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Staff:	Steve Hudson
Staff Report:	2/22/07
Hearing Date:	3/15/07

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-06-065

APPLICANT: Los Angeles County Department of Public Works

PROJECT LOCATION: Intersection of Fairside Road and Ingleside Way (Fairside Road Mile Marker 0.29), Santa Monica Mountains; Los Angeles County (APN: 4457-010-034)

PROJECT DESCRIPTION: Placement of approximately 18 tons of rip rap (within an approximately 50 sq. ft. area) immediately downslope of the outlet of an existing culvert.

LOCAL APPROVALS RECEIVED: N/A

SUBSTANTIVE FILE DOCUMENTS: Emergency Coastal Development Permit 4-06-065 (LACDPW)

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with two (2) special conditions regarding riparian restoration and assumption of risk. All development proposed as part of this application has been previously completed pursuant to Emergency Coastal Development Permit 4-05-170-G which was issued on January 12, 2006. Pursuant to Special Condition Five (5) of the emergency permit, the emergency work was authorized on an interim basis only and a follow-up regular coastal development permit is required in order to authorize the development on a permanent basis. This application is the follow-up to the previously issued emergency permit and is a request by the County of Los Angeles to permanently authorize the emergency work that was previously completed.

The proposed project is located within the channel of an unnamed natural drainage which drains to Corral Canyon Creek, a significant blue line stream, which is located approximately 3000 ft. downslope to the east of the project site. Although no oak trees have been removed or trimmed as part of this project, the installation of the proposed rip rap will result in the permanent loss of riparian habitat area on site and will be located entirely within the driplines of the canopies of multiple oak trees. Therefore, in order to mitigate for adverse impacts to riparian/oak woodland habitat, Special Condition One (1) requires the applicant to implement a riparian habitat restoration plan that provides for habitat restoration at a 3:1 or greater ratio for all areas of the site that are disturbed by the proposed project. The Standard of Review for this application is the Coastal Act. The proposed project, as conditioned, is consistent with the applicable resource protection provisions of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: ***I move that the Commission approve Coastal Development Permit No. 4-06-065 pursuant to the staff recommendation.***

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Riparian Habitat Mitigation and Restoration Plan

Prior to issuance of this Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a detailed Riparian Habitat Restoration Plan and Monitoring Program, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for all areas of the project site either temporarily disturbed by grading and construction activities or permanently displaced due to the installation of the rip rap. Within 60 days of the issuance of this coastal development permit, the applicant shall commence implementation of the approved riparian habitat restoration and mitigation plan. The Executive Director may grant additional time for good cause. The plans shall identify the species, extent, and location of all plant materials to be removed or planted and shall incorporate the following criteria:

a. Technical Specifications

The Restoration Plan shall provide for the restoration of riparian habitat permanently displaced by the proposed development with native plant species that are appropriate for an riparian/oak woodland area at a 3:1 or greater ratio (including, but not limited to, the approximately 50 sq. ft. area where rip rap has been installed). Areas where riparian and native vegetation have been temporarily disturbed or removed due to construction activities shall be replanted with native plant species that are appropriate for a riparian/oak woodland area in the same location. The mitigation areas shall be delineated on a site plan and shall be located in the same vicinity of the project site. All invasive and non-native plant species shall be removed from the stream channel/riparian vegetation corridor within the Restoration Plan area. The stream channel/riparian vegetation corridor shall be revegetated with native plant species appropriate for both riparian and oak woodland habitat areas.

The plan shall include detailed documentation of conditions on site prior to the approved construction activity (including photographs taken from pre-designated sites annotated to a copy of the site plans) and specify restoration goals and specific performance standards to judge the success of the restoration effort.

The plan shall also provide information on removal methods for exotic species, salvage of existing vegetation, revegetation methods and vegetation maintenance. The plan shall further include details regarding the types, sizes, and location of plants to be placed within the mitigation area. Only native plant species appropriate for a riparian/oak woodland and which are endemic to the Santa Monica Mountains shall be used, as listed by the California Native Plant Society - Santa Monica Mountains Chapter in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California

shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property. Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 90% coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation. The plan shall also include a detailed description of the process, materials, and methods to be used to meet the approved goals and performance standards and specify the preferable time of year to carry out restoration activities and describe the interim supplemental watering requirements that will be necessary.

b. Monitoring Program

A monitoring program shall be implemented to monitor the project for compliance with the specified guidelines and performance standards. The applicant shall submit, upon completion of the initial planting, a written report prepared by a qualified resource specialist, for the review and approval of the Executive Director, documenting the completion of the initial planting/revegetation work. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) documenting the completion of the initial planting/revegetation work.

