings on the Malibu LCP⁷.

Further, woodlands that are native to the Santa Monica Mountains, such as oak woodlands, are important coastal resources. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. In the Santa Monica Mountains, coast live oak woodland occurs mostly on north slopes, shaded ravines and canyon bottoms. Besides the coast live oak, this plant community includes hollyleaf cherry, California bay laurel, coffeeberry, and poison oak. Coast live oak woodland is more tolerant of salt-laden fog than other oaks and is generally found nearer the coast⁸. Coast live oak also occurs as a riparian corridor species within the Santa Monica Mountains. The important ecosystem functions of oak woodlands and savanna are widely recognized⁹. These habitats support a high diversity of birds¹⁰, and provide refuge for many species of sensitive bats¹¹. Typical wildlife in this habitat includes acorn woodpeckers, scrub jays, plain titmice, northern flickers, cooper's hawks, western screech owls, mule deer, gray foxes, ground squirrels, jackrabbits and several species of sensitive bats. Therefore, because of their important ecosystem functions and vulnerability to development, the Commission finds that oak woodlands and savanna within the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

The subject property is an approximately 45.83-acre site in the Santa Monica Mountains area of unincorporated Los Angeles County. The site is characterized by mountainous terrain with elevations ranging from 1800 feet to 2200 feet above sea level. The site is accessible by a series of private, unpermitted dirt roads and McReynolds Road, which connects the south-east

⁷ Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

⁸ NPS 2000. op. cit.

⁹ Block, W.M., M.L. Morrison, and J. Verner. 1990. Wildlife and oak-woodland interdependency. *Fremontia* 18(3):72-76. Pavlik, B.M., P.C. Muick, S. Johnson, and M. Popper. 1991. *Oaks of California*. Cachuma Press and California Oak Foundation, Los Olivos, California. 184 pp.

¹⁰ Cody, M.L. 1977. Birds. Pp. 223-231 in Thrower, N.J.W., and D.E. Bradbury (eds.). *Chile-California Mediterranean scrub atlas*. US/IBP Synthesis Series 2. Dowden, Hutchinson & Ross, Stroudsburg, Pennsylvania. National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

¹¹ Miner, K.L., and D.C. Stokes. 2000. Status, conservation issues, and research needs for bats in the south coast bioregion. Paper presented at *Planning for biodiversity: bringing research and management together*, February 29, California State University, Pomona, California.

boundary of the property to Latigo Canyon Road. While scattered residential development is located south of the project site, the site is surrounded on the west, north, and east by the Castro Crest complex of the Santa Monica Mountains National Recreation Area.

The property is located within a wildlife corridor¹², and contains large, contiguous areas of chaparral and oak woodlands, as well as an intermittent blue-line stream, recognized by the United States Geological Survey (USGS), and its associated riparian oak woodland habitat. Commission staff biologist John Dixon has visited the site, most recently on August 22, 2005, and has confirmed that the chaparral, riparian, and oak woodland habitat on the site is ESHA.

Significant areas of the site have been cleared, graded and developed with mobile homes and other structures since 1977 without benefit of a coastal development permit. In addition, other areas of the site were cleared, graded and developed prior to 1977 without the required local approvals, and thus were determined by the Commission to be not vested in Vested Rights Determination No. V-4-97-1. The Commission did, however, determine that a limited amount of development, including three small structures, a water well and pump, and electrical facilities serving the vested structures, were vested.

Aerial photographs from 1976 indicate that areas on the property that were subsequently cleared and developed consisted of native chaparral habitat, and in the south central portion of the site, oak woodland. It is reasonable to assume that areas cleared and graded prior to 1976 also consisted of native chaparral habitat and oak woodland. In determining the extent of ESHA on the subject site, the Commission must consider the condition of the subject site prior to any unpermitted or non-vested development. Thus, the entire site, with the exception of development determined to be vested by Vested Rights Determination No. V-4-97-1, can be considered environmentally sensitive habitat.

Therefore, due to the important ecosystem roles of oak woodland and chaparral in the Santa Monica Mountains (detailed in **Exhibit 1**), and the fact that the subject site is (with the exception of unpermitted or non-vested development) relatively undisturbed and part of a large, unfragmented block of habitat, the Commission finds that the chaparral and oak woodland habitat on and surrounding the subject site, including such habitat that has been removed or impacted by the above-described unpermitted and non-vested development, meets the definition of ESHA under the Coastal Act.

The applicant proposes a lot line adjustment combining and resubdividing seven illegally subdivided parcels into four parcels. The current configuration of the subject parcels, as well as an additional parcel, APN 4464-024-019, which is under separate ownership, is the product of four attempted unpermitted subdivisions by the applicant and Douglas Richardson, the property manager and prior owner, that were accomplished through a complicated series of grant deeds, boundary line adjustments, and Certificates of Compliance obtained through the Los Angeles County Department of Regional Planning, and without the benefit of any coastal development permit. Prior to the unpermitted subdivisions, the Commission had, in two separate actions, approved four lots within the area now comprised of the seven subject parcels and APN 4464-024-019. The proposed lot line adjustment would not restore the approved parcel configuration, but would consolidate the seven unpermitted parcels into four parcels and leave the eighth parcel, APN 4464-024-019 as is, such that where the Commission previously approved four parcels, there will be five if the project is approved.

¹² The Malibu/Santa Monica Mountains Land Use Plan designates certain areas as wildlife migration corridors, and considers them to be "Sensitive Environmental Resources".

