

**CALIFORNIA COASTAL COMMISSION**

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

# Tu15a

Submitted: 2/27/07  
Staff: Shana Gray  
Staff Report: 3/22/07  
Hearing Date: 04/10/07  
Commission Action:

**STAFF REPORT: REVOCATION REQUEST**

**APPLICATION NO.:** R-4-00-147-A1

**APPLICANT:** Tim and Kerry Parker

**PROJECT DESCRIPTION: (AMENDMENT)** (APPROVED February 14, 2007) Construction of a 20-foot long, maximum six-foot high wrought iron electric gate across a driveway and removal of an unpermitted manual gate in approximately the same location. The project further includes installation of a 3-ft high key pad and 1" conduit immediately adjacent to the paved road to house the electrical and telephone connections to the electrical gate. The project would not entail landform alteration or removal of vegetation. The project includes a commitment that public access shall not be impeded around the gate.

**AMENDING: (ORIGINAL PROJECT)** (APPROVED June 15, 2001) Construct a 3,630 sq. ft., two story, 21-foot high, single family residence with 776 sq. ft. attached garage, septic system, water well, swimming pool, jacuzzi, pave access road and driveway, temporary construction trailer, and 136 cu. yds. of grading (68 cu. yds. cut, 68 cu. yds. fill). The project further entails revegetation of an abandoned spur road on the subject parcel.

**PROJECT LOCATION:** 2240 Latigo Canyon Road, (APN 4465-006-4418), Santa Monica Mountains, Unincorporated Los Angeles County

**PERSON REQUESTING REVOCATION:** Kristin Blake, 23852 Pacific Coast Highway #761, Santa Monica Mountains, Los Angeles County.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permit 4-00-147 (Los Angeles County); I.K. Curtis Services, Inc. Aerial Photograph dated 1976; I.K. Curtis Services, Inc. Aerial Photograph dated 1977; Los Angeles County Superior Court, West District, Case No. 069583 and 073562, Judgment on All Actions and Proceedings, March 16, 2007.

**MOTION & RESOLUTION:** Page 6

## **SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission **deny** the request for revocation on the basis that no grounds have been shown to exist for revocation under Section 13105 of the Commission's regulations.<sup>1</sup> The party requesting revocation contends that grounds for revocation in Section 13105(a) exist because the applicant submitted inaccurate, erroneous and incomplete information to the Commission in connection with coastal development permit amendment application 4-00-147-A1. The request for revocation does not assert that grounds for revocation in Section 13105(b) exist.

The request for revocation, submitted by Kristin Blake on February 27, 2007, asserts sixteen grounds for revocation under Section 13105(a), claiming that the applicant[s] intentionally submitted erroneous and/or incomplete information. The standard of review of this revocation request, under Section 13105(a) of the Commission's regulations, can be reduced to three essential elements or tests, all of which must be satisfied for the Commission to grant the request:

Test 1: Did the applicants for coastal development permit amendment 4-00-147-A1 (Tim and Kerry Parker) include inaccurate, erroneous or incomplete information in connection with their application?

Test 2: If the applicants included inaccurate, erroneous or incomplete information, was the inclusion intentional?

Test 3: If the answers to Test 1 and Test 2 are yes, would accurate and complete information have caused the Commission to require additional or different conditions or to deny the application?

The full text of the revocation request is attached as Exhibit 1 to this staff report, and Section 13105(a) analyses corresponding to each of the sixteen stated grounds for revocation are provided in Section C.1 of this report. As detailed in Sections C.1 and C.2 of this report, staff recommends that the Commission find that, for fourteen of the sixteen stated grounds, the party requesting revocation has not demonstrated the inclusion of erroneous or incomplete information in connection with the coastal development permit amendment application. Thus, those 14 grounds for revocation do not meet Tests 1 or 2. Additionally, most of those 14 grounds assert facts that, even if true, would not involve relevant information for the purposes of determining whether the proposed amendment to construct a gate across a roadway was consistent with the Chapter 3 policies of the Coastal Act. Thus, there could be no finding that the alleged corrected and completed information would have caused the Commission to require additional or different conditions or to deny the application. Consequently, these allegations would not satisfy Test 3, even if they satisfied Tests 1 and 2. Therefore, these fourteen grounds are not legitimate grounds for revocation under Section 13105(a) of Title 14 of the California Code of Regulations.

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<sup>1</sup> All further numerical section references are to the Commission's regulations in Title 14 of the California Code of Regulations.

However, grounds 6 and 14 do assert that the applicant made affirmative statements that are demonstrably false. In respect to these alleged grounds, the applicant did provide erroneous and information, and these grounds would meet Test 1. The erroneous or incomplete information at issue in these grounds is with regard to the public's ability to pass around the gate and information provided regarding communication between the applicant and the Commission's enforcement staff. These items are addressed below.

Staff finds that there was inclusion of erroneous statements during the Commission hearing as alleged in revocation ground number six. The applicant provided inaccurate information with regard to the width of the area on the side of the gate for passage. The area of passage around the gate is approximately 4 feet in width, rather than six feet as stated by the applicant at the public hearing. Under Test 2, the Commission must consider whether the applicant *intentionally* included inaccurate, erroneous or incomplete information. Establishing that the applicant intentionally provided inaccurate or erroneous information is challenging in this case. The party requesting revocation has not presented any circumstances or evidence that indicate that the applicant intentionally provided information that is inaccurate, erroneous, or incomplete information in connection with the subject coastal development permit amendment application. At the hearing, the Commission requested additional information of the applicant regarding the applicant's willingness to maintain non-vehicular access around the gate. The exact width on the side of the gate was not information that staff had requested from the applicant previously, as there was not substantial evidence of public prescriptive use along this road. Staff had evaluated the width of the area next to the gate only to the extent that the applicants asserted that they would not impede non-vehicular public use and staff determined it to be sufficient for pedestrian or biker passage. Given that there were no surveyed plans at hand, the applicant's estimate that resulted in a 2-foot difference seems reasonable, and there is no indication that the applicant intentionally provided incorrect information. Therefore, the grounds for revocation regarding this issue do not meet Test 2 and would not be legitimate grounds for revocation under Section 13105(a) of Title 14 of the California Code of Regulations.

In addition, regardless of whether erroneous information was presented intentionally or otherwise, the Commission finds that such information is only relevant to the extent that it would have modified the public prescriptive rights analysis. Public use of the subject roadway was addressed in the staff report and addendum. Staff did not find evidence of a recognized public trail system on the subject roadway, therefore public access can only be established under public prescriptive rights laws. Nine letters submitted to the Commission stated that their use of the property was prior to 1972 and three letters either did not indicate a date or provided dates of use after 1972. The letters that asserted five years of use prior to 1972 did not specify the extent, scope, exact location of their use, or whether their use was without the owners' consent. Although these letters suggest a period of use in the past, the evidence does not by itself establish substantial public use of the specific roadway at issue without the owners consent. Given the limited nature of the correspondence, the Commission concluded that these letters did not provide substantial evidence of implied dedication at the subject site.

Because the Commission did not find that the potential for public prescriptive rights exists, an equestrian trail was not required. Therefore, the Commission finds that although the information with respect to the width around the gate was not accurate it would not have resulted in additional conditions or denial of the coastal development permit. Thus, even if the applicant had intentionally provided inaccurate information regarding the width, provision of accurate information regarding this issue would not have altered the Commission's decision on the coastal development permit. Therefore this ground does not meet Test 3, even if Tests 1 and 2 were satisfied.

Additionally, pursuant to revocation ground number 14, the applicants did provide erroneous and/or incomplete information relative to communications with Enforcement staff, and therefore this ground for revocation meets Test 1. Further, it is presumed that such statements were intentional, given that the applicants would have direct knowledge of such communications, and therefore this ground for revocation also meets Test 2. However, communications with Commission Enforcement staff and/or the violations themselves are not relevant for the purposes of determining whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Discussions the applicant had with Enforcement staff about alleged violations would not have changed the Commission's action. Thus, the ground for revocation regarding this issue does not meet Test 3 and would not be legitimate grounds for revocation under Section 13105(a) of the California Code of Regulations.

Staff recommends that the Commission deny the request for revocation on the basis that no grounds exist for revocation under either Section 13105(a) or (b).

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**PROCEDURAL NOTE:** The California Code of Regulations, Title 14, Section 13105 states that the grounds for the revocation of a coastal development permit are as follows:

Grounds for revocation of a permit shall be:

***a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application;***

***b) Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application. 14 Cal. Code of Regulations Section 13105.***

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**REVOCATION REQUEST CONTENTIONS:**

The request for revocation contends that grounds for revocation in Section 13105(a) exist because the applicant submitted inaccurate, erroneous and incomplete information to the Commission in conjunction with the coastal development permit application with regard to sixteen separate grounds. The full text of the revocation request is attached as Exhibit 1 to this staff report and Section 13105(a) analyses corresponding to each of the sixteen stated grounds for revocation are provided in Section C.1 of this report. The revocation request can be categorized into six issue areas, as follows:

- 1) The party requesting revocation asserts that the applicant[s] intentionally provided incomplete and inaccurate information by omitting information regarding the fact that the applicant[s] deny all access along the road by use of 'no trespassing' signage, personal harassment, harassment by household pets, removal of unspecified signage along the roadway, and other unspecified obstructions of the roadway (See Exhibit 1, Grounds 1, 2, 3, 4, 7 (partial), and 12).
- 2) The revocation request contends that the applicant[s] submitted erroneous information regarding the size and placement of the gate and that the applicant[s] failed to provide complete information regarding other aspects of the project description, including the installation of a key pad and trenching for conduit, and the fact that some of those aspects were required by court order. The revocation request implies that the accurate information would demonstrate an adverse impact to the ability of members of the public to pass around the gate (See Exhibit 1, Grounds 5, 6, 15, and 16)
- 3) The revocation request contends that the applicant[s] intentionally provided incomplete and inaccurate information by omitting information that (a) the irrevocable deed restriction recorded against the applicants' property pursuant to a requirement in CDP 4-00-147 limits fencing to within 50 feet of the residence and (b) Commission staff had requested that the Parkers place their proposed gate within that 50 foot limit. (See Exhibit 1, Grounds 8 and 9)
- 4) The revocation request contends that erroneous information was provided regarding the use, existence, and suitability of alternative access routes. Staff presumes these grounds are intended to support an argument that public prescriptive rights exist over the project site by indicating that the road has been historically used by vehicles, hikers, & bikers and that it is an easier route to travel and access than McReynolds Road (See Exhibit 1, Grounds 7(partial), 10, and 11)
- 5) The revocation request contends that the applicant[s] provided erroneous information regarding communications with Commission Enforcement Unit staff regarding Coastal Act violations on the subject property. (See Exhibit 1, Ground 14)
- 6) The revocation request contends that the applicant[s] failed to provide complete and accurate information by omitting information from the Superior Court regarding erroneous statements made by a neighbor about the subject road. (See Exhibit 1, Ground 13)

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## **EXHIBITS**

- Exhibit 1. Kristin Blake Revocation Request
  - Exhibit 2. CDP 4-00-147-A1 Staff Report
  - Exhibit 3. CDP 4-00-147-A1 Addendum
  - Exhibit 4. CDP 4-00-147-A1 Notice of Intent
  - Exhibit 5. Gate Location
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## **I. STAFF RECOMMENDATION**

### **DENY REVOCATION**

**MOTION:**      *I move that the Commission grant revocation of Coastal Development Permit Amendment No. 4-00-147-A1.*

### **STAFF RECOMMENDATION OF DENIAL:**

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

### **RESOLUTION TO DENY REVOCATION:**

The Commission hereby denies the request for revocation of the Commission's decision on coastal development permit amendment no. 4-00-147-A1 on the grounds that there was no:

- (a) intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that

accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application; or

- (b) failure to comply with the notice provisions of § 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application.

**STAFF NOTE:**

A revocation of a permit rescinds a previously granted permit. Even if the applicant has undertaken construction of the project, if the Commission revokes the permit, the applicant is required to stop work and if wishing to continue, to reapply for a coastal development permit for the project. If the evidence shows that there are grounds for revocation, the Executive Director, upon receipt of a request for revocation, can order the project to stop work. Section 13107 provides, in part: "Where the executive director determines, in accord with Section 13106, that grounds exist for revocation of a permit, the operation of the permit shall be suspended." In this case, the Executive Director has not determined that grounds exist for revocation and the operation of the permit has not been suspended.

Because of the impacts on an applicant, the grounds for revocation are necessarily narrow. The rules of revocation do not allow the Commission to have second thoughts on a previously issued permit based on information that comes into existence after the granting of the permit, no matter how compelling that information might be. Similarly, a violation of the Coastal Act or the terms and conditions of a permit or an allegation that a violation has occurred are not grounds for revocation under the California Code of Regulations. The grounds for revocation are, of necessity, confined to information in existence at the time of the Commission's action.

## **II. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares as follows:

### **A. PROJECT DESCRIPTION AND BACKGROUND**

On February 14, 2007 the Commission approved, with conditions, Coastal Development Permit Amendment 4-00-147-A1 (Parker) for construction of a 20-foot long (21.5 ft with posts), maximum six-foot high wrought iron electric gate across a driveway and removal of an unpermitted manual gate in approximately the same location. The approved project further includes installation of a 3-ft high key pad and 1" conduit immediately adjacent to the paved road to house the electrical and telephone connections to the electrical gate. The project would not entail landform alteration or removal of vegetation. The project includes a commitment that public access shall not be impeded around the gate. The special conditions for permit amendment 4-00-147-A1 that were required to be satisfied prior to issuance of the permit ("prior to issuance conditions") have not been satisfied, and the permit has not been issued.

The underlying permit, CDP 4-00-147, was approved by the Commission on June 15, 2001, for construction of a 3,630 sq. ft., two story, 21-foot high, single family residence, attached three-car garage, septic system, water well, swimming pool, jacuzzi, paved access road and driveway, temporary construction trailer. The project further included revegetation of an abandoned spur road on the subject parcel. [This spur road was later shown to be burdened by a private easement for passage and was not revegetated]. The Commission's 2001 approval included after-the-fact approval of 136 cubic yards of grading (68 cu. yds. cut, 68 cu. yds. fill) because the ridge top in the building pad area had been lowered one to two feet in elevation to create a roughly level pad without the benefit of a permit. On September 28, 2001, the prior to issuance conditions were met and the permit was issued. The residence was built in 2002.