Five years from the date of issuance of this coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a Riparian Habitat Restoration Monitoring Report, prepared by a qualified biologist or Resource Specialist, that certifies the on-site restoration is in conformance with the restoration plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the monitoring report indicates the vegetation and restoration is not in conformance with or has failed to meet the performance standards specified in the restoration plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by a qualified biologist or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

2. Assumption of Risk, Waiver of Liability and Indemnity Agreement

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion, flooding, and slope failure; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant requests approval for the installation of approximately 18 tons of rip rap (within an approximately 50 sq. ft. area) at the outlet of an existing culvert in order to stabilize an eroding slope below a public road way. The subject site is located at the intersection of Fairside Road and Ingleside Way (Fairside Road Mile Marker 0.29) in an area of the Santa Monica Mountains that is densely developed with residential development known as the *Malibu Bowl* Small Lot Subdivision. All proposed development has been previously completed pursuant to Emergency Permit 4-05-170-G (LACDPW) which was issued on January 12, 2006. The emergency permit granted temporary authorization of the work only and permanent retention of the development requires the issuance of a follow-up regular coastal development permit from the California Coastal Commission. This application was submitted by the County in follow-up to their emergency permit in order to request permanent authorization for the work that was temporarily authorized by Emergency Permit 4-05-170-G.

The existing culvert on site runs south to north under the Fairside Road/Ingleside Way intersection and outlets on a moderately steep slope that descends from Fairside Road in a northerly direction. The proposed rip rap is located completely within the channel of an unnamed natural drainage which drains to Corral Canyon Creek, a significant blue line stream, which is located approximately 3,000 ft. downslope to the east of the project site. Although the project site is primarily devoid of understory vegetation, the proposed development is located within the driplines of the canopies of multiple oak trees which are located on site. No oak trees have been removed or trimmed as part of this project.

During the 2005 winter storm season, the slope immediately below the culvert outlet was subject to significant erosion as a result of increased amounts of stormwater runoff. The County's engineers subsequently determined that the public road was in imminent danger of failure due to slope failure as a result of rapid erosion of the slope due to heavier than normal rainfall. On January 12, 2006, Emergency Permit 4-05-170-G was issued for the placement of approximately 18 tons of rip rap within an approximately 50 sq. ft. area immediately downslope of the existing culvert outlet in order to reduce slope erosion. The Los Angeles County Department of Public Works (LACDPW) has determined that the permanent retention of the previously installed rip rap is necessary in order to ensure the continued stability of the slope supporting Fairside Road and Ingleside Way and to maintain the public's ability to use these roads for vehicular access and provide for emergency services/access to the densely developed residential community of the Malibu Bowl Small Lot Subdivision.

B. Environmentally Sensitive Habitat and Marine Resources

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.***

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

The proposed project is located completely within the channel of an unnamed natural drainage which drains to Corral Canyon Creek, a significant blue line stream, which is

located approximately 3000 ft. downslope to the east of the project site. Although the project site is primarily devoid of understory vegetation, the proposed development is located within the driplines of the canopies of several oak trees which are located on site. No oak trees have been removed or trimmed as part of this project.

Riparian woodlands occur along both perennial and intermittent streams and drainages in nutrient-rich soils. Partly because of its multi-layered vegetation, the riparian community contains the greatest overall biodiversity of all the plant communities in the area. Riparian communities are the most species-rich to be found in the Santa Monica Mountains. As a result of their multi-layered vegetation, available water supply, vegetative cover and adjacency to shrubland habitats, they are attractive to many native wildlife species, and provide essential functions in their lifecycles[1]. During the long dry summers in this Mediterranean climate, these communities are an essential refuge and oasis for much of the areas' wildlife.

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

The streams themselves provide refuge for sensitive species including: the coast range newt, the Pacific pond turtle, and the steelhead trout. The coast range newt and the Pacific pond turtle are California Species of Special Concern and are proposed for federal listing[2], and the steelhead trout is federally endangered. The health of the streams is dependent on the ecological functions provided by the associated riparian woodlands. These functions include the provision of large woody debris for habitat, shading that controls water temperature, and input of leaves that provide the foundation of the stream-based trophic structure.