At the time the Commission approved the subdivision of this area into four parcels, in 1978 and 1980, the subject area was not considered to be ESHA. However, since that time, as discussed in Exhibit 1, chaparral, oak woodland, and riparian woodland has become increasingly rare in the Santa Monica Mountains. In light of the fact that, today, the Commission finds this area to be ESHA, it would be inconsistent with Section 30240 to approve a project that will in effect create one more lot than was previously approved. The creation of an additional parcel would allow for development of an additional building site, which in turn would increase the extent of development and its associated impacts on ESHA. Such impacts include direct destruction of habitat for construction and grading of building sites, access roads, and driveways; extension of the human footprint, including noise, artificial lighting, domestic animals and other disruptive elements, into wildlife areas; and clearance of vegetation for fuel modification.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification would vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Fire Department:

Zone A (Setback Zone) is required to be a minimum of 20 feet beyond the edge of protected structures. In this area native vegetation is cleared and only ground cover, green lawn, and a limited number of ornamental plant species are allowed. This zone must be irrigated to maintain a high moisture content.

Zone B (Irrigated Zone) is required to extend from the outermost edge of Zone A to a maximum of 80 feet. In this area ground covers may not extend over 18 inches in height. Some native vegetation may remain in this zone if they are adequately spaced, maintained free of dead wood and individual plants are thinned. This zone must be irrigated to maintain a high moisture content.

Zone C (Thinning Zone) is required to extend from the outermost edge of Zone B up to 100 feet. This zone would primarily retain existing native vegetation, with the exception of high fuel species such as chamise, red shank, California sagebrush, common buckwheat and sage. Dead or dying vegetation must be removed and the fuel in existing vegetation reduced by thinning individual plants.

Thus, the combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels.

Notwithstanding the need to protect structures from the risk of wildfire, fuel modification results in significant adverse impacts that are in excess of those directly related to the development itself. Within the area next to approved structures (Zone A), all native vegetation must be removed and ornamental, low-fuel plants substituted. In Zone B, most native vegetation will be removed or widely spaced. Finally, in Zone C, native vegetation may be retained if thinned, although particular high-fuel plant species must be removed (Several of the high fuel species are important components of the chaparral community). In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned.

Obviously, native vegetation that is cleared and replaced with ornamental species, or substantially removed and widely spaced will be lost as habitat and watershed cover. Additionally, thinned areas will be greatly reduced in habitat value. Even where complete

clearance of vegetation is not required, the natural habitat can be significantly impacted, and ultimately lost, particularly if such areas are subjected to supplemental water through irrigation. In coastal sage scrub habitat, the natural soil coverage of the canopies of individual plants provides shading and reduced soil temperatures. When these plants are thinned, the microclimate of the area will be affected, increasing soil temperatures, which can lead to loss of individual plants and the eventual conversion of the area to a dominance of different non-native plant species. The areas created by thinning between shrubs can be invaded by non-native grasses that can over time out-compete native species.

For example, undisturbed coastal sage scrub and chaparral vegetation typical of coastal canyon slopes, and the downslope riparian corridors of the canyon bottoms, ordinarily contains a variety of tree and shrub species with established root systems. Depending on the canopy coverage, these species may be accompanied by understory species of lower profile. The established vegetative cover, including the leaf detritus and other mulch contributed by the native plants, slows rainfall runoff from canyon slopes and staunches silt flows that result from ordinary erosional processes. The native vegetation thereby limits the intrusion of sediments into downslope creeks. Accordingly, disturbed slopes where vegetation is either cleared or thinned are more directly exposed to rainfall runoff that can therefore wash canyon soils into down-gradient creeks. The resultant erosion reduces topsoil and steepens slopes, making revegetation increasingly difficult or creating ideal conditions for colonization by invasive, non-native species that supplant the native populations.

The cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. The impacts of fuel clearance on bird communities was studied by Stralberg who identified three ecological categories of birds in the Santa Monica Mountains: 1) local and long distance migrators (ash-throated flycatcher, Pacific-slope flycatcher, phainopepla, black-headed grosbeak), 2) chaparral-associated species (Bewick's wren, wrentit, blue-gray gnatcatcher, California thrasher, orange-crowned warbler, rufous-crowned sparrow, spotted towhee, California towhee) and 3) urban-associated species (mourning dove, American crow, Western scrub-jay, Northern mockingbird)¹³. It was found in this study that the number of migrators and chaparral-associated species decreased due to habitat fragmentation while the abundance of urban-associated species increased. The impact of fuel clearance is to greatly increase this edge-effect of fragmentation by expanding the amount of cleared area and “edge” many-fold. Similar results of decreases in fragmentation-sensitive bird species are reported from the work of Bolger et al. in southern California chaparral¹⁴.

Fuel clearance and habitat modification may also disrupt native arthropod communities, and this can have surprising effects far beyond the cleared area on species seemingly unrelated to the direct impacts. A particularly interesting and well-documented example with ants and lizards illustrates this point. When non-native landscaping with intensive irrigation is introduced, the area becomes favorable for the invasive and non-native Argentine ant. This ant forms “super colonies” that can forage more than 650 feet out into the surrounding native chaparral or coastal sage scrub around the landscaped area¹⁵. The Argentine ant competes with native harvester

¹³ Stralberg, D. 2000. Landscape-level urbanization effects on chaparral birds: a Santa Monica Mountains case study. Pp. 125–136 in Keeley, J.E., M. Baer-Keeley, and C.J. Fotheringham (eds.). *2nd interface between ecology and land development in California*. U.S. Geological Survey, Sacramento, California.

¹⁴ Bolger, D. T., T. A. Scott and J. T. Rotenberry. 1997. Breeding bird abundance in an urbanizing landscape in coastal Southern California. *Conserv. Biol.* 11:406-421.