The subject site is located at 2240 Latigo Canyon Road, approximately 6½ miles northerly of the intersection of Latigo Canyon Road and Pacific Coast Highway, in unincorporated Los Angeles County, near Malibu. The project site is located within an area designated by the certified Malibu/Santa Monica Mountains Land Use Plan as a Wildlife Migration Corridor. The site is developed with a single family residence located approximately 700 feet off of Latigo Canyon Road. Access is via a common road easement that extends approximately 520 feet from Latigo Canyon Road to join a road on the subject parcel which leads to the building pad site. In addition to the road that leads directly to the residence, there is a "spur road" located approximately 100 feet west of the residence. The spur road crosses through approximately 120 feet of the subject parcel, then crosses to the north to adjoin an unimproved road that leads to a network of dirt roadways on adjacent parcels.

Development has occurred on the subject site in non-compliance with the terms, conditions, and previously approved plans of the underlying Coastal Development Permit 4-00-147 including, but not limited to, the following: (1) installation of non-native landscaping in non-compliance with the previously approved landscape plans; (2) failure to remove excess graded (cut) material from the Coastal Zone as specifically required by a special condition of the underlying permit; (3) failure to remove a construction trailer as specifically required by a special condition of the underlying permit; and (4) placement of both chainlink and wooden fencing in a designated wildlife corridor specifically prohibited by a special condition of the underlying permit. Additionally, development has occurred on the subject site without the required coastal development permit, including but not limited to installation/construction of an unpermitted gazebo, shed, and manual gate. Except for the removal of the manual gate, the applicant did not propose to address any of the above referenced unpermitted development or other violations involving non-compliance with the previously approved plans and conditions of the underlying coastal permit as part of the project approved through amendment 4-00-147-A1. Therefore, the Commission's enforcement division will investigate further and take appropriate action to address the unpermitted development.



## **B. REVOCATION REQUEST CONTENTIONS**

A revocation request was submitted by Kristin Blake on February 27, 2007, asserting sixteen grounds for revocation of coastal development permit amendment 4-00-147-A1 pursuant to Section 13105(a).<sup>2</sup> The request for revocation contends that grounds for revocation in Section 13105(a) exist because the applicant submitted inaccurate, erroneous and incomplete information to the Commission in the coastal development permit application. The full text of the revocation request is attached as Exhibit 1 to this staff report, and Section 13105(a) analyses corresponding to each of the sixteen stated grounds for revocation are provided in Section C.1 of this report. The request for revocation does not assert that grounds for revocation in Section 13105(b) exist. The revocation request can be generally summarized as follows:

- 1) The party requesting revocation asserts that the applicant[s] intentionally provided incomplete and inaccurate information by omitting information regarding the fact that the applicant[s] deny all access along the road by use of 'no trespassing' signage, personal harassment, harassment by household pets, removal of unspecified signage along the roadway, and other unspecified obstructions of the roadway (See Exhibit 1, Grounds 1, 2, 3, 4, 7 (partial), and 12).
- 2) The revocation request contends that the applicant[s] submitted erroneous information regarding the size and placement of the gate and that the applicant[s] failed to provide complete information regarding other aspects of the project description, including the installation of a key pad and trenching for conduit, and the fact that some of those aspects were required by court order. The revocation request implies that the accurate information would demonstrate an adverse impact to the ability of members of the public to pass around the gate (See Exhibit 1, Grounds 5, 6, 15, and 16)
- 3) The revocation request contends that the applicant[s] intentionally provided incomplete and inaccurate information by omitting information that (a) the irrevocable deed restriction recorded against the applicants' property pursuant to a requirement in CDP 4-00-147 limits fencing to within 50 feet of the residence and (b) Commission staff had requested that the Parkers place their proposed gate within that 50 foot limit. (See Exhibit 1, Grounds 8 and 9)
- 4) The revocation request contends that erroneous information was provided regarding the use, existence, and suitability of alternative access routes. Staff presumes these grounds are intended to support an argument that public prescriptive rights exist over the project site by indicating that the road has been historically used by vehicles, hikers, & bikers and that it is an easier route to travel and access than McReynolds Road (See Exhibit 1, Grounds 7(partial), 10, and 11)
- 5) The revocation request contends that the applicant[s] provided erroneous information regarding communications with Commission Enforcement Unit staff regarding Coastal Act violations on the subject property. (See Exhibit 1, Ground 14)

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<sup>2</sup> All numerical section references in these findings are to the Commission's regulations in Title 14 of the California Code of Regulations.

- 6) The revocation request contends that the applicant[s] failed to provide complete and accurate information by omitting information from the Superior Court regarding erroneous statements made by a neighbor about the subject road. (See Exhibit 1, Ground 13)

The request for revocation does not assert that grounds for revocation in Section 13105(b) exist.

## **C. GROUNDS FOR REVOCATION**

Pursuant to Title 14 of the California Code of Regulations (14 C.C.R.) Section 13108(d), the Commission has the discretion to grant or deny a request to revoke a coastal development permit if it finds that any of the grounds specified in 14 C.C.R. Section 13105 exist. 14 C.C.R. Section 13105 establishes that the grounds for revoking a permit are: (1) the intentional inclusion of inaccurate, erroneous or incomplete information in connection with a permit application where accurate and complete information would have caused the Commission to act differently; or (2) that there was a failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently.

### **1. Analysis of the Revocation Request's Contentions with Respect to Section 13105(a)**

The South Central Coast District office has received a written request for revocation of Coastal Development Permit amendment 4-00-147-A1 from Kristin Blake, a neighbor who owns an adjacent property to the north of the subject site and whom the Superior Court has ruled has a private easement on the road across which the gate approved in 4-00-147-A1 would stretch. The request for revocation asserts sixteen grounds for revocation under Section 13105(a), claiming that the applicant intentionally submitted erroneous and/or incomplete information. Grounds for revocation under Section 13105(a) of the Commission's regulations can be reduced to three essential elements or tests, all of which must be satisfied for the Commission to grant revocation:

Test 1: Did the applicants include inaccurate, erroneous or incomplete information in connection with their coastal development permit application?

Test 2: If the applicants included inaccurate, erroneous or incomplete information, was the inclusion intentional?

Test 3: If the answers to both Test 1 and Test 2 are yes, would accurate and complete information have caused the Commission to require additional or different conditions or to deny the application?

The following Section 13105(a) analysis addresses each of the sixteen grounds for revocation asserted in the February 27, 2007 revocation request.

- 1) *“Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that he has been aggressively denying all access, including vehicular access, since 2001. This is true even after rulings by the Superior Court that the roadway must be kept open.”*

Section 13105(a) Analysis. This ground for revocation did not specify what is meant by “aggressive.” It is known that the applicants installed an unpermitted chainlink gate and placed a ‘no trespassing’ sign on the gate. This was clearly intended to discourage vehicular access along the subject roadway. The applicants disclosed the presence of the unpermitted gate to staff, and the removal of the unpermitted gate was added to the project description by the applicants. One ‘No Trespassing’ sign was observed on the gate during the site visit. The applicants asserted to staff that the existing chainlink gate remains open as a result of the court ruling that a gate may be allowed only if the applicants obtain a coastal development permit. Permit amendment 4-00-147-A1 was submitted in response to this requirement. Staff has no solid evidence as to whether the gate remains open permanently or whether it is closed on occasion.

Since the unpermitted gate was recognized by the Commission, the applicants’ past practice of restricting access along the roadway was known. In this case, there is no evidence that the applicants included inaccurate, erroneous or incomplete information relative to their past practices, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Additionally, the Commission was made aware of the above referenced assertion regarding the Parkers’ past practices prior to the Commission’s action on the amendment via 4-00-147-A1 Staff Report Exhibit 5, *Correspondence*, and through testimony at the public hearing. Therefore, this assertion was disclosed and available for consideration by the Commission at the time the decision was made, further proving that the information could not have changed the Commission’s position, since it did not in fact do so. Since the requester’s assertion would not modify the analysis as to the project’s consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground for revocation does not meet Test 3.

Further, the court ruling only established the existence of *private* easements, and the ruling expressly allowed for the construction of a gate if it received a valid coastal development permit. Since the Commission is not charged with responsibility for, or even authorized to, enforce private easements, knowledge of the Superior Court ruling would not have changed the Commission’s decision. Even if the Commission were tasked with the enforcement of private easements, the court’s authorization for the gate shows that the gate is not, for purposes of the issues litigated in that case, inconsistent with the easement. Thus, the information about the existence of private easements could not have changed the Commission’s action.

The Commission finds that the above assertion is not relevant to the Coastal Act analysis as to whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act because limiting access along the roadway since 2001 would not change whether the roadway was part of an existing or planned trail system, nor would it modify the public prescriptive rights analysis. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

Also note, the applicants provided written correspondence to the Coastal Commission that they would not impede public access and included this as part of the project description. Further, both public access around the gate and public access signage on the gate are required by Special Condition 12 of CDP 4-00-147, as amended. Though the reported historic activities are not subject to the permit, if the applicants hinder public access at the site at any time in the future, it would be considered a violation of the coastal development permit and subject to further investigation by the Commission's Enforcement Division. Thus, the Commission's action already included provisions to protect access, and additional information about the applicant's past practices would not have altered the Commission's action.

- 2) *"Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that he places NO TRESPASSING signs and verbally and physically attacks anyone who uses the roadway. He has physically and verbally attacked hikers, horseback riders and other users of that roadway. Enclosed find a copy of the police report (Mr. Parker attacked me [Kristin Blake] and my horse on Nov 2, 2005 with a 4 wheel motorcycle)"*

Section 13105(a) Analysis. The party requesting revocation submitted a report that she filed regarding an incident with Mr. Parker while riding her horse. It is not clear what action was taken in response to this report. The report by itself does not indicate a pattern of behavior of the applicant to verbally and physically attack anyone who uses the roadway. The Commission finds that sufficient evidence has not been provided that such attacks have occurred. Even assuming, for the sake of argument, that it is true that Mr. Parker "physically attacks anyone who uses the roadway," the applicants did not provide inaccurate or erroneous information relative to this fact, as they did not provide *any* information about such assertions at all; and with respect to the possibility that they provided incomplete information relative to this fact, since this information is irrelevant to the application that was before the Commission, and Mr. Parker was not asked about it, Mr. Parker's failure to disclose it would not constitute incomplete information either. (The placement of "No Trespassing" signs was addressed in response to the prior allegation and is addressed again separately below.) Therefore, there is no evidence that the applicants included inaccurate, erroneous or incomplete information, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information.

Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Further, Mr. Parker's behavior has no bearing on whether the proposed gate would be consistent with the policies in Chapter 3 of the Coastal Act, which formed the sole basis for the Commission's decision. In addition, because the disclosure of this information is not relevant, it could not have changed the Commission's action. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

In regards to the existing "No Trespassing" sign, staff visited the site on February 7, 2007, and verified that a "Private Property/No Trespassing" Sign was present upon one of the posts of the unpermitted gate. The presence of the sign was not disclosed to staff prior to the site visit and such a sign is clearly intended to discourage vehicular access from traversing the subject roadway. However, as stated above, since the unpermitted gate was recognized by the Commission, the applicants' past practice of restricting access along the roadway was known. Additionally, the Commission was made aware of the above referenced assertion regarding the Parkers' past practices prior to the Commission's action on the amendment via 4-00-147-A1 Staff Report Exhibit 5, *Correspondence*, and through testimony at the public hearing. Therefore, this assertion was disclosed and available for consideration by the Commission at the time the decision was made, further proving that the information could not have changed the Commission's position, since it did not in fact do so. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

Also note, this sign is required to be removed as part of the public access signage plans required by Special Condition 12 of the amendment. Additionally, the applicants provided written correspondence to the Coastal Commission that they would not impede public access and included this as part of the project description. Further, both public access around the gate and public access signage on the gate are required by Special Condition 12 of CDP 4-00-147, as amended. Though the reported historic activities are not subject to the permit, if the applicants hinder public access at the site at any time in the future, it would be considered a violation of the coastal development permit and subject to further investigation by the Commission's Enforcement Division. Thus, the Commission's action already included provisions to protect access, and additional information about the applicant's past practices would not have altered the Commission's action.

- 3) *"Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that he sets his dogs on anyone who uses the roadway. (enclosed find a picture of Mr. Parker's aggressive dog)"*

Section 13105(a) Analysis. Even assuming, for the sake of argument, that it is true that Mr. Parker “sets his dogs on anyone who uses the roadway,” the applicants did not provide inaccurate or erroneous information relative to this fact, as they did not provide *any* information about the dogs at all; and with respect to the possibility that they provided incomplete information relative to this fact, since this information is irrelevant to the application that was before the Commission, and Mr. Parker was not asked about it, Mr. Parker’s failure to disclose it would not constitute incomplete information either. Therefore, there is no evidence that the applicants included inaccurate, erroneous or incomplete information, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Mr. Parker’s behavior with his dogs has no bearing on whether the proposed gate would be consistent with the policies in Chapter 3 of the Coastal Act, which formed the sole basis for the Commission’s decision. In addition, because the disclosure of this information is not relevant, it could not have changed the Commission’s action.

Further, the Commission was specifically made aware of both of the above assertions (by the party requesting this revocation) through testimony at the public hearing, further proving that the information could not have changed the Commission’s position, since it did not in fact do so. Since the alleged complete and accurate information would not modify the analysis as to the project’s consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

- 4) *“Mr. Parker erroneously claimed to the Coastal Commissioners that his dogs were “gentle”. (Enclosed find the picture of the snapping “gentle” dog on the road.)”*

Section 13105(a) Analysis. The applicant did represent to staff that his dogs were non-aggressive and friendly. The photograph provided of the dog is not very persuasive evidence of aggression as asserted in this ground for revocation. As this and the revocation requester’s testimony are the only items submitted in connection with this claim, there is insufficient evidence for the Commission to conclude that the applicants included inaccurate, erroneous or incomplete information in stating the dog was gentle, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Even assuming, for the sake of argument, that it is true that Mr. Parker’s dogs are not gentle, the behavior or disposition of Mr. Parker’s dogs has no bearing on whether the proposed gate would be consistent with the policies in Chapter 3 of the Coastal Act, which formed the sole basis for the Commission’s decision. Because the disclosure of this information is not relevant, it could not have changed the Commission’s action.

Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

- 5) *"Mr. Parker erroneously claimed that the new gate, which would replace the unpermitted gate, would be the same size as the current gate. As shown by the enclosed picture, the current gate plus posts is 21'. The new gate will be 20' + 1' (two posts) + 2' (motor). Mr. Parker's application shows that 6" of the motor will overlap one post. This makes the new gate 22' 6". Right now, the space to the side of the gate is 4' (see photographs) which is blocked by vegetation and a steep down slope (cliff). A horse cannot pass to the side of the gate now and there would be even less room when he has the new, larger gate + motor in place."*

Section 13105(a) Analysis. The drawings submitted by the applicant (Exhibit 4 of the January 25, 2005 staff report) indicate that the gate, including both posts, has a width of 21.5 ft across the roadway. As proposed, the gate will replace an existing unpermitted chainlink gate in the same location. Staff measured the unpermitted gate at approximately 21.5 feet across the roadway. The motor would be located on the northeast side of the gate which is the opposite side of the gate from the access pathway. The Commission concludes that the area to the side of the existing gate measures approximately 4 feet in width, between the gate post and the vegetation/slope. Based on the project plans and project description, the 4-ft. width will not be reduced.

The project information submitted in conjunction with the proposed gate was reviewed by staff and determined to be accurate. Therefore, the application did not include inaccurate, erroneous or incomplete information of the sort alleged in conjunction with the coastal development permit amendment. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

- 6) *"Mr. Parker erroneously stated that the side pass by the gate is now "more than six feet." This is untrue. The current side pass is 4'. The side pass will be 3'6" with the new gate. This does not take into account the interference by overhanging vegetation nor the interference by the key pad and trenching that the Parkers will have to do to install the key pad."*

Section 13105(a) Analysis. The side pass will not be reduced to 3.5 feet. The project plans indicate that the electric gate would be placed in the same location where the existing unpermitted gate resides and would be the same size as the existing gate. Therefore the area to get around the gate would not be reduced from what presently exists. An area of approximately four feet would allow for pedestrian and biker passage around the gate. Based on staff's reports and site visit, it is clear that vegetation does not block access around the gate, and the applicants have indicated that they will not impede access around the gate as part of the project description. The key pad and trenching are proposed on the opposite side of the road and would not adversely impact public access. Therefore, there is no evidence that the applicants included inaccurate,

erroneous or incomplete information relative to the project plans, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information of that sort. Therefore, the above assertion regarding the extent of the project does not meet the grounds for revocation pursuant to the first two tests.

However, the Commission concurs that the statement that the side pass around the gate is more than six feet is incorrect. The area of passage around the gate is approximately 4 feet in width, rather than six feet, as stated by the applicant at the public hearing. (Note, the side pass around the gate was not previously quantified by staff since there was no substantial evidence of public prescriptive rights and the area around the unpermitted gate was determined to be sufficient to continue to allow wildlife passage.) Thus, the Commission notes the inclusion of erroneous statements during the Commission hearing relative to the coastal development permit amendment, with regard to the width of the area on the side of the gate for public to pass around the gate. Therefore the Commission finds that the applicants included inaccurate, erroneous or incomplete information relative to the width of the area around the gate in connection with the application, and therefore this ground for revocation did meet Test 1.

Pursuant to Test 2, the Commission must consider whether the applicant *intentionally* included inaccurate, erroneous or incomplete information. Establishing that the applicant intentionally provided inaccurate or erroneous information is challenging in this case. The requestor has not presented any circumstances or evidence that indicate the applicant intentionally provided information that is inaccurate, erroneous, or incomplete relative to the subject coastal development permit amendment. At the hearing, the Commission requested additional information of the applicant regarding the applicant's willingness to maintain non-vehicular access around the gate. The exact width on the side of the gate was not information that staff had requested from the applicant previously, as there was not substantial evidence of public prescriptive use along this road. Staff had evaluated the width of the area next to the gate only to the extent that the applicants asserted that they would not impede non-vehicular public use and found it sufficient for pedestrian or biker passage. Given that there were no surveyed plans at hand, the applicant's estimate that resulted in a 2-foot difference seems reasonable, and there is no indication that the applicant deliberately misstated the width to mislead the Commission with regard to equestrian access.

Based on the considerations above, the Commission finds insufficient evidence to conclude that the applicants *intentionally* provided inaccurate, erroneous or incomplete information in conjunction with the coastal development permit amendment, and therefore this ground for revocation does not meet Test 2 and would not be a legitimate ground for revocation under Section 13105(a) of the California Code of Regulations.



Even assuming that Tests 1 and 2 were confirmed in this case, under Test 3, the Commission must determine whether the complete and accurate information would have caused the Commission to require additional or different conditions or deny the application. Under Test 3, the question is whether the Commission would have modified its decision if the Commission had a clear understanding that the passage around the gate was four feet rather than six feet, where presumably this 2-foot difference would restrict horse passage around the gate.

The issue of width of the side passage was specifically addressed as an issue relative to horse access at the hearing and the Commission did not find evidence of historic equestrian use through the public prescriptive rights analysis. There was some discussion as to whether the width around the gate would be passable. Staff indicated that the width would be passable by pedestrians and mountain bikers and possibly horses. Staff clarified that the recommendation for approval of the gate was based upon the determination that the letters received did not represent substantial evidence of implied dedication at the subject site. It was further clarified that the Commission had the discretion to interpret the submitted evidence on its merit and make a determination that the evidence did constitute substantial evidence of public prescriptive rights. The Commission did not modify the staff determination, and through its approval of the project, found that there was not substantial evidence of implied dedication at the site. However, to address the Commission's concerns regarding non-vehicular public access, the applicant agreed at the hearing to accept a Special Condition (see Exhibit 4, Special Condition 12) of the permit that would require the applicants to maintain an unobstructed area around the gate with public access signage wherein non-vehicular access could continue to be achieved.

In addition, regardless of whether erroneous information was presented intentionally or otherwise, the Commission finds that such information is not relevant to the Coastal Act analysis as to whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Public use of the subject roadway was addressed in the staff report and addendum. The Commission did not find evidence of a recognized public trail system on the subject roadway, therefore public access can only be established under public prescriptive rights laws. Nine letters submitted to the Commission stated that their use of the property was prior to 1972 and three letters either did not indicate a date or provided dates of use after 1972. The letters that asserted five years of use prior to 1972 did not specify the extent, scope, exact location of their use, or whether their use was without the owners' consent. Although these letters suggest a period of use in the past, the evidence does not by itself establish substantial public use of the specific roadway at issue without the owners consent. Given the limited nature of the correspondence, the Commission concluded that these letters did not provide substantial evidence of implied dedication at the subject site.

Because the Commission did not find that the potential for public prescriptive rights exists, an equestrian trail was not required. Therefore, the Commission finds that although the information with respect to the width around the gate was not accurate, complete and accurate information would not have resulted in additional conditions or denial of the coastal development permit. Thus, even if the applicant had intentionally provided inaccurate information regarding the width, provision of complete and accurate information regarding this issue would not have altered the Commission's decision on the coastal development permit.

Therefore, there is no evidence of intentional inclusion of inaccurate or incomplete information pursuant to Test 2, nor would the information at issue, had it been corrected, completed and presented to the Commission, have caused the Commission to impose different conditions or deny the project. Therefore this ground for revocation would not meet Test 3.

- 7) *"Mr. Ainsworth testified that he had been to the property and had not seen any vehicular traffic. Mr. Ainsworth must have been on the road at an unusual time. Enclosed is a note of the time and vehicles, hikers or bikers that used the road on Jan 30, 2007. Mr. Ainsworth failed to mention that the Parkers have created an obstruction on the public access roadway which prevents use by normal (non 4x4) vehicles. This obstruction is blocking at least 90% of the traffic that would normally be using the roadway."*

Section 13105(a) Analysis. The requester's assertions appear to be two-fold: to establish that there is currently public use of the road and to establish that the applicants are presently obstructing most of the public use. This assertion does not specify what type of obstruction is currently blocking access and therefore cannot be evaluated further. The submitted chart showing vehicular use is not evidence of public use of the property since, among other reasons, the cars may more accurately represent localized use by neighbors. In this case, there is no evidence that the applicants included inaccurate, erroneous or incomplete information, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Additionally, public use of the subject roadway was addressed in the staff report and addendum. The Commission did not find evidence of a recognized public trail system on the subject roadway, therefore public access can only be established under public prescriptive rights laws. Nine letters submitted to the Commission stated that their use of the property was prior to 1972 and three letters either did not indicate a date or provided dates of use after 1972. The letters that asserted five years of use prior to 1972 did not specify the extent, scope, exact location of their use, or whether their use was without the owners' consent. Although these letters suggest a period of use in the past, the evidence does not by itself establish substantial public use of the specific roadway at issue without the owners consent. Given the limited nature of the correspondence, the Commission concluded that these letters did not provide substantial evidence of implied dedication at the subject site.

Further, the Commission finds that the above assertion is not relevant to the Coastal Act analysis as to whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Because limiting access along the roadway would not change whether the roadway was part of an existing or planned trail system, nor would it modify the public prescriptive rights analysis, it could not have changed the Commission's action. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

- 8) *"Mr. Parker intentionally gave incomplete information with regard to his irrevocable deed restriction. The Parker's irrevocable deed restriction says that the Parkers may not have any fencing except with a CCC permit and in any case it must be within 50 feet of their house. Enclosed find a copy of Mr. Parker's irrevocable deed restriction."*

Section 13105(a) Analysis. This ground for revocation does not indicate what was asserted or omitted that would constitute inaccurate or incomplete information with regard to the deed restriction. To staff's knowledge, the Parker's did not provide any information, incomplete or otherwise, because the details of the deed restriction were specifically known to staff since the deed restriction was recorded against the property in association with Special Condition 6 of the underlying coastal development permit. As a result, staff did not ask the applicants for additional information on this topic. For these reasons, the Commission finds that the applicants did not give incomplete information with regard to the future improvements deed restriction. In fact, this issue was addressed in the staff report. The applicant is requesting a gate across a road. The gate will stand alone and will not connect to fencing on either side. No fencing is proposed. As provided in this staff report, the gate does not function as a fence because it will stand alone and will not connect to fencing on either side. Special Condition 6 of the underlying permit restricts fencing on the property to within 50 feet of the residence, and requires a coastal development permit for new fencing. However, because the gate would not serve in the capacity of a fence, Special Condition 6 need not be amended to accommodate the gate. Further, Special Condition 10 requires that the gate design be wildlife permeable, the concern for which Special Condition Six was placed on the underlying permit.

In this case, there is no evidence that the applicants included inaccurate, erroneous or incomplete information relative to the existing deed restriction, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Further, this assertion was discussed via Exhibit 5, *Correspondence*, and through testimony at the public hearing, further proving that the information could not have changed the Commission's position, since it did not in fact do so. The Commission was aware of the facts regarding the deed restriction. The Commission concluded in its findings that the gate would not conflict with the

deed restriction, since the gate doesn't constitute a fence. Since the true and complete information regarding the deed restriction was available to the Commission, complete and accurate information could not have changed the Commission's position, since it did not, in fact, do so. Therefore this ground does not meet Test 3.

- 9) *"Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that Steve Hudson (CCC staff) and Shana Gray (CCC staff) requested that he place his gate within the 50 foot limit of his irrevocable deed restriction. Mr. Parker refused this request."*

Section 13105(a) Analysis. With regard to the referenced discussion, staff inquired whether the applicants would be inclined to relocate the gate closer to the residence, in a location off of the subject roadway. The purpose of this inquiry was not (specifically) to find a location within the 50 foot limit established by the deed restriction, but rather to determine whether there was an acceptable alternative that would meet the needs of the applicants and avoid a gate across the roadway altogether. Staff discussed alternative locations for the gate with the applicant. The applicant stated that the purpose of the gate was to prevent vehicular access through the property to provide for the safety of their children at play. The applicant expressed concern that an alternative location closer to the residence would not address fast moving vehicles around the bend in the road, prior to reaching the applicants' driveway. Because the Commission did not find substantial evidence of implied dedication of the roadway by the public, an alternative location was not required. Therefore information regarding alternative locations would have changed the Commission's action.

The applicants did not provide inaccurate or erroneous information relative to this fact, as they did not provide *any* information about the discussion with staff; and with respect to the possibility that they provided incomplete information relative to this fact, since the existence of the reported discussion was not relevant to the Commission's decision, and Mr. Parker was not asked about the discussion, Mr. Parker's failure to disclose it would not constitute incomplete information either. In fact, since these conversations occurred with Commission staff, the applicant may have reasonably felt the information was adequately disclosed. In this case, there is no evidence that the applicants included inaccurate, erroneous or incomplete information relative to discussions with Commission staff, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Further, this assertion was available to the Commission via Exhibit 5, *Correspondence*, and through testimony at the public hearing. Therefore, this assertion was disclosed and available for consideration by the Commission at the time the decision was made, further proving that the information could not have changed the Commission's position, since it did not in fact do so. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

- 10) *"Mr. Parker erroneously claimed that the road did not exist prior to 1977. CCC has received and has on file, persons from the public who rode horses, hiked and drove that roadway starting in 1962. The Superior Court heard extensive testimony regarding the road. The Superior Court ruled that the road had been in existence since 1943 and declared that easements existed on the roadway."*

Section 13105(a) Analysis. As stated in the staff report on CDP amendment application 4-00-147-A1 and the February 9, 2007 addendum, the applicants submitted aerial photographs from I.K. Curtis dated 1976 and 1977. There is no evident connection from Latigo Canyon to the Parker property in the 1976 photograph. However, the 1977 photograph shows a distinct connection as a result of unpermitted grading. The opponents have stated that there was a road in existence but it cannot be seen on the photograph because of canopy cover. Given the lack of evidence, the Commission was unable to confirm the presence of a road. According to documentation submitted by Blake, it appears that an easement for roadway purposes was granted in 1943. Information provided by the applicants and proponents indicate that the Superior Court determined that private easements exists for Blake, Witter and Richardson. The litigation was based upon private easement issues and does not address public prescriptive rights. For the above reasons, the Commission does not have sufficient evidence to conclude that the road existed prior to 1977, despite the letters on file. (Note, the letters on file asserting public use do not specify the route, thereby generating additional uncertainty regarding the existence of this particular connection across the subject roadway.) Thus, it can't be concluded that, in stating the road did not exist prior to 1977, Parker was saying anything erroneous.