The importance of the connectivity between riparian areas and adjacent habitats is illustrated by the Pacific pond turtle and the coast range newt, both of which are sensitive and both of which require this connectivity for their survival. The life history of the Pacific pond turtle demonstrates the importance of riparian areas and their associated watersheds for this species. These turtles require the stream habitat during the wet season. However, recent radio tracking work[3] has found that although the

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[1] Walter, Hartmut. Bird use of Mediterranean habitats in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

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

[3] Rathbun, G.B., N.J. Scott and T.G. Murphy. 2002. Terrestrial habitat use by Pacific pond turtle in a Mediterranean climate. Southwestern Naturalist. (*in Press*).

Pacific pond turtle spends the wet season in streams, it also requires upland habitat for refuge during the dry season. Thus, in coastal southern California, the Pacific pond turtle requires both streams and intact adjacent upland habitats such as coastal sage scrub, woodlands or chaparral as part of their normal life cycle. The turtles spend about four months of the year in upland refuge sites located an average distance of 50 m (but up to 280 m) from the edge of the creek bed. Similarly, nesting sites where the females lay eggs are also located in upland habitats an average of 30 m (but up to 170 m) from the creek. Occasionally, these turtles move up to 2 miles across upland habitat[4]. Like many species, the pond turtle requires both stream habitats and the upland habitats of the watershed to complete its normal annual cycle of behavior. Similarly, the coast range newt has been observed to travel hundreds of meters into upland habitat and spend about ten months of the year far from the riparian streambed[5]. They return to the stream to breed in the wet season, and they are therefore another species that requires both riparian habitat and adjacent uplands for their survival.

Riparian habitats in California have suffered serious losses and such habitats in southern California are currently very rare and seriously threatened. In 1989, Faber estimated that 95-97% of riparian habitat in southern California was already lost[6]. Writing at the same time as Faber, Bowler asserted that, *"[t]here is no question that riparian habitat in southern California is endangered."*[7] In the intervening 13 years, there have been continuing losses of the small amount of riparian woodlands that remain. Today these habitats are, along with native grasslands and wetlands, among the most threatened in California.

In addition to direct habitat loss, streams and riparian areas have been degraded by the effects of development. For example, the coast range newt, a California Species of Special Concern has suffered a variety of impacts from human-related disturbances[8]. Human-caused increased fire frequency has resulted in increased sedimentation rates, which exacerbates the cannibalistic predation of adult newts on the larval stages.[9] In addition impacts from non-native species of crayfish and mosquito fish have also been documented. When these non-native predators are introduced, native prey organisms are exposed to new mortality pressures for which they are not adapted. Coast range

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[4] Testimony by R. Dagit, Resource Conservation District of the Santa Monica Mountains at the CCC Habitat Workshop on June 13, 2002.

[5] Dr, Lee Kats, Pepperdine University, personal communication to Dr J. Allen, CCC.

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

[7] Bowler, P.A. 1989. Riparian woodland: An endangered habitat in southern California. Pp 80-97 *in* Schoenherr, A.A. (ed.) Endangered plant communities of southern California. Botanists Special Publication No. 3.

[8] Gamradt, S.C., L.B. Kats and C.B. Anzalone. 1997. Aggression by non-native crayfish deters breeding in California newts. Conservation Biology 11(3):793-796.

[9] Kerby, L.J., and L.B. Kats. 1998. Modified interactions between salamander life stages caused by wildfire-induced sedimentation. Ecology 79(2):740-745.

newts that breed in the Santa Monica Mountain streams do not appear to have adaptations that permit co-occurrence with introduced mosquito fish and crayfish[10]. These introduced predators have eliminated the newts from streams where they previously occurred by both direct predation and suppression of breeding.

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

In order to protect streams, natural drainages, and riparian ESHA, the Commission has consistently required new development to be designed or located in a manner that will provide a buffer between new development and the outer edge of riparian vegetation (including riparian oak woodland areas such as the project site). A buffer provides a transition between development and the habitat, reduces the intrusion of humans and domestic animals, and provides area for runoff from development to be infiltrated. The Commission has typically required a buffer of at least 100 feet around riparian ESHA for new development. In this case, the proposed project includes the placement of ungrouted rock riprap as slope protection entirely within a drainage course. Due to the narrowness of the channel and the steepness of the banks, the Commission notes that there are no other feasible alternatives (such as the use of retaining walls, gabion walls, etc.) to the proposed project that would result in less adverse impacts than the proposed project. Further, given that the slope protection is needed within the drainage channel itself in order to prevent erosion of the road shoulder and eventually the road itself, it is not possible to redesign or relocate the proposed development in a manner that would provide for a buffer from the sensitive habitat areas on site.