¹⁵ Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. *Ecology* 79(6):2041-2056.

ants and carpenter ants displacing them from the habitat¹⁶. These native ants are the primary food resource for the native coast horned lizard, a California “Species of Special Concern.” As a result of Argentine ant invasion, the coast horned lizard and its native ant food resources are diminished in areas near landscaped and irrigated developments¹⁷. In addition to specific effects on the coast horned lizard, there are other Mediterranean habitat ecosystem processes that are impacted by Argentine ant invasion through impacts on long-evolved native ant-plant mutualisms.¹⁸ The composition of the whole arthropod community changes and biodiversity decreases when habitats are subjected to fuel modification. In coastal sage scrub disturbed by fuel modification, fewer arthropod predator species are seen and more exotic arthropod species are present than in undisturbed habitats¹⁹.

Studies in the Mediterranean vegetation of South Africa (equivalent to California shrubland with similar plant species) have shown how the invasive Argentine ant can disrupt the whole ecosystem.²⁰ In South Africa the Argentine ant displaces native ants as they do in California. Because the native ants are no longer present to collect and bury seeds, the seeds of the native plants are exposed to predation, and consumed by seed eating insects, birds and mammals. When this habitat burns after Argentine ant invasion the large-seeded plants that were protected by the native ants all but disappear. So the invasion of a non-native ant species drives out native ants, and this can cause a dramatic change in the species composition of the plant community by disrupting long-established seed dispersal mutualisms. In California, some insect eggs are adapted to being buried by native ants in a manner similar to plant seeds²¹.

Siting measures exist that can reduce the impacts of fuel modification. Such measures include clustering of building areas so that fuel modification radii overlap, reduction of the number and size of building areas, and location of building areas within existing developed areas and away from sensitive habitat areas.

The applicant is not proposing improvements or physical development as part of this application. In addition, the applicant has submitted no conceptual plans for proposed building areas, although the applicant acknowledges her right to build “dwellings” on all legal parcels in an associated but separate application concerning development on the site (CDP No. 4-05-150). As noted above, the applicant proposes to resubdivide seven illegally subdivided parcels into four parcels, which would result (along with the creation of APN 4464-024-019) in the creation of one additional lot than previously authorized in the project area. The creation of the additional parcel would allow development of an additional building site and the associated

¹⁶ Holway, D.A. 1995. The distribution of the Argentine ant (*Linepithema humile*) in central California: a twenty-year record of invasion. *Conservation Biology* 9:1634-1637. Human, K.G. and D.M. Gordon. 1996. Exploitation and interference competition between the invasive Argentine ant, (*Linepithema humile*), and native ant species. *Oecologia* 105:405-412.

¹⁷ Fisher, R.N., A.V. Suarez and T.J. Case. 2002. Spatial patterns in the abundance of the coastal horned lizard. *Conservation Biology* 16(1):205-215. Suarez, A.V. J.Q. Richmond and T.J. Case. 2000. Prey selection in horned lizards following the invasion of Argentine ants in southern California. *Ecological Applications* 10(3):711-725.

¹⁸ Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. *Ecology* 79(6):2041-2056. Bond, W. and P. Slingsby. Collapse of an Ant-Plant Mutualism: The Argentine Ant (*Iridomyrmex humilis*) and Myrmecochorous Proteaceae. *Ecology* 65(4):1031-1037.

¹⁹ Longcore, T.R. 1999. Terrestrial arthropods as indicators of restoration success in coastal sage scrub. Ph.D. Dissertation, University of California, Los Angeles.

²⁰ Christian, C. 2001. Consequences of a biological invasion reveal the importance of mutualism for plant communities. *Nature* 413:635-639.

²¹ Hughes, L. and M. Westoby. 1992. Capitula on stick insect eggs and elaiosomes on seeds: convergent adaptations for burial by ants. *Functional Ecology* 6:642-648.

impacts to ESHA, including direct destruction of habitat for construction and grading of building sites, access roads, and driveways; extension of the human footprint, including noise, artificial lighting, domestic animals and other disruptive elements, into wildlife areas; and clearance of vegetation for fuel modification.

In addition, the proposed configuration of the four lots does not allow for siting of development in a way that minimizes impacts to sensitive habitat. Specifically, the proposed lot reconfiguration does not allow clustering of building sites to the maximum extent feasible, and does not allow for a feasible building site on the proposed Lot 4 outside of the required setback from the on-site riparian oak woodland canopy.

Clustering of building sites, such that fuel modification radii overlap, reduces the extent of required vegetation clearance and the associated impacts on ESHA. Similarly, location of building sites within existing developed areas and away from sensitive resources reduces the fragmentation of habitat and the intrusion of human activities within areas used by wildlife. Concentration of development areas near existing roads also reduces grading and landform alteration.