In this case, there is no evidence that the applicants included inaccurate, erroneous or incomplete information relative to when the roadway was established, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Regardless, even assuming the road was in existence in 1943 as asserted by the project opponents, its presence is only relevant to the coastal development permit in so far as public prescriptive rights may have been established prior to 1972. And as stated previously, public use of the subject roadway by the public was addressed in the staff report on CDP amendment application 4-00-147-A1 and the addendum. Staff did not find evidence of a recognized public trail system on the subject roadway, therefore public access can only be established under public prescriptive rights laws. Nine letters submitted to the Commission stated that their use of the property was prior to 1972 and three letters either did not indicate a date or provided dates of use after 1972. The letters that asserted five years of use prior to 1972 did not specify the extent, scope, exact location of their use, or whether their use was without the owners' consent. Although these letters suggest a period of use in the past, the evidence does not by itself establish substantial public use of the specific roadway at issue without the owners consent. Given the limited nature of the correspondence, the Commission

concluded that these letters did not provide substantial evidence of implied dedication at the subject site.

Since the date of roadway establishment would not alter whether the roadway was part of an existing or planned trail system, nor would it modify the public prescriptive rights analysis, it could not have changed the Commission's action. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

Additionally, this information was available to the Commission via Exhibit 5, *Correspondence*, and through testimony at the public hearing. Therefore, this assertion was disclosed and available for consideration by the Commission at the time the decision was made, further proving that the information could not have changed the Commission's position, since it did not in fact do so.

- 11) *"Mr. Parker erroneously claimed that McReynolds road was a suitable and better used alternate roadway. This is erroneous because:*

*A) McReynolds road is unsuitable because it has 3 blind corners that make it unsafe for the public.*

*B) McReynolds road is unsuitable because it is steeper than the public access road that goes through the Parker property. The steepness of McReynolds Road make it unsuitable for horses because of the slippery paving and handicapped persons as well as any member of the public who is out of shape.*

*C) The turns on the road that goes through the Parker property are wider and thus easier for access by large vehicles such as trucks pulling horse trailers. That is why, historically, the road through the Parker property has been used by members of the public that are pulling horse trailers."*

Section 13105(a) Analysis. This ground for revocation may represent Mr. Parker's opinion; however, disclosure of such an opinion by the applicant is not relevant to the Coastal Act analysis as to whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Therefore, there is no evidence that the applicants included inaccurate, erroneous or incomplete information relative to McReynolds Road, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Additionally, since alternative public access routes would not alter whether the subject roadway was part of an existing or planned trail system, nor would it modify the public prescriptive rights analysis, it could not have changed the Commission's action. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

- 12) *“Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that he and his wife tear down signs that I placed on the roadway (not [remainder of sentence not shown on revocation request submitted February 27, 2007])”*

Section 13105(a) Analysis. The Commission finds that no evidence has been provided that the applicants remove signs, nor is there information to indicate the content of such signs or if the reported signs were legally placed. Even assuming, for the sake of argument, that it is true that the applicants remove signs, the applicants did not provide inaccurate or erroneous information relative to this fact, as they did not provide *any* information about such assertions at all; and with respect to the possibility that they provided incomplete information relative to this fact, since this information is irrelevant to the application that was before the Commission, Mr. Parker’s failure to disclose it would not constitute incomplete information either. Therefore, there is no evidence that the applicants included inaccurate, erroneous or incomplete information, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Additionally, the applicants’ behavior has no bearing on whether the proposed gate would be consistent with the policies in Chapter 3 of the Coastal Act, which formed the sole basis for the Commission’s decision. In addition, because the disclosure of this information is not relevant, it could not have changed the Commission’s action. Since the requester’s assertion would not modify the analysis as to the project’s consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

- 13) *“Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that Mr. Klatte was found to have made erroneous statements regarding the roadway in his testimony before the Superior Court.”*

Section 13105(a) Analysis. Assuming, for the sake of argument, that it is true that Mr. Klatte made erroneous statements regarding the roadway, it is unclear what those statements are or how they would be relevant to the Commission’s previous action. The applicants did not provide inaccurate or erroneous information relative to this fact, as they did not provide *any* information about Mr. Klatte at all; and with respect to the possibility that they provided incomplete information relative to this fact, since this information is irrelevant to the application that was before the Commission, Mr. Parker’s failure to disclose it would not constitute incomplete information either. Therefore, there is no evidence that the applicants included inaccurate, erroneous or incomplete information, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Mr. Klatte’s alleged false statements have no bearing on whether the proposed gate would be consistent with the policies in Chapter 3 of the Coastal Act, which

formed the sole basis for the Commission's decision. In addition, because the disclosure of this information is not relevant, it could not have changed the Commission's action.

Further, this assertion was available to the Commission via Exhibit 5, *Correspondence* and through testimony at the public hearing, further proving that the information could not have changed the Commission's position, since it did not in fact do so. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

- 14) *"Mr. Parker falsely stated that he received no communication from the enforcement division of the CCC about the numerous violations of his irrevocable deed restriction and his coastal permit. Mr. Sinclair (enforcement) has been in contact with the Parkers to resolve the issue of all the violations."*

Section 13105(a) Analysis. Mr. Parker's statement that he received no communication from the enforcement division was erroneous. Therefore, the applicants did provide erroneous and/or incomplete information relative to communications with Enforcement Staff per revocation ground number 14. Such a statement would presumably be intentional since Mr. Parker would have known about such communications. Enforcement staff has been in contact with Mr. Parker regarding several Coastal Act violations, including a gate, well-shed, garden shed, fencing, and landscaping issues. Specifically, Enforcement staff met with Mr. Parker in November 2005 at which time he was advised that he was in violation of the Special Conditions of CDP 4-00-147. The staff report includes a list of development that is believed to have occurred on the subject site in non-compliance with the terms, conditions, and previously approved plans of the underlying Coastal Development Permit 4-00-147 as well as development that has occurred on the subject site without the required coastal development permit. Therefore the Commission finds that this ground for revocation meets Tests 1 and 2. Consequently, this assertion requires analysis under the third and final test to determine whether a ground for revocation exists.

The existence of violations on a site is generally irrelevant to the question of whether proposed development is consistent with the applicable standard of review. Even less relevant is the history of communications between the land owner and the Commission's Enforcement staff. Thus, disclosure and/or misrepresentation of this information by the applicants is not relevant to the Coastal Act analysis as to whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Since erroneous statements regarding communication with enforcement staff would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

- 15) *"Mr. Parker failed to disclose the specific area of the key pad so that we can see if it interferes with public access."*



Section 13105(a) Analysis. The applicant submitted a site plan along with the amended project description on February 7, 2007 which indicated the location of the key pad on the north side of the paved roadway, approximately 20 feet away from the gate. The location of the key pad would not impede public access around the gate, as pedestrian and biker access would be provided around the opposite side of the gate. Therefore, the application did not include inaccurate, erroneous or incomplete information in conjunction with the coastal development permit amendment application relative to the key pad location, and the above assertion does not meet the grounds for revocation pursuant to the first two tests.

- 16) *“Mr. Parker failed to disclose that he is required by the Superior Court to provide telephonic access to the Blake residence. This will require an additional trench that will be more than 1000 feet in length.”*

Section 13105(a) Analysis. The key pad and conduit were added to the project description pursuant to the February 9, 2007 addendum. Further, Commission staff reported to the Commission in the staff presentation at the February 14, 2007 Commission hearing that the key pad (and associated conduit) was required for the neighboring property owner as a result of litigation associated with a private dispute over the subject roadway. There is no evidence that the applicants included inaccurate, erroneous or incomplete information, nor is there any evidence that the applicants intentionally included inaccurate, erroneous or incomplete information. Therefore, the above assertion does not meet the grounds for revocation pursuant to the first two tests.

Regardless, disclosure of the Superior Court requirement for telephonic access by the applicant is not relevant to the Coastal Act analysis as to whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. (Note, the proposed key pad and conduit are relevant to the Coastal Act analysis and were addressed in the addendum.) Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground does not meet Test 3.

## **2. Section 13105(a) Three-Test Summary**

- 1) The party requesting revocation asserts that the applicant[s] intentionally provided incomplete and inaccurate information by omitting information regarding the fact that the applicant[s] deny all access along the road by use of 'no trespassing' signage, personal harassment, harassment by household pets, removal of unspecified signage along the roadway, and other unspecified obstructions of the roadway (See Exhibit 1, Grounds 1, 2, 3, 4, 7 (partial), and 12).

Three-Test Results. As detailed in the previous section, there was no erroneous or incomplete information relative to the coastal development permit application per revocation grounds numbers 1, 2, 3, 4, 7 (partial), and 12. The party requesting revocation asserts that the applicant[s] deny all access along the road by use of 'no trespassing' signage, personal harassment, harassment by household pets, removal

of unspecified signage along the roadway, and other unspecified obstructions of the roadway.

The omission of the specific information regarding the applicants' history of activities resulting in the restriction of use along this road is only relevant to the extent that such activities would impact the public prescriptive rights analysis. Since these practices are alleged to occur since 2001, it would not impact the public prescriptive rights analysis which requires substantial evidence for five years prior to 1972. Therefore, these allegations are not relevant because the applicants' behavior has no bearing on the consistency of the project with the Chapter 3 policies. Thus, failure to mention these points would not constitute providing incomplete information. Nor is there any evidence that the applicant provided affirmatively inaccurate or erroneous information regarding these topics. There is therefore no evidence to satisfy Tests 1 or 2.

Though there is no evidence regarding most of these assertions, it was known to staff and the Commission that the applicants installed an unpermitted chainlink gate and placed a 'no trespassing' sign on the gate. This was clearly intended to discourage vehicular access along the subject roadway. Since the unpermitted gate was recognized by the Commission, the applicants' past practice of restricting access along the roadway was known and complete and accurate information regarding these facts was therefore presented to the Commission.

Additionally, most of these claims were presented to the Commission through letters from neighbors attached as Exhibit 5 to the staff report and through testimony heard at the February 14, 2007 Commission hearing. This makes it impossible for Test 3 to be satisfied, since the information was presented, so were it capable of causing the Commission to change its position, it would have done so. Thus, the grounds for revocation regarding the deed restriction would not be legitimate grounds for revocation under Section 13105(a) of the California Code of Regulations.

- 2) The revocation request contends that the applicant[s] submitted erroneous information regarding the size and placement of the gate and that the applicant[s] failed to provide complete information regarding other aspects of the project description, including the installation of a key pad and trenching for conduit, and the fact that some of those aspects were required by court order. The revocation request implies that the accurate information would demonstrate an adverse impact to the ability of members of the public to pass around the gate (See Exhibit 1, Grounds 5, 6, 15, and 16)

Three-Test Results. As detailed in the previous section, there was no erroneous or incomplete information relative to the coastal development permit application per revocation grounds numbers 5, 15, or 16. Thus, the grounds for revocation regarding these items do not meet Test 1 and would not be legitimate grounds for revocation under Section 13105(a) of the California Code of Regulations.

However, staff notes the inclusion of erroneous statements during the Commission hearing under revocation ground number six. The applicant provided inaccurate information with regard to the width of the area on the side of the gate for passage.

The area of passage around the gate is approximately 4 feet in width, rather than six feet, as stated by the applicant at the public hearing.

Pursuant to Test 2, the Commission must consider whether the applicant *intentionally* included inaccurate, erroneous or incomplete information. Establishing that the applicant intentionally provided inaccurate or erroneous information is challenging in this case. The requestor has not presented any circumstances or evidence that indicate the applicant intentionally provided information that is inaccurate, erroneous, or incomplete relative to the subject coastal development permit amendment. At the hearing, the Commission requested additional information of the applicant regarding the applicant's willingness to maintain non-vehicular access around the gate. The exact width on the side of the gate was not information that staff had requested from the applicant previously, as there was not substantial evidence of public prescriptive use along this road. Staff had evaluated the width of the area next to the gate only to the extent that the applicants asserted that they would not impede non-vehicular public use and found it sufficient for pedestrian or biker passage. Given that there were no surveyed plans at hand, the applicant's estimate that resulted in a 2-foot difference seems reasonable, and there is no indication that the applicant deliberately misstated the width to mislead the Commission with regard to equestrian access.

Based on the considerations above, the application did not involve the *intentional* inclusion of inaccurate, erroneous or incomplete information relative to the coastal development permit amendment, and therefore this ground for revocation does not meet Test 2 and would not be a legitimate ground for revocation under Section 13105(a) of the California Code of Regulations.

Even assuming that Tests 1 and 2 were confirmed in this case, Test 3 must determine whether the accurate information would have caused the Commission to require additional or different conditions or deny the application. Under Test 3, the question is whether the Commission would have modified its decision if the Commission had a clear understanding that the passage around the gate was four feet rather than six feet, where presumably this 2-foot difference would restrict horse passage around the gate.

The issue of width was specifically discussed at the Commission hearing. There was some discussion as to whether the width around the gate would be passable. Staff indicated that the width would be passable by pedestrians and mountain bikers and possibly horses. Staff clarified that the recommendation for approval of the gate was based upon the determination that the letters received did not represent substantial evidence of implied dedication at the subject site. It was further clarified that the Commission had the discretion to interpret the submitted evidence on its merit and make a determination that the evidence did constitute substantial evidence of public prescriptive rights. The Commission did not modify the staff determination, and through its approval of the project, found that there was not substantial evidence of implied dedication at the site. However, to address the Commission's concerns regarding non-vehicular public access, the applicant agreed at the hearing to accept

a Special Condition (see Exhibit 4, Special Condition 12) of the permit that would require the applicants to maintain an unobstructed area around the gate with public access signage wherein non-vehicular access could continue to be achieved.