Pursuant to Section 30236 of the Coastal Act, certain types of channelization projects and other developments resulting in the alterations of rivers and streams may be allowed when necessary for a required flood control project, such as the proposed project, where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development and only if when such development incorporates the best mitigation measures feasible. In this case, the proposed project for the placement of rock rip rap within a drainage channel constitutes a required flood control project and is necessary in order to stabilize an eroding slope and protect an existing public roadway. Thus, the proposed project is considered an allowable type of development within a riparian habitat area consistent with the provisions of Section 30236 of the Coastal Act.

Nonetheless, the proposed project is located entirely within the active channel of a natural drainage and within the driplines of several oak trees on site and will result in significant adverse impacts to riparian woodland habitat. As discussed in greater detail

[10] Gamradt, S.C. and L.B. Kats. 1996. Effect of introduced crayfish and mosquitofish on California newts. Conservation Biology 10(4):1155-1162.

above, the Commission finds that seasonal streams and drainages, such as the drainage located on the subject site provide important habitat for riparian plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible. In past permit actions, the Commission has found that new development within riparian areas, such as the proposed project, results in potential adverse effects to riparian habitat and marine resources from increased erosion, contaminated storm runoff, disturbance to wildlife, and loss of riparian plant and animal habitat. The Coastal Act further requires that environmentally sensitive habitat areas, such as the subject site, be maintained, enhanced, and where feasible, restored.

To assist in the determination of whether a project is consistent with Sections 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past coastal development permit actions for new development in the Santa Monica Mountains, looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The 1986 LUP has been found to be consistent with the Coastal Act and provides specific standards for development within the Santa Monica Mountains. In its findings regarding the certification of the Malibu/Santa Monica Mountains LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources finding that:

> ***Coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.***

Specifically, Policy 76 of the LUP, in concert with the Coastal Act, limits stream alterations. In addition, Policy 82 of the LUP, in concert with the Coastal Act, provides that grading shall be minimized to ensure that the potential negative effects of runoff and erosion on watershed and streams is minimized. Further, Policies 84 and 94, in concert with the Coastal Act, provide that disturbed areas shall be revegetated with native plant species within environmentally sensitive habitat areas and significant watersheds. In addition, Section 30231 of the Coastal Act specifically provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible.

Thus, in past permit actions, the Commission has found that in order to ensure that new development is consistent with the above referenced resource protection policies of both the Coastal Act and LUP, all sensitive riparian habitat areas on site that will be disturbed as a result of proposed development should be revegetated and restored. Therefore, the Commission finds that **Special Condition One (1)** is necessary to ensure that adverse effects to riparian habitat and marine resources from increased erosion and sedimentation are minimized. Specifically, **Special Condition One (1)** requires that prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, a detailed Riparian Habitat Restoration Plan and Monitoring Program, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for all areas of the project site either

temporarily disturbed by grading and construction activities or permanently displaced due to the installation of the rip rap. Within 60 days of the issuance of this coastal development permit, the applicant shall commence implementation of the approved riparian habitat restoration and mitigation plan. The Executive Director may grant additional time for good cause.

The Restoration Plan required pursuant to **Special Condition One (1)** shall provide for the restoration of riparian habitat permanently displaced by the proposed development at a 3:1 or greater ratio (including, but not limited to, the approximately 50 sq. ft. area where rip rap has been installed). Areas where riparian and native vegetation have been either temporarily disturbed or removed due to construction activities shall be replanted with appropriate riparian or native plant species in the same location appropriate for an oak woodland/riparian area. The mitigation areas shall be delineated on a site plan and shall be located in the same vicinity of the project site. All invasive and non-native plant species shall be removed from the stream channel/riparian vegetation corridor within the Restoration Plan area. The stream channel/riparian vegetation corridor shall be revegetated with native plant species appropriate for both riparian and oak woodland habitat areas. In addition, **Special Condition One (1)** also requires the applicant implement a five year monitoring program to ensure the success of the replanting.

The Commission finds that the proposed project, only as conditioned, will serve maintain and enhance the quality of coastal waters and minimize impacts to environmentally sensitive habitat area, consistent with Sections 30230, 30231, 30236, and 30240 of the Coastal Act.