The certified Malibu/Santa Monica Mountains LUP also provides guidance on the maximum amount of development that can be allowed in ESHA and other sensitive environmental resource areas like wildlife corridors in order to minimize impacts. The project site is designated as a wildlife corridor in the LUP, and is thus subject to a sensitive environmental resource area overlay. The wildlife corridor overlay stipulates that

- ***Structures shall be clustered to minimize the effects on sensitive environmental resources***
- ***Structures shall be located as close to the periphery of the designated (area) a feasible, or in any location in which it can be demonstrated that the effects of development will be less environmentally damaging.***
- ***Structures and uses shall be located as close as possible to existing roadways and other services to minimize the construction of new infrastructure.***
- ***New on-site access roads shall be limited to a maximum length of 300 feet or one-third of the parcel depth, whichever is smaller. Greater lengths may be allowed provided that the County Engineer and Environmental Review Board determine that there is not an acceptable alternative and that a significant impact will not be realized and shall constitute a conditional use.***
- ***The cleared area shall not exceed 10% of the area excluding access roads.***
- ***Site grading shall be accomplished in accordance with stream protection and erosion control policies.***
- ***Designated environmentally sensitive streambeds shall not be filled. Any crossings should be accomplished by a bridge.***
- ***Approval of development shall be subject to review by the Environmental Review Board.***

The proposed lot reconfiguration would not allow for development of building sites consistent, to the maximum extent feasible, with these requirements. Thus the value of the project area as a wildlife migration corridor would be reduced. In addition, the proposed project does not allow for clustering of building sites such that overlap of fuel modification for structures could occur. Development of the proposed lots would thus result in significant removal of vegetation for fuel modification and brush clearance around the four discrete building areas. The proposed project therefore does not minimize potential vegetation clearance and associated impacts to ESHA.

Furthermore, the proposed lot reconfiguration would not allow for development of building sites that are located as close as possible to the periphery of the ESHA area (i.e. adjacent to existing development), or adjacent to the existing legal road in the southern portion of the site. Neither does the proposed project allow for development of building sites in the least environmentally damaging location.

The only feasible building sites on the proposed Lot 1 would require access through one of a number of lengthy unpermitted dirt roads, one of which passes through adjacent National Park Service land. Not only did the development of these roads require significant removal of ESHA vegetation, but their locations further fragment the remaining ESHA on the site and limit wildlife migration. Additionally, if residential development were approved on the proposed Lot 1, the access road would need to be improved to the standards of the Los Angeles County Fire Department, including their maximum grade and minimum width requirements (20 feet wide). This would, in most cases, require additional grading and vegetation removal to meet the road standards.

In addition, on the proposed Lot 4, no feasible building site exists that would allow for a minimum 100 foot setback from the dripline of riparian ESHA. In past permit actions, the Commission has consistently required development to be located no closer than 100 feet from riparian ESHA, in order to protect the biological integrity of the ESHA, provide space for transitional vegetated buffer areas, and minimize human intrusion. In addition, Section 30231 requires maintenance of natural vegetation buffer areas that protect riparian habitats, as discussed further in Section D. below.

Furthermore, there are alternatives to the proposed project, including the three-lot configuration analysed by staff in their January 27, 2006 report, as modified by the special conditions recommended therein (**Exhibit 17**). That configuration would not increase the number of lots beyond that previously authorized by the Commission and thus would not result in increased impacts to ESHA due to increased development potential. In addition, that configuration would allow for three building sites clustered at the southern end of the property and further than 100 feet from the riparian oak woodland on APN 4465-006-054. The clustered building sites would minimize vegetation clearance, grading and landform alteration, and would contain the footprint of development within the portion of the site nearest existing legal roads, in contrast to the subject proposed project. Therefore, the Commission finds that there are feasible alternatives to the proposed project that would minimize cumulative impacts on coastal resources.

Therefore, for all the reasons set forth above, the Commission finds that the proposed redivision will not minimize impacts to ESHA and sensitive resources and is therefore inconsistent with Sections 30230, 30231, and 30240 of the Coastal Act.

D. WATER QUALITY

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act States:

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

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

The project site is located on mountainous terrain near Latigo Canyon Road in the Santa Monica Mountains. The site is located within the upper Escondido Canyon watershed. A United States Geological Survey (USGS)-designated intermittent blue-line stream that is tributary to Escondido Creek, crosses the southern portion of the project site. The stream is located within a riparian oak woodland.

As noted above, the applicant proposes to resubdivide seven illegally subdivided parcels into four parcels, which would result in the creation of one more lot than previously authorized in the project area. The creation of the additional parcel would allow development of an additional building site, and thus additional impervious surface area and its associated impacts on water quality.

An increase in impervious surface decreases the infiltrative function and capacity of existing permeable land on site, therefore leading to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons such as oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste.

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

In addition, development of an additional building site, as allowed by the proposed lot reconfiguration, would require additional vegetation clearance for fuel modification purposes.

Furthermore, the proposed project does not allow for clustering of building sites such that overlap of fuel modification for structures could occur. Development of the proposed lots would thus result in significant removal of vegetation for fuel modification and brush clearance around the four separate building areas. The proposed project therefore does not minimize potential vegetation clearance and associated water quality impacts.

Removal of vegetation can result in increased erosion. Removal of vegetation exposes soils to erosion by wind, water, and human disturbance, and removes the root network that holds surface sediments in place. This is particularly true for areas containing native plant species, which are typically characterized by well-developed and extensive root structures in comparison to their surface/foilage weight. As noted above, one of the most important ecological functions of chaparral, such as found on the subject site, is to protect water quality in coastal streams by reducing erosion in the watershed. Although shallow rooted, the shrubs that define chaparral have dense root masses that hold the surface soils much more effectively than the exotic annual grasses and forbs that tend to dominate in disturbed areas.

Erosion adjacent to streams can result in increased sedimentation, thereby reducing the biological productivity and quality of coastal waters. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

As discussed above, the discharge of pollutants, including sediment, can cause significant negative impacts to streams. The proposed lot reconfiguration would not minimize impervious surface area and vegetation clearance and thus would not minimize the potential for erosion and polluted discharge. In addition, the proposed lot configuration includes a lot (Lot 1) on which no feasible building site exists that would allow for a minimum 100 foot setback from the dripline of riparian ESHA. Section 30231 requires maintenance of natural vegetation buffer areas that protect riparian habitats, and minimal alteration of natural streams. As discussed in Section C. above, the Commission has consistently required development to be located no closer than 100 feet from riparian ESHA, in order to protect the biological integrity of the ESHA, provide space for transitional vegetated buffer areas, minimize human intrusion, and protect the quality of coastal waters consistent with Sections 30231 and 30240 of the Coastal Act. Approval of the proposed project would sanction development within a riparian setback inconsistent with Sections 30231 and 30240 of the Coastal Act.