In addition, regardless of whether erroneous information was presented intentionally or otherwise, the Commission finds that such information is not relevant to the Coastal Act analysis as to whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Public use of the subject roadway was addressed in the staff report and addendum. Staff did not find evidence of a recognized public trail system on the subject roadway, therefore public access can only be established under public prescriptive rights laws. Nine letters submitted to the Commission stated that their use of the property was prior to 1972 and three letters either did not indicate a date or provided dates of use after 1972. The letters that asserted five years of use prior to 1972 did not specify the extent, scope, exact location of their use, or whether their use was without the owners' consent. Although these letters suggest a period of use in the past, the evidence does not by itself establish substantial public use of the specific roadway at issue without the owners consent. Given the limited nature of the correspondence, the Commission concluded that these letters did not provide substantial evidence of implied dedication at the subject site.

Because the Commission did not find that the potential for public prescriptive rights exists, an equestrian trail was not required. Therefore, the Commission finds that although the information with respect to the width around the gate was not accurate it would not have resulted in additional conditions or denial of the coastal development permit. Thus, even if the applicant had intentionally provided inaccurate information regarding the width, provision of accurate information regarding this issue would not have altered the Commission's decision on the coastal development permit.

Therefore, there is no evidence of intentional inclusion of inaccurate or incomplete information pursuant to Test 2, nor would the accurate information, had it been corrected or completed and presented to the Commission, have caused the Commission to impose different conditions or deny the project. Therefore this ground for revocation would not meet Test 3.

- 3) The revocation request contends that the applicant[s] intentionally provided incomplete and inaccurate information by omitting information that (a) the irrevocable deed restriction recorded against the applicants' property pursuant to a requirement in CDP 4-00-147 limits fencing to within 50 feet of the residence and (b) Commission staff had requested that the Parkers place their proposed gate within that 50 foot limit. (See Exhibit 1, Grounds 8 and 9)

Three-Test Results. As detailed in the previous section, there was no erroneous or incomplete information relative to the coastal development permit application per revocation grounds numbers 8 or 9. This information was not relevant because the gate does not constitute fencing (so the limits imposed on fencing are irrelevant to the review of the gate) and discussions with staff have no bearing on the consistency of

the project with the Chapter 3 policies. Thus, failure to mention these points would not constitute providing incomplete information. Nor is there any evidence that the applicant provided affirmatively inaccurate or erroneous information regarding these topics. There is therefore no evidence to satisfy Tests 1 or 2. Furthermore, the facts surrounding the deed restriction and the conversations with staff were available and discussed within the staff report and at the February 14, 2007 Commission hearing. Complete and accurate information regarding these facts was therefore presented to the Commission. This makes it impossible for Test 3 to be satisfied, since the information was presented, so were it capable of causing the Commission to change its position, it would have done so. Thus, the grounds for revocation regarding the deed restriction would not be legitimate grounds for revocation under Section 13105(a) of the California Code of Regulations.

- 4) The revocation request contends that erroneous information was provided regarding the use, existence, and suitability of alternative access routes. Staff presumes these grounds are intended to support an argument that public prescriptive rights exist over the project site by indicating that the road has been historically used by vehicles, hikers, & bikers and that it is an easier route to travel and access than McReynolds Road (See Exhibit 1, Grounds 7(partial), 10, and 11)

Three-Test Results. As detailed in the previous section, there was no erroneous or incomplete information relative to the coastal development permit application per revocation grounds numbers 7, 10, or 11. The requester's assertions regarding the use do not contend that the applicants provided inaccurate information; the date of roadway establishment cannot be affirmatively determined based on the aerial photographic evidence in the file; and the applicant's statements regarding other public accessways in the vicinity are a matter of opinion. Thus, failure to mention these points would not constitute providing incomplete information. Nor is there any evidence that the applicant provided affirmatively inaccurate or erroneous information regarding these topics. There is therefore no evidence to satisfy Tests 1 or 2.

Additionally, the assertions regarding use, suitability, and alternative access routes were not relevant because the Commission found that there was not substantial evidence of public prescriptive access along the subject roadway. The additional information regarding use, the date of roadway establishment, and the quality of other public access routes do not alter whether the roadway was part of an existing or planned trail system, nor do they modify the public prescriptive rights analysis. Therefore, these assertions could not have changed the Commission's action, and would not be grounds for revocation under Test 3, even if Tests 1 and 2 were satisfied.

Further, public use of the subject roadway was addressed in the staff report and addendum and all letters from neighbors and the public asserting use were attached as Exhibit 5 to the staff report. The controversy regarding public use was available and discussed within the staff report and testimony was heard at the February 14, 2007 Commission hearing. Thus, the grounds for revocation regarding this issue would not be legitimate grounds for revocation under Section 13105(a) of the California Code of Regulations.

- 5) The revocation request contends that the applicant[s] provided erroneous information regarding communications with Commission Enforcement Unit staff regarding Coastal Act violations on the subject property. (See Exhibit 1, Ground 14)

Three-Test Results. As detailed in the previous section, the applicants did provide erroneous and/or incomplete information relative to communications with Enforcement Staff per revocation ground number 14, and therefore this ground for revocation meets Test 1. Further, it is presumed that such statements were intentional, given that the applicants would have direct knowledge of such communications, and therefore this ground for revocation also meets Test 2. However, communications with Commission Enforcement staff and/or the violations themselves are not relevant for the purposes of determining whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Unless an alleged violation is functionally related to proposed development, it is the Commission's practice to address alleged violations separately from permit applications. Thus, the ground for revocation regarding this issue does not meet Test 3 and would not be legitimate grounds for revocation under Section 13105(a) of the California Code of Regulations.

- 6) The revocation request asserts that the applicant[s] failed to provide complete and accurate information by omitting information from the Superior Court regarding erroneous statements made by a neighbor about the subject road. (See Exhibit 1, Ground 13)

Three-Test Results. As detailed in the previous section, the omission of statements from Superior Court testimony by others is not relevant information for the purposes of determining whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Regardless of the fact that this ground for revocation does not specify what type of erroneous information was provided by the neighbor, such statements would have to be individually verified by staff and the mere existence of false statements would have no bearing on the consistency of the project with the Chapter 3 policies. Thus, failure to mention these points would not constitute providing incomplete information. Nor is there any evidence that the applicant provided affirmatively inaccurate or erroneous information regarding these topics. There is therefore no evidence to satisfy Tests 1 or 2.

Furthermore, the omission of the specific information regarding the neighbor's alleged false statements is not relevant information for the purposes of determining whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Since the requester's assertion would not modify the analysis as to the project's consistency under the Coastal Act, the Commission would not modify its decision even if Tests 1 and 2 were satisfied. Therefore this ground for revocation does not meet Test 3. Thus, the ground for revocation regarding this issue would not be legitimate grounds for revocation under Section 13105(a) of the California Code of Regulations.

For the reasons set forth above, the Commission finds that the grounds for revocation contained in Section 13105(a) are not satisfied.

**3. Section 13105(b) of the California Code of Regulations**

Section 13105(b) of the Commission's regulations provides an alternative ground for the revocation of a permit, based upon an applicant's failure to comply with the Commission's noticing requirements. However, the parties requesting revocation did not allege any such failure as a basis for revocation, and the Commission is aware of no evidence that such a failure occurred. Therefore, there is no basis for revocation of the permit pursuant to the grounds listed in Section 13105(b).

**4. Conclusion**

The revocation request does not demonstrate that the applicant knowingly and intentionally provided inaccurate, erroneous, or incomplete information relevant to the Coastal Act analysis as to whether the proposed amendment to construct a gate across a roadway is consistent with the Chapter 3 policies of the Coastal Act. Thus, the grounds necessary for revocation under Section 13105(a) of the Commission's regulations have not been satisfied. In addition, there is no claim or evidence of grounds for revocation under Section 13105(b). The Commission finds that the revocation request must be denied because the contentions raised in the revocation request do not establish the grounds identified in Sections 13105 (a) or (b) of Title 14 of the California Code of Regulations.

**South Central Coast District Office**

Shana Gray

89 South California Street, Suite 200

Ventura, CA 93001-2801

(805) 641-1732

**Re: Permit 4-00-147-1A**

RECEIVED

FEB 27 2007

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Grounds for revocation of a permit shall be:

(a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application;

(b) Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application.

Dear Ms. Gray,

Mr. Parker presented inaccurate, erroneous and incomplete information in connection with his permit application. **Permit 4-00-147-1A**

1) Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that he has been aggressively denying all access, including vehicular access, since 2001. This is true even after rulings by the Superior Court that the roadway must be kept open.

2) Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that he places NO TRESSPASSING signs and verbally and physically attacks anyone who uses the roadway. He has physically and verbally attacked hikers, horseback riders and other users of that roadway. Enclosed find a copy of the police report ( Mr. Parker attacked me and my horse on Nov 2, 2005 with a 4 wheel motorcycle)

3) Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that he sets his dogs on anyone who uses the roadway. (enclosed find a picture of Mr. Parker's aggressive dog)

4) Mr. Parker erroneously claimed to the Coastal Commissioners that his dogs were "gentle". (Enclosed find the picture of the snapping "gentle" dog on the road.)

5) Mr. Parker erroneously claimed that the new gate, which would replace the unpermitted gate, would be the same size as the current gate. As shown by the enclosed picture, the current gate plus posts is 21'. The new gate will be 20' + 1' (two posts) + 2' (motor). Mr. Parker's application shows that 6" of the motor will overlap one post. This makes the new gate 22'6". Right now, the space to the side of the gate is 4' (see photographs) which is blocked by vegetation and a steep down slope (cliff). A horse can not pass to the side of the gate now and there would be even less room when he has the new, larger gate + motor in place.

Exhibit 1  
R-4-00-147-A1  
Revocation Request



6) Mr. Parker erroneously stated that the side pass by the gate is now was "more than six feet". This is untrue. The current side pass is 4'. The side pass will be 3' 6" with the new gate. This does not take into account the interference by overhanging vegetation nor the interference by the key pad and trenching that the Parkers will have to do to install the key pad.

7) Mr. Ainsworth testified that he had been to the property and had not seen any vehicular traffic. Mr. Ainsworth must have been on the road at an unusual time. Enclosed is a note of the time and vehicles, hikers or bikers that used the road on Jan 30, 2007. Mr. Ainsworth failed to mention that the Parkers have created an obstruction on the public access roadway which prevents use by normal (non 4x4) vehicles. This obstruction is blocking at least 90% of the traffic that would normally be using the roadway.

8) Mr. Parker intentionally gave incomplete information with regard to his irrevocable deed restriction. The Parker's irrevocable deed restriction says that the Parkers may not have ANY fencing except with a CCC permit and in any case it must be within 50 feet of their house. Enclosed find a copy of Mr. Parker's irrevocable deed restriction.

9) Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that Steve Hudson (CCC staff) and Shana Gray (CCC staff) requested that he place his gate within the 50 foot limit of his irrevocable deed restriction. Mr. Parker refused this request.

10) Mr. Parker erroneously claimed that the road did not exist prior to 1977. CCC has received and has on file, persons from the public who rode horses, hiked and **drove** that roadway starting in 1962. The Superior Court heard extensive testimony regarding the road. The Superior Court ruled that the road had been in existence since 1943 and declared that easements existed on the roadway.

11) Mr. Parker erroneously claimed that McReynolds road was a suitable and better used alternate roadway. This is erroneous because:

A) McReynolds road is unsuitable because it has 3 blind corners that make it unsafe for the public.

B) McReynolds road is unsuitable because it is steeper than the public access road that goes through the Parker property. The steepness of McReynolds Road make it unsuitable for horses because of the slippery paving and handicapped persons as well as any member of the public who is out of shape.

C) The turns on the road that goes through the Parker property are wider and thus easier for access by large vehicles such as trucks pulling horse trailers. That is why, historically, the road through the Parker property has been used by members of the public that are pulling horse trailers.

12) Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that he and his wife tear down signs that I placed on the roadway (not

13) Mr. Parker intentionally failed to provide complete and accurate information in that he did not disclose that Mr. Klatte was found to have made erroneous statements regarding the roadway in his testimony before the Superior Court.

14) Mr. Parker falsely stated that he has received no communication from the enforcement division of the CCC about the numerous violations of his irrevocable deed restriction and his coastal permit. Mr. Sinclair (enforcement) has been in contact with the Parkers to resolve the issue of all the violations.

15) Mr. Parker failed to disclose the specific area of the key pad so that we can see if it interferes with public access.

16) Mr. Parker failed to disclose that he is required by the Superior Court to provide telephonic access to the Blake residence. This will require an additional trench that will be more than 1000 feet in length.

Commissioner Wan stated that the gate would have the effect of denying the public access because it would appear to be a barrier even if it were not. This has been true in the case of the Parkers not only because of the gate, but because of the Parker's use of foul language and threats toward any member of the public that tries to use the public access road. In addition, the vicious dog is always out running the roadway and is encouraged by the Parkers to attack anyone using the road.

Today, Feb 19, 2007, at 4:36 PM, just 3 days after the Parkers were instructed to not interfere with public access, Kerry Parker screamed "Get off my property, Bitch!" at me when I was using the public access road. My two little girls were with me and heard the foul language and hostility used by Ms. Parker. She frightened my children and me.

In 2004 the Superior Court required Mr. Parker to remove several obstructions on the roadway. Mr. Parker has not only defied the court ordered removals, but he has continued to increase the number of obstructions across the roadway.

Mr. Parker stated to the commissioners that he would put up public access signs. Two days after being told by the CCC commissioners that he must not restrict access with "No Trespassing" signs, the Parkers placed 4 "No Trespassing" on the roadway. Enclosed find the pictures of these signs. As you can see by the above facts, and the photos, the Parkers have a long history of denying any access to the public and others who have rights on that road. Clearly the Parkers intend to continue their egregious behavior.