C. Hazards and Geologic Stability

Coastal Act Section **30253** states in part:

> ***New development shall:***
>
> ***(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
>
> ***(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The Los Angeles County Department of Public Works (LACDPW) is requesting approval (in follow-up to a previously issued emergency permit) for remediation of an active slope failure with approximately 18 cu. yds. of rock rip rap within an approximately 50 sq. ft. area of an unnamed natural drainage. The Subject site is located at the intersection of Fairside Road and Ingleside Way (Fairside Road Mile Marker 0.29) in an area of the Santa Monica Mountains that is densely developed with residential development known as the *Malibu Bowl* Small Lot Subdivision. All proposed development has been previously completed pursuant to Emergency Permit 4-05-170-G (LACDPW) which was issued on January 12, 2006. The emergency permit granted temporary authorization of the work only and permanent retention of the development requires the issuance of a follow-up regular coastal development permit from the California Coastal Commission. This application was submitted by the County in follow-up to their emergency permit in order to request permanent authorization for the work that was temporarily authorized by Emergency Permit 4-05-170-G.

The existing culvert on site runs south to north under Fairside Road and outlets on a moderately steep slope which descends in a northerly direction from Fairside Road. During the 2005 winter storm season, the slope immediately below the culvert outlet was subject to significant erosion as a result of increased amounts of stormwater runoff. The County's engineers subsequently determined that the public road was in imminent danger of failure due to slope failure if the erosion were to continue. On January 12, 2006, Emergency Permit 4-05-170-G was issued for the placement of approximately 18 tons of rip rap within an approximately 50 sq. ft. area immediately downslope of the existing culvert outlet. The Los Angeles County Department of Public Works (LACDPW) has determined that the permanent retention of the previously installed rip rap is necessary to ensure the continued stability of the slope supporting Fairside Road and Ingleside Way and in order to maintain the public's ability to use these roads for vehicular traffic and for fire safety access.

However, the Commission also notes that the proposed development, although necessary to remediate a hazardous eroding slope condition, will still not eliminate the potential for erosion of the steep slope on the subject site. The Commission finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to plant all disturbed areas of the site with native plants compatible with the surrounding riparian/oak woodland habitat. Further, in past permit actions, the Commission has found that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foliage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize steep slopes, such as the slopes on the subject site, and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foliage weight but also by their low irrigation and maintenance

requirements. Therefore, in order to ensure the stability and geotechnical safety of the site, **Special Condition One (1)** specifically requires that all proposed disturbed areas on subject site be stabilized with native vegetation appropriate for a riparian/oak woodland habitat area.

Further, the proposed project, as conditioned to ensure that the disturbed slopes on sites are revegetated with native vegetation, has been designed to ensure slope stability on site to the maximum extent feasible. However, the Coastal Act recognizes that certain development projects located in geologically hazardous areas, such as the subject site, still involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the foreseen possibility of erosion, flooding, and slope failure, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition Two (2)** requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

D. Local Coastal Program

Section 30604 of the Coastal Act states:

> ***a) 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 Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and are accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not

prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

E. CEQA

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 incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