Furthermore, there are alternatives to the proposed project, including the three-lot configuration analysed by staff in their January 27, 2006 report, as modified by the special conditions recommended therein (**Exhibit 17**). That configuration would not increase the number of lots beyond that previously authorized by the Commission and thus would not result in increased impacts to water quality due to increased development potential. In addition, that configuration allows for three building sites clustered at the southern end of the property and further than 100 feet from the riparian oak woodland on APN 4465-006-054. The clustered building sites would minimize vegetation clearance, grading and landform alteration, and would contain the footprint of development within the portion of the site nearest existing legal roads, in contrast to the subject proposed project. Therefore, the Commission finds that there are feasible alternatives to the proposed project that would minimize impacts on water quality.

In summary, the proposed development does not maintain and restore biological productivity and water quality of coastal waters. Therefore, the proposed development is inconsistent with Sections 30230 and 30231 of the Coastal Act.

E. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

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

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. In addition, the following policies of the Malibu-Santa Monica Mountains Land Use Plan (LUP), provide guidance:

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

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

- be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.***
- minimize the alteration of natural landforms***
- be landscaped to conceal raw-cut slopes***
- be visually compatible with and subordinate to the character of its setting***
- be sited so as not to significantly intrude into the skyline as seen from public viewing places***

P131 Where feasible, prohibit placement of structures that will break the ridgeline view, as seen from public places.

P137 Clustering of development in suitable areas shall be encouraged as a means to facilitate greater view protection.

The subject site is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides. While scattered residential development is located south of the project site, the site is surrounded on the west, north, and east by the Castro Crest complex of the Santa Monica Mountains National Recreation Area. The project site is visible from various public viewing points, including along the Backbone Trail, that afford scenic vistas of the relatively undisturbed natural area. The scenic nature of the area is reflected in the certified

Malibu-Santa Monica Mountains Land Use Plan (LUP), which designates several ridgelines in the area, including the Castro Crest and a lower ridgeline that crosses the northern portion of the site, as scenic ridgelines.

The proposed lot line adjustment would combine seven illegally subdivided parcels into four parcels. As detailed in Sections C. and D. above, the proposed lot reconfiguration would create one more lot than was previously approved by the Commission in the project area, thus increasing the development potential of the property and the attendant visual impacts of residential development. In addition, the proposed project would not allow for building sites on the lots to be clustered to the maximum extent feasible and therefore does not minimize clearance of native vegetation for fuel modification purposes. On the contrary, the proposed project could result in extensive disturbance to and clearance of native vegetation for future development itself as well as for the required fuel modification, thus further increasing the potential visual impacts of development on the site.

Furthermore, there are alternatives to the proposed project, including the three-lot configuration analysed by staff in their January 27, 2006 report, as modified by the special conditions recommended therein (**Exhibit 17**). That configuration would not increase the number of lots beyond that previously authorized by the Commission and thus would not result in significantly adverse visual impacts due to increased development potential. In addition, that configuration allows for three building sites clustered at the lower, less visually prominent southern portion of the property. This portion of the property is closer to McReynolds Road and existing residential development to the south. The clustered building sites would also minimize vegetation clearance, grading, and landform alteration, and would contain the footprint of development within the portion of the site nearest existing roads. Therefore, the Commission finds that there are feasible alternatives to the proposed project that would minimize the visual impacts.

In summary, the proposed development does not protect visual resources and minimize landform alteration. Therefore, the proposed development is inconsistent with Section 30251 of the Coastal Act.

E. VIOLATION

Unpermitted development has occurred on the subject parcel prior to submission of this permit application including, but not limited to, unpermitted subdivisions resulting in the creation of seven unpermitted parcels. In addition, as discussed in Section A. of this report, there is additional unpermitted development on the subject site that is the subject of numerous enforcement actions as well as litigation. The subject permit application addresses the unpermitted subdivisions only.

The applicant requests approval to combine the seven parcels created by the unpermitted subdivisions, and resubdivide them into four parcels. As discussed above, the proposed project is not consistent with the cumulative impacts, environmentally sensitive habitat areas (ESHA), water quality, and visual resources policies of the Coastal Act and is denied. The Commission's enforcement division will evaluate further actions to address these matters.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter Three policies of the Coastal Act. Review of this permit application does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to

the legality of any development undertaken on the subject sites without a coastal development permit.

F. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act states:

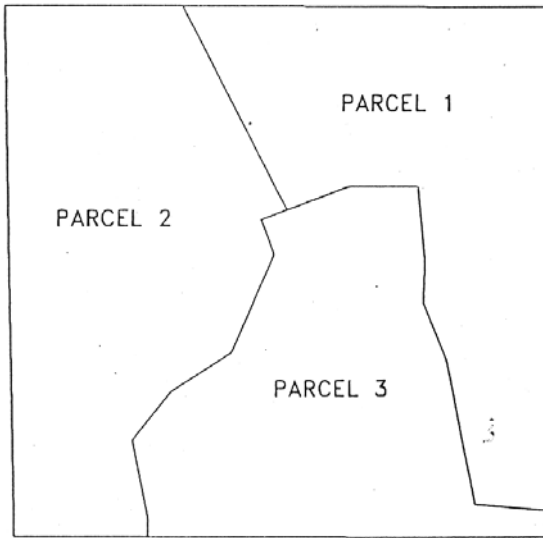
Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with the Chapter Three policies of the Coastal Act. The preceding sections provide findings that the proposed project will not be in conformity with the provisions of Chapter Three. As discussed, there are alternatives to the project that would conform with the cumulative impacts, ESHA, water quality, and visual resources of the Coastal Act. Therefore, the Commission finds that approval of the proposed development would prejudice the County's ability to prepare a Local Coastal Program for the Santa Monica Mountains area that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

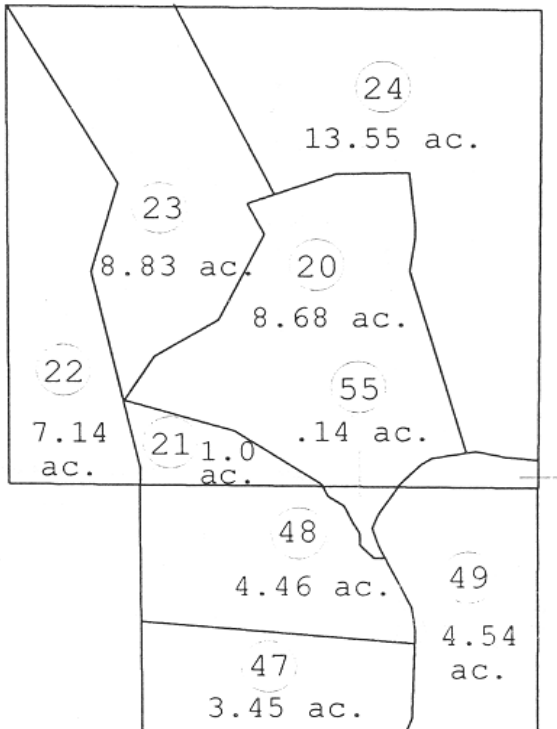
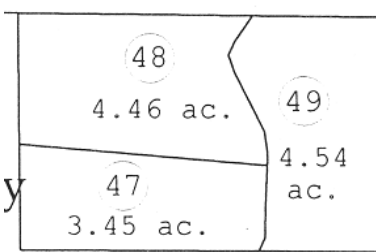
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The Commission finds that the proposed project will have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. There are feasible alternatives available that would lessen the adverse effects of the development. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act.