Sincerely,

Signature on File

Ms. Kristin Blake  
23852 Pacific Coast Hwy #761  
Malibu, Ca 90265

## Current Public Usage of Wallner Roadway

<u>SAMPLE DAY</u> <u>JAN 30,2007</u>	<u>TIME</u>	<u>VEHICLE OR</u> <u>PEDESTRIAN</u>	<u>COLOR</u>
1.	6:29:41	VW fastback	Medium Blue
2.	7:25:48	Small old Sedan	Black or Dark Blue
3.	8:04:18	Ford Truck	White
4.	8:14:07	Chevy Truck	White
5.	9:01:48	Jeep	Black
6.	9:32:30	Convertible Sedan	White
7.	9:45:32	Audi	Silver
8.	9:51:30	Convertible Sedan	White
9.	10:37:40	Convertible Jeep	Black
10.	10:45:03	Isuzu truck	Silver
11.	12:19:19	Small Sedan	White
12.	12:32:03	2 people on foot	NA
13.	14:13:09	Ford SUV	White
14.	14:41:06	Small SUV	Grey
15.	15:46:44	Convertible Jeep	Black
16.	16:03:28	Ford Expedition	White
17.	16:04:40	Sedan	Light Blue
18.	16:19:13	Ford Truck	White
19.	17:04:19	Big 2 door Truck	Medium Blue
20.	17:15:09	5 people on bicycles	NA
21.	19:58:34	Isuzu Truck	Silver

**RECEIVED**  
FEB 27 2007

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

1 RECORDING REQUESTED BY:

2  
3 WHEN RECORDED MAIL TO:  
4 California Coastal Commission  
5 45 Fremont St., Suite 2000  
6 San Francisco, CA 94105-2219  
7 Attn: Legal Division

8 DEED RESTRICTION

9  
10 I. WHEREAS, TIMOTHY PARKER and KERRY PARKER, (hereinafter referred to as  
11 "Owners"), are the record owners of the following real property:

12 See Exhibit B attached hereto and incorporated herein by reference, (hereinafter referred to as  
13 the "Property"); and

14 II. WHEREAS, the California Coastal Commission, (hereinafter referred to as the  
15 "Commission"), is acting on behalf of the People of the State of California; and

16 III. WHEREAS, the Property is located within the coastal zone as defined in § 30103 of  
17 Division 20 of the California Public Resources Code, (hereinafter referred to as the "California  
18 Coastal Act of 1976," the "Act"); and

19 IV. WHEREAS, pursuant to the Act, Owners applied to the Commission for a coastal  
20 development permit on the Property described above; and

21 V. WHEREAS, coastal development permit number 4-00-147, (hereinafter referred  
22 to as the "Permit"), was granted on June 15, 2001, by the Commission in accordance with the provision  
23 of the Staff Recommendation and Findings, attached hereto as EXHIBIT A and herein incorporated by  
24 reference; and

25 VI. WHEREAS, the Permit was subject to the terms and conditions including, but not limited  
26 to, the following conditions:

**3. Assumption of Risk**

A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire; (ii) to assume the risks to the applicants 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 arising from any injury or damage due to such hazards.

B. Prior to the issuance of the coastal development permit, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**6. Future Improvements**

This permit is only for the development described in Coastal Development Permit No. 4-00-147. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall apply to the entire property. Accordingly, any future improvements to the entire property including the permitted residence and garage, and clearing of vegetation or grading, other than as provided for in the approved fuel modification landscape and erosion control plan prepared pursuant to Special Condition Number Two (2), shall require an amendment to Permit No. 4-00-147 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, any proposed fencing of the subject property is prohibited except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence approved with a valid coastal development permit or permit amendment from the Commission or from the applicable certified local government. The applicant agrees that fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife; barbed wire, mesh or chain link fencing shall not be permitted, except that chain link fencing may be permitted for safety around the pool pursuant to the Uniform Building Code.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the

enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**9. Night Lighting**

Night lighting, if any, shall be directed downward, be of low intensity, at low height and shielded; security lighting, if any, shall be controlled by motion detector.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

VII. WHEREAS, the Commission found that but for the imposition of the above conditions, the proposed development could not be found consistent with the provisions of the Act, and that a permit could therefore not have been granted; and

VIII. WHEREAS, Owners have elected to comply with the conditions imposed by the Permit and execute this Deed Restriction so as to enable Owners to undertake the development authorized by the Permit.

NOW, THEREFORE, in consideration of the granting of the Permit to Owners by the Commission, Owners hereby irrevocably covenant with the Commission that there be and hereby is created the following restrictions on the use and enjoyment of said Property, to be attached to and become a part of the deed to the property.

1. COVENANT, CONDITION, AND RESTRICTION. The undersigned Owners, for themselves and for their heirs, assigns, and successors in interest, covenants and agree that:

- a. The site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire.
- b. Owners assume the risks to themselves and the Property of injury and damage from such hazards in connection with this permitted development.

Deed restriction

01-1478019

5

- c. Owners unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
  - d. Owners shall 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 arising from any injury or damage due to such hazards.
  - e. This permit is only for the development described in the Permit.
  - f. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall apply to the entire Property.
  - g. Accordingly, any future improvements to the entire property including the permitted residence and garage, and clearing of vegetation or grading, (except for fuel modification and landscaping in accordance with the approved fuel modification landscape and erosion control plan prepared pursuant to Special Condition Number Two (2) of the Permit, on file and available for inspection at the Commission's south central coast office), shall require an amendment to the Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
  - h. Any proposed fencing of the Property is prohibited except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence approved with a valid coastal development permit or permit amendment from the Commission or from the applicable certified local government. Fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife. Barbed wire, mesh or chain link fencing shall not be permitted, except that chain link fencing may be permitted for safety around the pool pursuant to the Uniform Building Code.
  - i. Night lighting, if any, shall be directed downward, be of low intensity, at low height and shielded.
  - j. Security lighting, if any, shall be controlled by motion detector.
2. DURATION. Said Deed Restriction shall remain in full force and effect during the period that the Permit, or any modification or amendment thereof remains effective, and during the period that the development authorized by the Permit or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the Property described herein, and shall bind Owners and all their assigns or successors in interest.

1 STATE OF CALIFORNIA

01-1478019

2 COUNTY OF Los Angeles

3  
4 On August 10, 2001, before me, Jennifer Gilbert, a Notary Public personally  
5 appeared Tim and Kerry Parker, personally known to me (or proved to me on the  
6 basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within  
7 instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
8 capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon  
9 behalf of which the person(s) acted, executed the instrument.

10  
11 WITNESS my hand and official seal.

12  
13 Signature Jennifer Gilbert



14  
15 STATE OF CALIFORNIA

16 COUNTY OF Los Angeles

17  
18 On August 10, 2001, before me, Jennifer Gilbert, a Notary Public personally  
19 appeared Kerry Parker, personally known to me (or proved to me on the  
20 basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within  
21 instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
22 capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon  
23 behalf of which the person(s) acted, executed the instrument.

24  
25 WITNESS my hand and official seal.

26  
27 Signature Jennifer Gilbert





8  
01-1478019

1  
2 This is to certify that the deed restriction set forth above is hereby acknowledged by the undersigned  
3 officer on behalf of the California Coastal Commission pursuant to authority conferred by the California  
4 Coastal Commission when it granted Coastal Development Permit No. 4-00-147, on June 15, 2001, and  
5 the California Coastal Commission consents to recordation thereof by its duly authorized officer.  
6

7  
8 Dated: July 23, 2001  
9

CALIFORNIA COASTAL COMMISSION

10  
11 John Bowers  
12 John Bowers, Staff Counsel  
13

14 STATE OF CALIFORNIA

15 COUNTY OF SAN FRANCISCO  
16

17 On 7/23/01, before me, Deborah L. Bove, a Notary Public, personally appeared John  
18 Bowers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the  
19 person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
20 he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their  
21 signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
22 executed the instrument.  
23

24 WITNESS my hand and official seal.  
25

26 Signature Deborah L. Bove  
27



Attack on horse on road!

Nov 09 05 11:46a

LASD/LHS Detectives

(818)880-5209

P.2

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

BAUSMITH

A TRADITION OF SERVICE

INCIDENT REPORT

DATE 11/03/05

PAGE 1 OF 5

ACTION: <input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> INACTIVE <input type="checkbox"/> PENDING		NON-CRIMINAL <input type="checkbox"/>	# OF ADULT ARRESTS 0	# OF SUBJECT DETENTIONS 0	URN # 405-06699-1024-339
CLASSIFICATION 1 / LEVEL / STAT CODE CRUELTY TO ANIMALS 597(b) PC/F/339					SEX OFFENSE - VICTIM IMPD? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
CLASSIFICATION 2 / LEVEL / STAT CODE					DOMESTIC VIOLENCE <input type="checkbox"/> NON-PERSONAL (SUAL ABUSE, ETC) <input type="checkbox"/> PERSONAL INJURY, FIST, KICK, ETC BATTERY <input type="checkbox"/> Major <input type="checkbox"/> Minor <input type="checkbox"/> None <input type="checkbox"/> NON-CRIMINAL
DATE, TIME, DAY OF OCCURRENCE 11/02/05, 0800 HRS, WEDNESDAY					PRINTS REQUESTED <input type="checkbox"/> BY: TIME
LOC OF OCCURRENCE 2241 LATIGO CYN RD, MALIBU 90265					BUS. NAME

CODE: V-VICTIM	W-WITNESS	INFORMANT	R-REPORTING PARTY	P-PARTY
CODE # of LNAME V 1 BLAKE	FRNAME KRISTEN	MRNAME ROXANNE	SEX: F RACE: W ETHNIC ORIGIN	DOB: 07/23/54 Age: 51
RES. ADDR. 2240 LATIGO CYN RD	CITY MALIBU	ZIP 90265	VICTIM OF OFFENSE(S) (CLASSIFICATION) #: 1	RES. PHONE (Area Code) (310) 245-6998
BUS. ADDR. SAME	CITY	ZIP	ENGLISH SPEAKING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	BUS. PHONE (Area Code)
CODE # of LNAME	FRNAME	MRNAME	SEX: RACE: ETHNIC ORIGIN	DOB: Age:
RES. ADDR.	CITY	ZIP	VICTIM OF OFFENSE(S) (CLASSIFICATION) #:	RES. PHONE (Area Code)
BUS. ADDR.	CITY	ZIP	ENGLISH SPEAKING <input type="checkbox"/> YES <input type="checkbox"/> NO	BUS. PHONE (Area Code)
CODE # of LNAME	FRNAME	MRNAME	SEX: RACE: ETHNIC ORIGIN	DOB: Age:
RES. ADDR.	CITY	ZIP	VICTIM OF OFFENSE(S) (CLASSIFICATION) #:	RES. PHONE (Area Code)
BUS. ADDR.	CITY	ZIP	ENGLISH SPEAKING <input type="checkbox"/> YES <input type="checkbox"/> NO	BUS. PHONE (Area Code)

CODE: S-SUSPECT	SJ-SUBJECT	M-PATIENT	SY-SUSPECT/VICTIM	SJ/V-SUBJECT/VICTIM
CODE # of LNAME S 1 PARKER	FRNAME TIMOTHY	MRNAME UNK	SEX: M RACE: WHT ETHNIC ORIGIN	DOB: 40-45
RES. ADDR. 2240 LATIGO CYN RD	CITY MALIBU	ZIP 90265	HAIR: BRN EYES: UNK HGT: 602-604 WGT: 250	DRIVER'S LICENSE (STATE & No.)
BUS. ADDR. UNK	CITY	ZIP	WHERE DETAINED OR CITE #	BOOKING #
SEX: M RACE: WHT ETHNIC ORIGIN	HAIR: BRN EYES: UNK HGT: 602-604 WGT: 250	DOB: 40-45	DRIVER'S LICENSE (STATE & No.)	RES. PHONE (Area Code)
BUS. ADDR.	CITY	ZIP	BUS. PHONE (Area Code)	WHERE DETAINED OR CITE #
SEX: RACE: ETHNIC ORIGIN	HAIR: EYES: HGT: WGT:	DOB: Age:	BOOKING #	

VEHICLE #	SUSPECT STATUS <input type="checkbox"/> IMPOUNDED <input type="checkbox"/> STORED <input type="checkbox"/> OUTSTANDING	LICENSE (STATE & No.)	YEAR	MAKE	MODEL	BODY TYPE	COLOR
REGISTERED OWNER	IDENTIFYING FEATURES	CHP 180 SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	GARAGE NAME & PH.				

BY DEP. LEWEY, D	EMPLOYEE # 407387	VACATION DATES NONE	BY DEP. PC/HARRISONNEAU	EMPLOYEE # 01826	VACATION DATES 11-4/05/11/30
STATION LOST HILLS	UNIT / CAR # 101	SHIFT DAY	APPROVED AB	DATE 11/4/05	TIME 11:30
VICTIM DEBIOUS OF PROSECUTION <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NO NOTIFICATION REQ: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DEP.	DATE / TIME	SPECIAL REQUEST DISTRIBUTION	
SUSP / SUBJ RELEASE APPROVED BY	TIME	PCD SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	TT BC BY	DATE 11/4/05	TIME CW

DATE 11/02/05	TIME RECEIVED 0808	TAG # 87	UPN # 405 999-1024-339	PAGE 2 OF 5
INPUT / CHECKED NCIC, CR, ETC.: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	EVIDENCE HELD: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	ICE ENTERED IN: PATROL <input type="checkbox"/> NARCOTICS <input type="checkbox"/> SAFE <input type="checkbox"/>		
<b>EVIDENCE HELD:</b> <input type="checkbox"/> BLOOD <input type="checkbox"/> BULLET <input type="checkbox"/> BULLET CASING <input type="checkbox"/> CHECKS <input type="checkbox"/> CLOTHES <input type="checkbox"/> CREDIT CARDS <input type="checkbox"/> ELECTRONIC EQUIPMENT <input type="checkbox"/> FINGERPRINTS <input type="checkbox"/> FOOTPRINTS <input type="checkbox"/> FRAUD DOCUMENTS <input type="checkbox"/> GSR <input type="checkbox"/> HAIR <input type="checkbox"/> JEWELRY <input type="checkbox"/> MISCELLANEOUS <input type="checkbox"/> MONEY <input type="checkbox"/> NARCOTICS <input type="checkbox"/> OTHER PRINTS <input type="checkbox"/> PAINT <input type="checkbox"/> PHOTOGRAPHS <input type="checkbox"/> RAPE KIT <input type="checkbox"/> RECEIPTS <input type="checkbox"/> TOOLS <input type="checkbox"/> URINE <input type="checkbox"/> VEHICLE IMPOUNDED <input type="checkbox"/> VEHICLE PARTS <input type="checkbox"/> WEAPONS <input type="checkbox"/>				
<b>PROPERTY CODE:</b> S-STOLEN R-RECOVERED L-LOST F-FOUND E-EMBEZZLED D-DAMAGED EV-EVIDENCE (Use all applicable Codes; for example, if property is both Stolen and Recovered, Code is S/R)				RELEASED TO
CODE	ITEM #	QUAN	DESCRIPTION (Include kind of article, trade name, identifying numbers, physical description, material, color, condition, age and present market value)	VALUE

I RESPONDED TO THE LOCATION RE: AN ASSAULT REPORT.