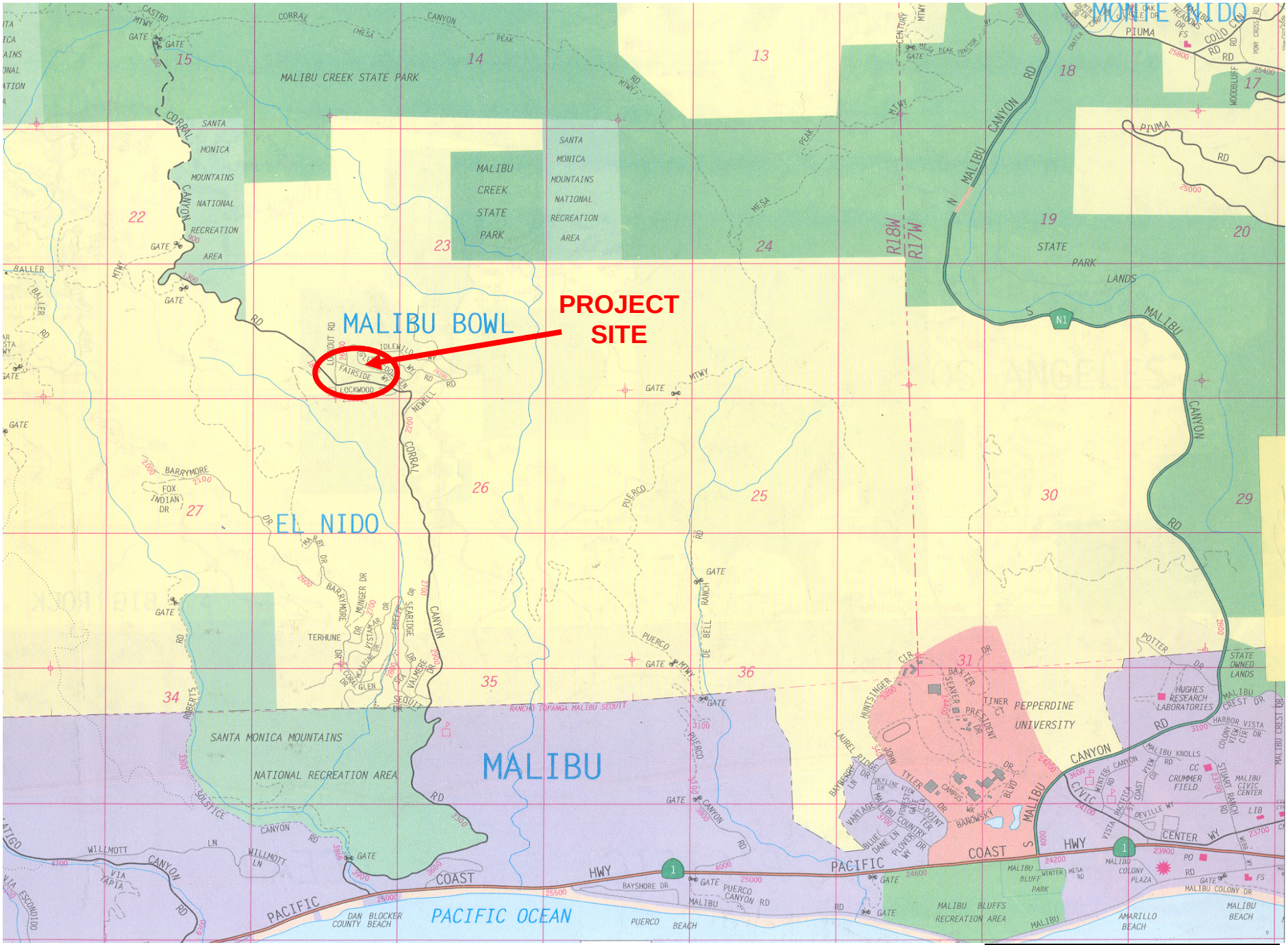


EXHIBIT 1
CDP 4-06-065 (LACDPW)
Vicinity Map

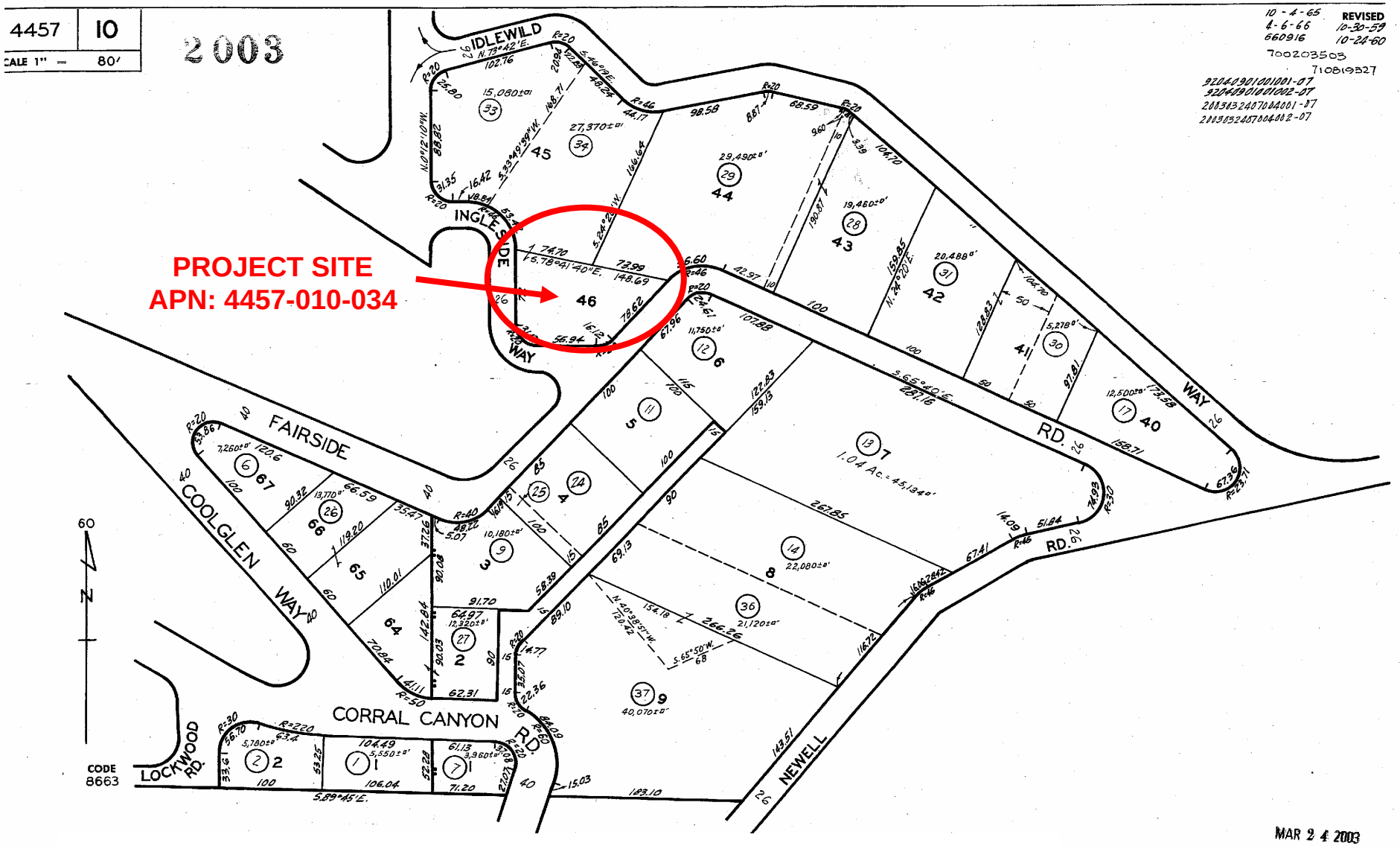