Parcel configurations
approved under
CDP Nos. 5-82-877
and P-2-17-78-2706



Current unpermitted
parcel configuration

Exhibit 15
CDP No. 4-05-151
Approved/Unpermitted Parcel Configurations

Exhibit 4
CDP No. 4-05-151-R
Exhibit 15 of staff report for CDP No. 4-05-151

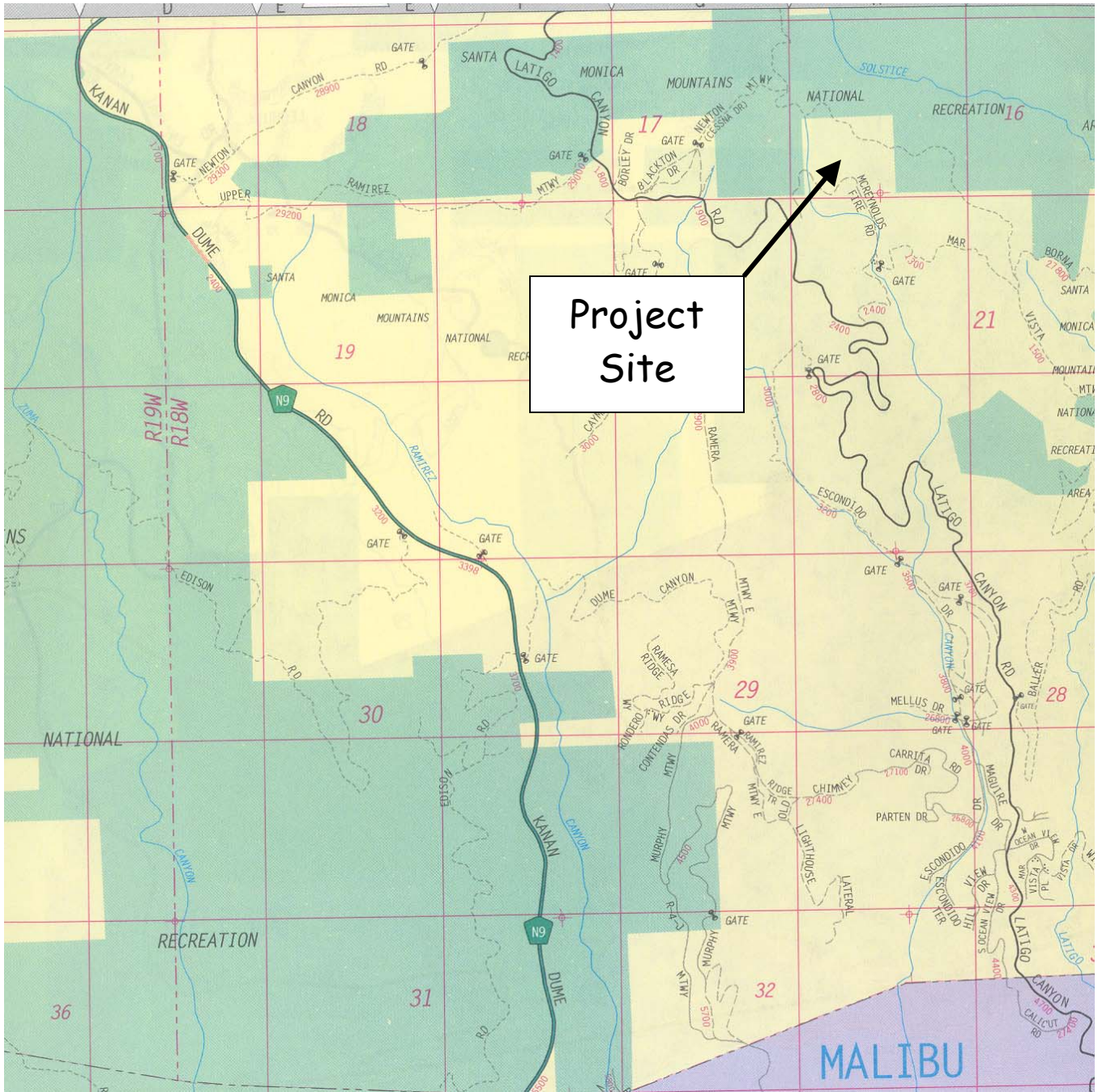


Exhibit 5
CDP No. 4-05-151-R
Vicinity map

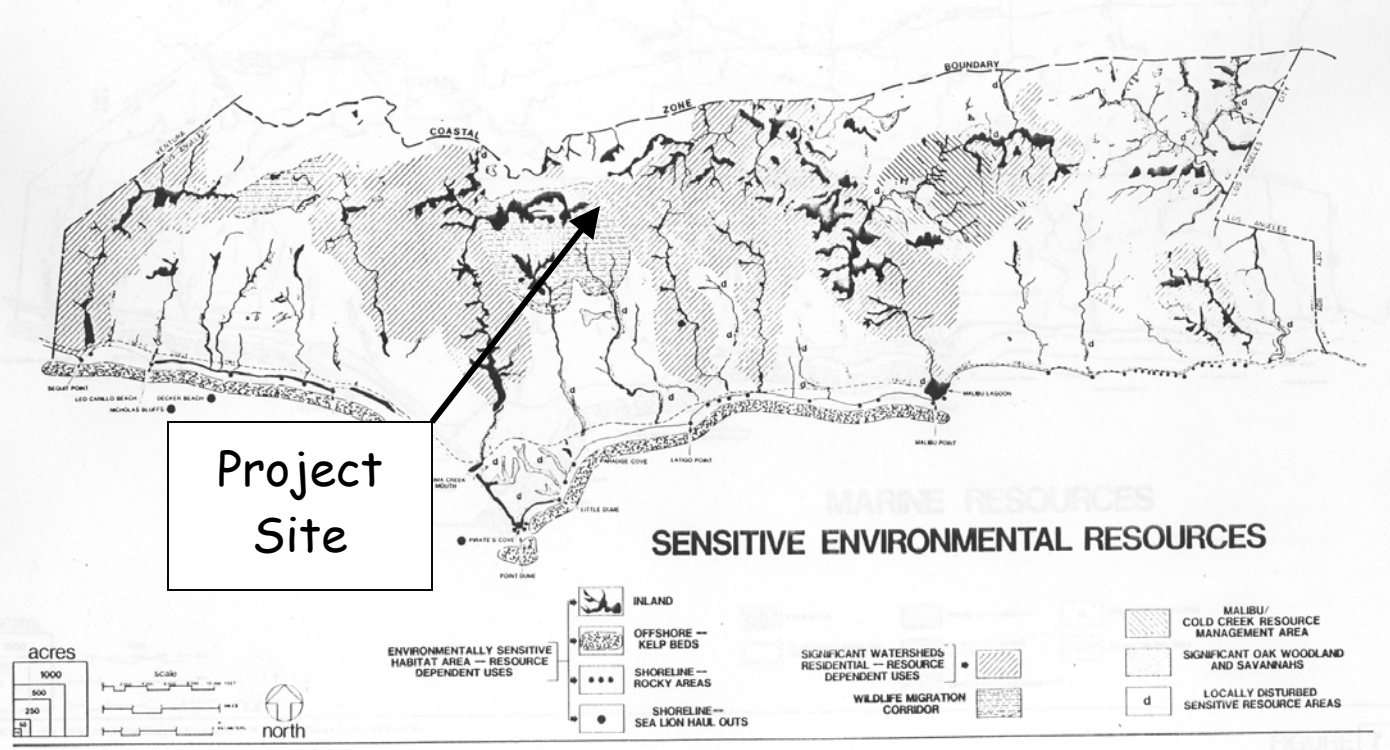


Exhibit 6
CDP No. 4-05-151-R
Land Use Plan ESHA map

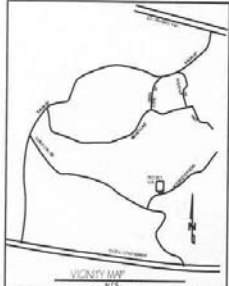


SOURCE OF TOPOGRAPHY
 BARTON WALTERS & ASSOCIATES, INC.
 7225 ALABAMA AVE.
 CANOGA PARK, CA. 91303
 DATE FLOWN: SEPT. 6, 1995

- NOTES**
1. LOT 2, CC 100,200 WAS DECEDED BY WAY OF TWO TRUST DEEDS
 2. THE DEEDS WERE #87-1940505 AND #87-1940585
 3. BOTH DEEDS WERE TRANSFERRED TO ONE OWNER MADALON K. WITTER
 4. COUNTY RECORDER SHOWED THE TRANSFER ON THE ASSESSOR BOOKS AS TWO SEPARATE LOTS, I.E. 4464-24-23 & 24
 5. APPLICANT SEEKS THE CONSOLIDATION OF ASSESSOR PARCELS 23 AND 24 TO AVOID THE APPEARANCE THAT THE TWO LOTS ARE LEGAL LOTS.
 6. THE DIVIDING LINE IS SHOWN WITH A DELTATION MARK.