THE VICTIM TOLD ME THAT THE SUSPECT REPEATEDLY TORMENTED HER HORSE, ULTIMATELY CAUSING THE HORSES DEMISE.

THE SUSPECT OWNS THE PROPERTY THE VICTIM AND HER HORSE WERE TRAVERSING WHEN THE INCIDENT OCCURRED. THE VICTIM HAS AN EASEMENT THROUGH THE SUSPECT'S PROPERTY WHICH PROVIDES HER ACCESS TO HER PROPERTY.

THE SUSPECT'S PROPERTY IS APPROXIMATELY 100 FEET FROM THE EASEMENT.

### PART I STATISTICAL INFORMATION

PROPERTY			TYPE OF PROPERTY		STOLEN	RECOVERED
TYPE OF PROPERTY	STOLEN	RECOVERED	JEWELRY			
CLOTHING/FURS	\$	\$	LIVESTOCK	\$		\$
CONSUMABLE GOODS	\$	\$	LOCAL STOLEN VEHICLES	\$		\$
CURRENCY/NOTES	\$	\$	MISCELLANEOUS	\$		\$
FIREARMS	\$	\$	OFFICE EQUIPMENT	\$		\$
HOUSEHOLD GOODS	\$	\$	TV/RADIO/STEREO	\$		\$

### VICTIM OF SEX CRIMES REQUEST FOR CONFIDENTIALITY

PURSUANT TO SECTION 293(a) OF THE CALIFORNIA PENAL CODE, YOU ARE INFORMED THAT YOUR NAME WILL BECOME A MATTER OF PUBLIC RECORD, UNLESS YOU REQUEST THAT IT REMAIN CONFIDENTIAL AND NOT BE A PUBLIC RECORD, PURSUANT TO SECTION 8254 OF THE GOVERNMENT CODE.

I, \_\_\_\_\_ HEREBY (DO) (DO NOT) ELECT TO EXERCISE MY RIGHT TO PRIVACY.

### SCREENING FACTORS

YES	NO		YES	NO	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1. SUSPECT IN CUSTODY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	7. GENERAL SUSPECT DESCRIPTION
<input checked="" type="checkbox"/>	<input type="checkbox"/>	2. SUSPECT NAMED/KNOWN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	8. GENERAL VEHICLE DESCRIPTION
<input type="checkbox"/>	<input checked="" type="checkbox"/>	3. UNIQUE SUSPECT IDENTIFIERS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	9. UNIQUE M.O. OR PATTERN
<input type="checkbox"/>	<input checked="" type="checkbox"/>	4. VEHICLE IN CUSTODY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10. SIGNIFICANT PHYSICAL EVIDENCE
<input type="checkbox"/>	<input checked="" type="checkbox"/>	5. UNIQUE VEHICLE IDENTIFIERS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	11. TRACEABLE STOLEN PROPERTY
<input type="checkbox"/>	<input checked="" type="checkbox"/>	6. WRITER / REVIEWER DISCRETION	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12. MULTIPLE WITNESSES

## COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

## INCIDENT REPORT - NARRATIVE

URN

45-06699-1024-339

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THE VICTIM ENTERED THE EASEMENT LEADING HER FIFTEEN YEAR OLD ARABIAN HORSE VIA A LEAD LINE. THE SUSPECT EXITED HIS RESIDENCE AND SENT HIS TWO LARGE DOGS AFTER THE VICTIM AND HER HORSE BY SAYING, "GET 'EM, GO, GO!"

THE DOGS RAN TOWARD THE VICTIM AND THE HORSE LOUDLY BARKING. THE HORSE WINCED HIS HEAD AND BEGAN MOVING TO ITS LEFT TO GET AWAY FROM THE DOGS. THE DOGS BEGAN CIRCLING THE HORSE WHILE CONTINUING TO BARK. THE HORSE BEGAN MOVING TO ITS LEFT AND TO ITS RIGHT TO GET AWAY FROM THE DOGS. THE VICTIM LEAD THE HORSE QUICKLY AWAY FROM THE DOGS TOWARDS HER PROPERTY. (BY DOING THIS THE OWNER COMPLIED WITH 10.40.010(f) L.A.C.O. TITLE 10, OWNERS RESPONSIBILITY TO PROTECT ANIMAL.)

SEEING THE VICTIM WALKING AWAY, THE SUSPECT STARTED HIS 4-WHEEL ALL TERRAIN VEHICLE ("QUAD") AND DROVE VERY QUICKLY TOWARDS THE REAR OF THE HORSE. WHEN THE SUSPECT WAS LESS THAN FIVE FEET FROM THE REAR OF THE HORSE HE SLAMMED ON THE BRAKES AND SKIDDED THE QUAD TO A STOP, NEARLY MISSING THE HORSE. THE HORSE LUNGED FORWARD ALMOST HITTING THE VICTIM.

THE SUSPECT REVVED HIS ENGINE SEVERAL TIMES. (THE ENGINE MAKES A LOUD HIGH PITCH NOISE WHEN REVVED.) THE ENGINE NOISE FRIGHTENED THE HORSE. THE HORSE LUNGED FORWARD. THE SUSPECT DROVE THE QUAD TOWARDS THE HORSES RIGHT HIND QUARTERS, NARROWLY MISSING THE HORSE BY 2-3 INCHES. THE HORSE LUNGED TO THE LEFT, THEN BEGAN TO WALK FORWARD.

THE SUSPECT DROVE IN FRONT OF THE HORSE CAUSING THE HORSE TO ABRUPTLY STOP. THE SUSPECT CONTINUED TO THE HORSES LEFT SIDE WHERE HE AGAIN DROVE DANGEROUSLY CLOSE TO HITTING THE HORSE'S LEFT REAR HIND QUARTERS. THE HORSE LUNGED TO THE RIGHT.

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

## INCIDENT REPORT - NARRATIVE

URN

LOS-06699-1024-339

PAGE 4 OF 5

THE SUSPECT QUICKLY DROVE AWAY FROM THE HORSE DOWN A HILL TO THE RIGHT OF THE VICTIM AND HORSE. THE VICTIM CONTINUED TO LEAD THE HORSE TOWARD HER PROPERTY. THE SUSPECT CAME RACING UP THE HILL TO THE RIGHT OF THE HORSE. WHEN THE QUAD CRESTED THE HILL IT FLEW INTO THE AIR LANDING TEN FEET DIRECTLY IN FRONT OF THE HORSE. THE HORSE REARED BACK ON ITS HIND LEGS. THE SUSPECT, NOW FACING THE HORSE, WAS STOPPED.

THE SUSPECT, FROM A STOPPED POSITION, ACCELERATED THE QUAD TOWARDS THE HORSE AND THEN QUICKLY STOPPED 1-2 FEET IN FRONT OF THE HORSE. THE HORSE'S HEAD WINCED BACK AND ATTEMPTED TO RETREAT. THE SUSPECT REPEATED THE ACCELERATION AND QUICK STOPS FOUR MORE TIMES. EACH TIME THE HORSE WINCED BACKWARDS AND ATTEMPTED TO RETREAT.

THE SUSPECT SAID, "MOVE, THIS IS NOT YOUR PROPERTY."

THE SUSPECT DROVE FROM THE LOCATION BACK TO HIS RESIDENCE.

THE SUSPECT CREATED A PUBLIC NUISANCE BY DISTURBING THE HORSE WITH A MOTOR VEHICLE AND BY THE USE OF HIS DOGS, IN VIOLATION OF 10.040.065(a) L.A.C.O. TITLE 10.

THE DAY AFTER THE INCIDENT I CONTACTED THE VICTIM WHERE SHE TOLD ME THAT DURING THE NIGHT THE TORMENTED HORSE HAD DIED. THE VICTIM HAD THE HORSE EXAMINED BY A VETERINARIAN. THE VETERINARIAN SURMISED THAT THE HORSE DIED DUE TO STRESS ISSUES RELATED TO THE INCIDENT WHICH OCCURRED THE PREVIOUS DAY.

THE VICTIM SAID THE HORSE WAS IN PERFECT HEALTH BEFORE THIS INCIDENT. THE HORSE HAD NEVER BEEN SICK NOR DID IT HAVE ANY GENETIC DEFECTS. DURING THE EVENING THE VICTIM CONTINUALLY TRIED TO CALM THE HORSE. THE HORSE WAS THRASHING ABOUT, REARING AND BUCKING. THE VICTIM HAS OWNED THE HORSE FOR TWELVE YEARS. THE HORSE HAD NEVER ACTED IN THAT MANNER.

THE SUSPECT KNOWS THE VICTIM HAS THE RIGHT TO USE THE EASEMENT. THE SUSPECT AND VICTIM HAVE BEEN IN CIVIL COURT FOR THE PAST FOUR YEARS OVER MANY ISSUES. THE VICTIM'S RIGHT TO THE EASEMENT WAS AN ISSUE THAT HAD BEEN SOLVED MANY MONTHS BEFORE THIS INCIDENT.

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

**INCIDENT REPORT - NARRATIVE**

URN

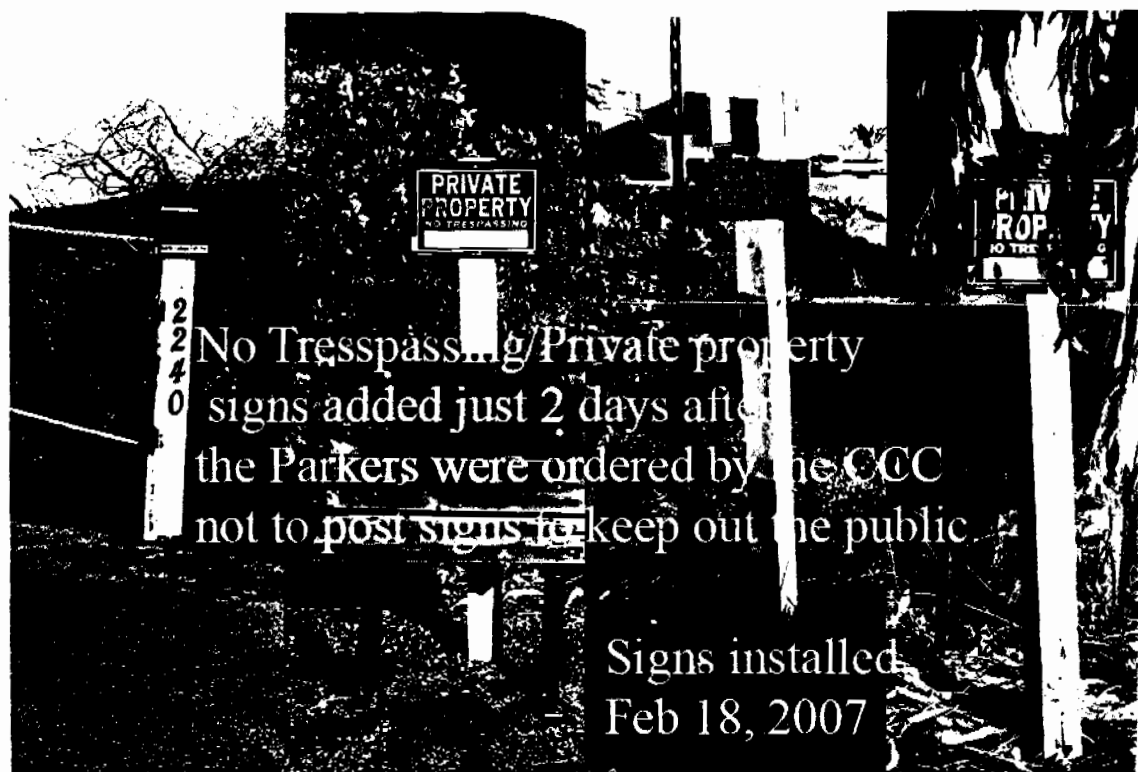
S-06699-1024-339

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AFTER CONTACTING THE VICTIM, I CALLED A LOCAL STABLE, IN TURN, THEY CONTACTED THEIR VETERINARIAN. (CHRIS SMITH) SMITH SAID THAT BASED ON THE INFORMATION THAT WAS RELAYED TO HIM, THE ACTIONS OF THE SUSPECT MOST LIKELY CAUSED OVERWHELMING TRAUMA AND STRESS TO THE HORSE WHICH VERY POSSIBLY COULD HAVE LEAD TO ITS DEATH.

THE LA COUNTY ANIMAL CONTROL WAS CALLED AND THE ABOVE INFORMATION WAS GIVEN TO THEM. THEY SAID THEY WILL RESPOND TO THE LOCATION AND CONTACT THE VICTIM AS WELL.