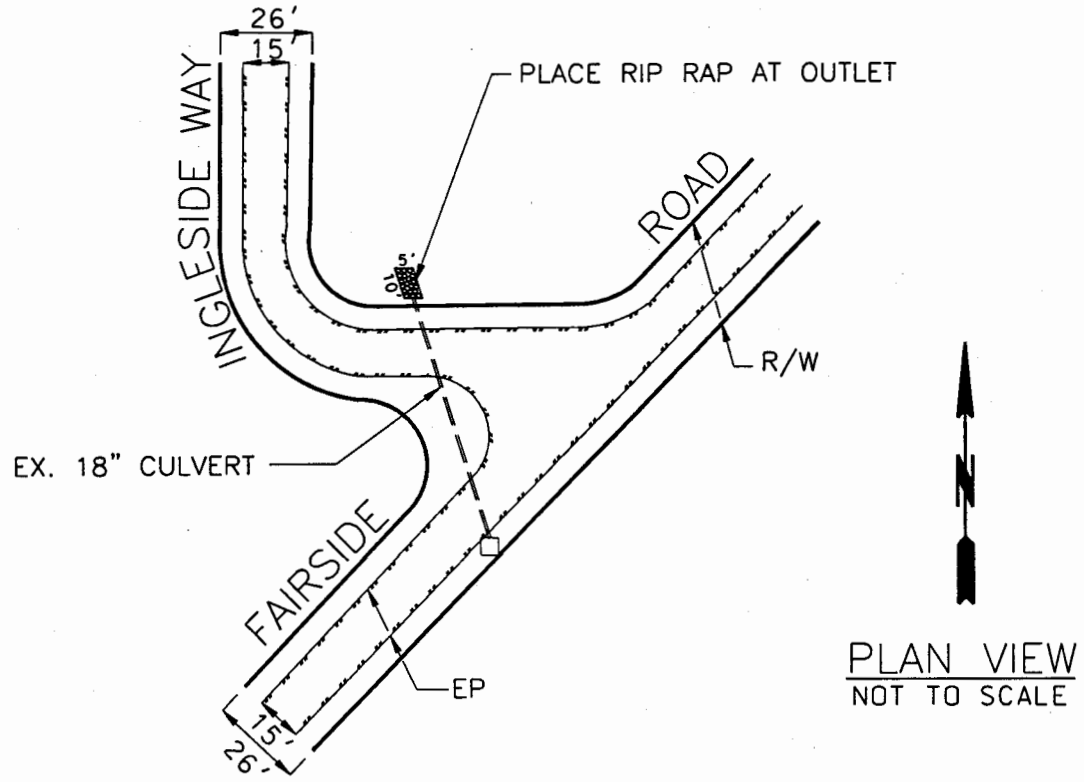
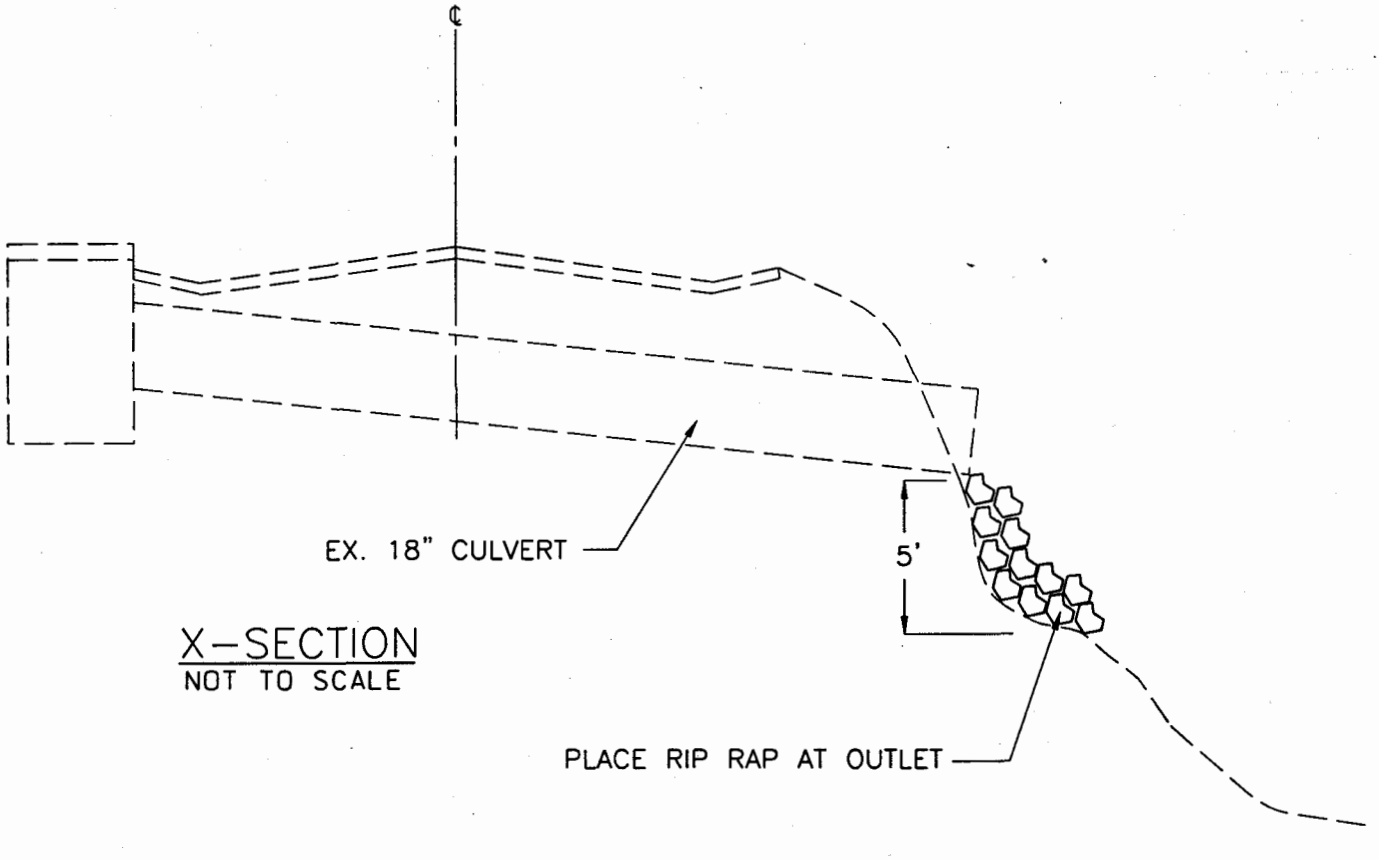


EXHIBIT 2
CDP 4-06-065 (LACDPW)
Parcel Map



PLAN VIEW
NOT TO SCALE



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FAIRSIDE ROAD @ MM 0.29 (REVISION FOR WINTE

EXHIBIT 3
CDP 4-06-065 (LACDPW)
Site Plan and Cross Section