- LEGEND & ABBREVIATIONS**
- LLA LOT LINE ADJUSTMENT
 - CURVE PROPERTY LINE
 - LINE TO BE REMOVED
 - EXISTING POWER POLES
 - SPRINKLER COURSE AND DIRECTION
 - EXISTING CONTOUR
 - TREE
 - TREE
 - EXISTING COUNTRY EDEEN
 - Δ DELTATION

TO LAGO CYN.



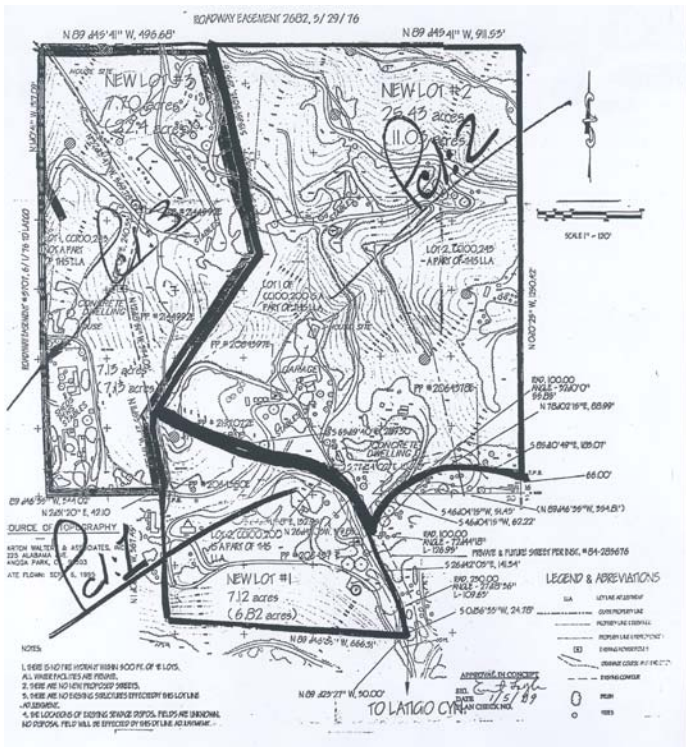
PREPARED FOR:
 MADALON K. WITTER
 2100 McREYNOLDS ROAD
 MALIBU, CA. 90265
 (310) 457-6400

AGENT:
 L. PETER PETROVSKY, PE
 31157 LOBO VISTA ROAD
 AGOURA, CA 91301
 (818) 865-8844
 (818) 865-9944 - FAX

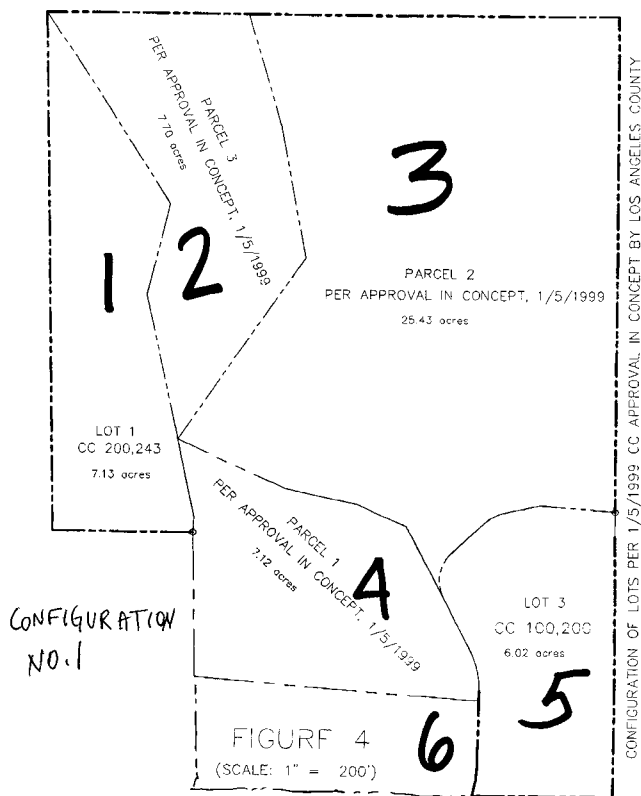
EXISTING ZONE FOR ALL LOTS: A-1
 PROPOSED ZONE FOR ALL LOTS: A-1

DATE: 10/15/95	BY: L. PETER PETROVSKY	CHECKED: PETER PETROVSKY	DATE: 10/15/95
PROJECT: LOT LINE ADJUSTMENT / CONSOLIDATION FOR LOT #2, CC100,200	CLIENT: MADALON K. WITTER	ADDRESS: 2100 McREYNOLDS ROAD, MALIBU, CA. 90265	PHONE: (310) 457-6400

Exhibit 7
 CDP No. 4-05-151-R
 Proposed Lot Line Adjustment/Resubdivision,
 CDP No. 4-05-151



Parcel map
submitted with
permit application
No. 4-05-151



Drawing labeled
"Configuration
No. 1" in
reconsideration
request.

Exhibit 8
CDP No. 4-05-151-R
Comparison: Original map
submittal and "Configuration 1"



Approximate Site Boundaries

Exhibit 9
CDP No. 4-05-151-R
Aerial photo