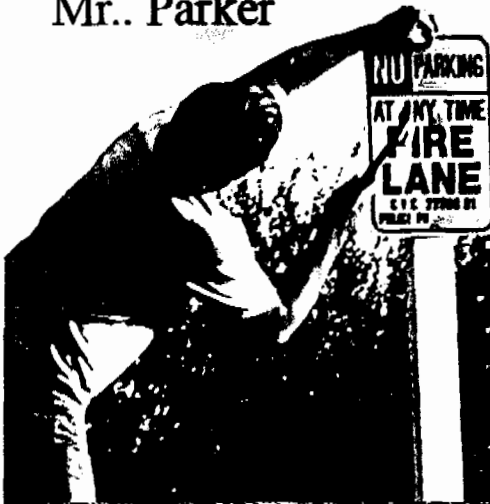
THERE WERE NO WITNESSES TO THE INCIDENT.



2240 No Trespassing/Private property  
signs added just 2 days after  
the Parkers were ordered by the CCC  
not to post signs to keep out the public

Signs installed  
Feb 18, 2007

Mr.. Parker



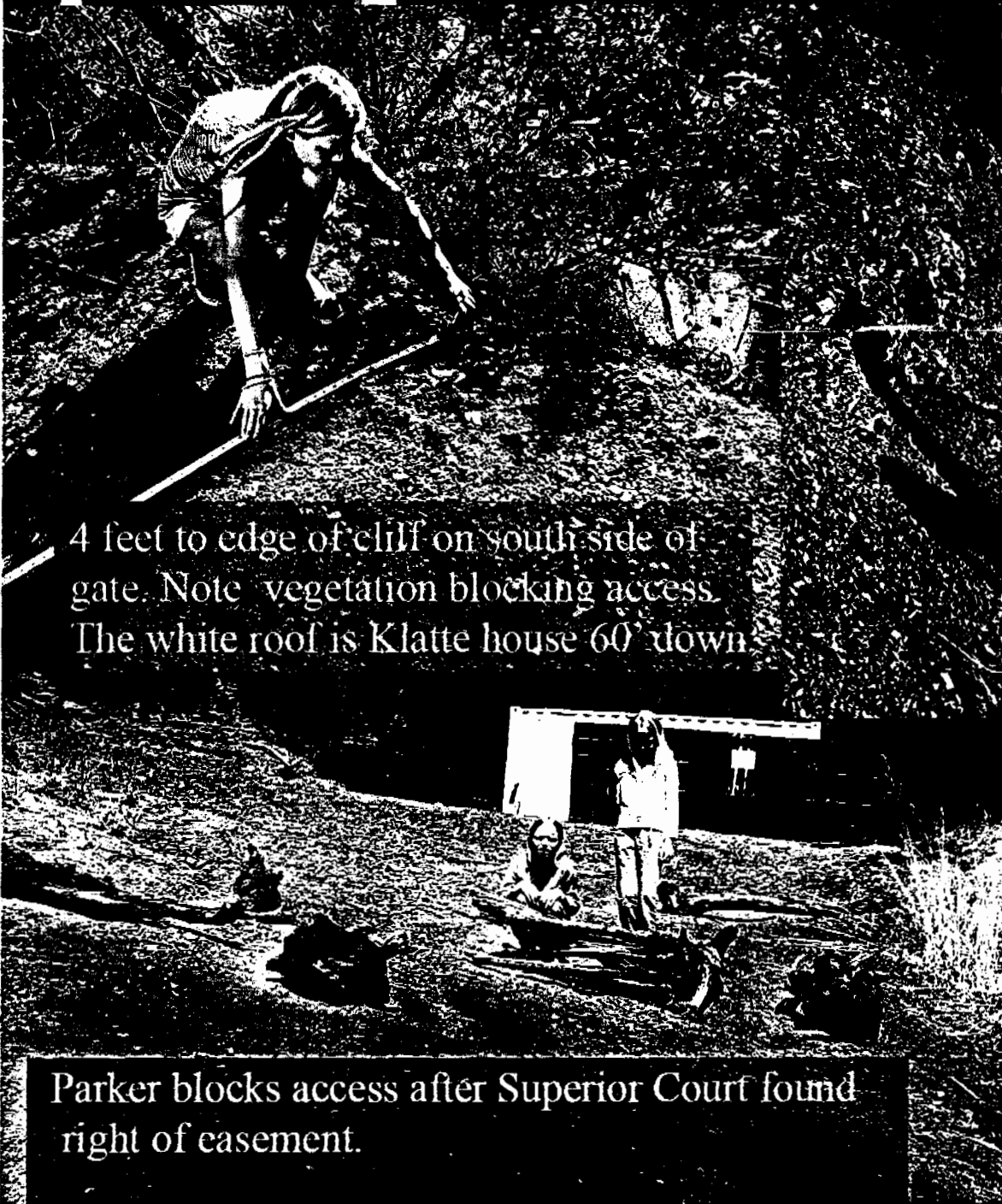
Vicious Parker dog



Cliff on north side of gate



4 feet to edge of cliff on south side of gate. Note vegetation blocking access. The white roof is Klatte house 60' down



Parker threatens



Parker blocks access after Superior Court found right of easement.



**CALIFORNIA COASTAL COMMISSION**

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

**W11c**

Filed: 8/16/06  
180th Day: 2/12/07  
Extended To: 4/12/07  
Staff: Shana Gray  
Staff Report: 1/25/06  
Hearing Date: 02/14/07  
Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

**APPLICATION NO.:** 4-00-147-A1

**APPLICANT:** Tim and Kerry Parker

**PROJECT LOCATION:** 2240 Latigo Canyon Road, Malibu, Los Angeles County

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Construct a 3,630 sq. ft., two story, 21-foot high, single family residence with 776 sq. ft. attached garage, septic system, water well, swimming pool, jacuzzi, pave access road and driveway, temporary construction trailer, and 136 cu. yds. of grading (68 cu. yds. cut, 68 cu. yds. fill). The project further entails revegetation of an abandoned spur road on the subject parcel.

**DESCRIPTION OF AMENDMENT:** Construction of a 20-foot long, maximum six-foot high wrought iron electric gate across driveway and removal of an unpermitted manual gate in approximately the same location.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permit 4-00-147 (Los Angeles County); I.K. Curtis Services, Inc. Aerial Photograph dated 1976; I.K. Curtis Services, Inc. Aerial Photograph dated 1977;

**MOTION & RESOLUTION:** Page 4

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends **APPROVAL** of the proposed amendment to Coastal Development Permit (CDP) 4-00-147 to construct a gate across a roadway with two special conditions regarding revised plans for a wildlife permeable gate design and liability for costs and attorneys fees. On June 15, 2005, the Commission approved CDP 4-00-147 contingent upon nine Special Conditions addressing: Conformance with Geologic Recommendations, Landscaping and Erosion Control, Assumption of Risk, Removal of Excess Graded Material, Drainage and Polluted Runoff Control, Removal of Natural Vegetation, Future Improvements Deed Restriction, Removal of Temporary Construction Trailer, and Night Lighting. All standard and special conditions attached to the previously approved permit remain in effect.

The subject site is located in a rural area of the Santa Monica Mountains, east of Latigo Canyon Road, approximately ½-mile south of the stretch of the Backbone Trail from Castro Peak Motorway to Newton Motorway. The certified Malibu/Santa Monica Mountains Land Use Plan (LUP) designates the subject site as a Wildlife Migration Corridor. The site is developed with a single family residence. Access is via a common road easement that extends approximately 520 feet from Latigo Canyon Road to join a road on the subject parcel which leads to the building pad site. In addition to the road that leads directly to the residence, there is a "spur road" located approximately 100 feet west of the residence. The spur road crosses through approximately 120 feet of the subject parcel, and then crosses to the north to join an unimproved road that leads to a network of dirt roadways on adjacent parcels.

Exhibit 2  
R-4-00-147-A1  
CDP 4-00-147-A1 Staff  
Report

The gate is proposed on the roadway in a location that would block access to the spur road. Given the proximity of an established public trail system in the general area, staff analyzed the potential of the gate to adversely impact public access and recreation. Staff found no evidence that the spur road is generally utilized by the public as an established riding or hiking trail or a public roadway, and no other mapped riding or hiking trail crosses the property. The spur road is not part of a designated trail system for Los Angeles County or the National Park Service (NPS) and is not shown as part of the trail system on the recreation guide for the area. Additionally, staff has contacted NPS and Mountains Recreation and Conservation Authority (MRCA) staff directly to determine whether there is any known use of the spur road as part of the trail system. Neither NPS or MRCA claim an easement interest, nor have they any reported activity along the spur road. The subject spur road is remote and winding, and it is not a convenient connection to the established trail system.

There have been assertions by neighbors that public and private easements exist over the spur road because the spur road has been unobstructed and in use since a private easement was granted in 1943. The applicants have submitted an aerial photograph from I.K. Curtis Services, Inc. dated 1976 which demonstrates that there were some trails or small roadways in the vicinity, including the "spur" portion of the road on the subject property. However, the common access road initiating from Latigo Canyon Road did not extend to the subject property and therefore did not provide a connection to the spur road. Based on staff's review of historic aerial photographs, the access road does not appear to have been extended to the subject site until 1977. In addition, although the neighbors provide evidence of past use, they do not provide substantial evidence of an implied dedication at the subject site. For example, the information provided by the neighbors focuses on localized use by neighbors of the subject site after a private easement was granted over the spur road and does not show the extent of general public use or whether general public use was adverse or without the permission of the property owner. Moreover, even if substantial general public use without the permission of the property owner could be established, there is no evidence such use occurred for the requisite 5 years prior to March 1, 1972. Therefore, there is no evidence of an implied dedication at the subject site.

The proposed gate will be located within the footprint of an existing paved road approved under CDP 4-00-147 and will not require the removal of any native vegetation or result in the loss of any sensitive habitat on site. The neighbors assert that the spur road is a wildlife corridor and that allowing a gate would adversely affect wildlife passage. As detailed in this staff report, the gate does not function as a fence because it will stand alone and will not connect to fencing on either side. No fencing is proposed, nor would it be consistent with the underlying permit. Special Condition 6 of the underlying permit restricts fencing on the property to within 50 feet of the residence, and requires a coastal development permit for new fencing. However, because the gate would not serve in the capacity of a fence, Special Condition 6 need not be amended to accommodate the gate. Further, Special Condition 10 requires that the gate design be wildlife permeable, which will not diminish the stated intent of restricting vehicular passage. Additionally, wildlife will retain the ability to travel and access the remainder of the undeveloped portions of the property including native chaparral habitat. Therefore, the proposed amendment will not result in any adverse impacts to wildlife or ability of wildlife to continue using the property as a wildlife corridor. Additionally, the project plans submitted for this gate do not include a lighting component. Since Special Condition 6 of the underlying permit requires that any improvements to the property receive an amendment or new coastal development permit, lighting of the gate or other changes to the project plans would require an amendment or new coastal development permit.

Additional concerns have been brought up by the neighbors involving the use of the spur road by neighboring property owners. These are private disputes and not subject to review under the

Coastal Act. Tim and Kerry Parker own the property under fee title, and have the right to apply for a coastal development permit. All known owners of any potential easement interest in the subject property have been notified of the subject permit application.

The standard of review of the proposed amendment is whether or not the proposed gate is consistent with the Chapter 3 policies of the Coastal Act. The proposed amendment, as conditioned, is consistent with all applicable policies of the Coastal Act.

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

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

In this case, the proposed amendment will affect a permit condition required for the purpose of protecting coastal resources. 14 Cal. Admin. Code 13166.

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## **EXHIBITS**

- |                   |   |
|-------------------|---|
| <b>Exhibit 1.</b> | <b>CDP 4-00-147 Approved Special Conditions</b> |
| <b>Exhibit 2.</b> | <b>Vicinity Map</b>                             |
| <b>Exhibit 3.</b> | <b>Gate Location</b>                            |
| <b>Exhibit 4.</b> | <b>Gate Drawings</b>                            |
-

Exhibit 5. Correspondence

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## I. STAFF RECOMMENDATION

**MOTION:** *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-00-147 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

## II. SPECIAL CONDITIONS

All standard and special conditions attached to the previously approved permit remain in effect. In addition to the nine special conditions imposed by coastal development permit 4-00-147, the following additional special conditions shall apply.

### 10. Gate Design

- A. Prior to issuance of the coastal development permit amendment, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. The revised final project plans and project description shall reflect the following:
  1. The gate shall be a wildlife permeable design, subject to the review and approval of the Executive Director. The minimum distance from ground level to the gate's first rung shall be 18 inches to allow wildlife passage underneath the gate. Additionally, the gate shall ensure passage around the gate, wide enough for animals as large as deer. The maximum height of the gate shall be 48 inches. Barbed-wire or chainlink are prohibited.
- B. The gate shall be constructed in compliance with the revised project plans approved by the Executive Director.

## **11. Liability for Costs and Attorneys Fees**

Liability for Costs and Attorneys Fees: The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

## **III. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. AMENDMENT DESCRIPTION**

The applicant is requesting modification of Coastal Development Permit Application No 4-00-147 to construct a 20-foot long, maximum six-foot high wrought iron electric gate across the roadway to the residence and remove an unpermitted manual gate in approximately the same location.

The underlying permit, CDP 4-00-147, was approved by the Commission on June 15, 2001, for construction of a 3,630 sq. ft., two story, 21-foot high, single family residence, attached three-car garage, septic system, water well, swimming pool, jacuzzi, pave access road and driveway, temporary construction trailer. The residence was approved on an approximately 9,450 square foot building pad. The building pad site is located roughly at the center of the property, near the eastern property boundary of this irregularly shaped parcel. The Commission's 2001 approval included after-the-fact approval of 136 cubic yards of grading (68 cu. yds. cut, 68 cu. yds. fill) because the ridge top in the building pad area had been lowered one to two feet in elevation to create a roughly level pad without the benefit of a permit.

The site is developed with a single family residence located approximately 700 feet off of Latigo Canyon Road. Access is via a common road easement that extends approximately 520 feet from Latigo Canyon Road to join a road on the subject parcel which leads to the building pad site. In addition to the road that leads directly to the residence, there is a "spur road" located approximately 100 feet west of the residence. The spur road crosses through approximately 120 feet of the subject parcel, then crosses to the north to adjoin an unimproved road that leads to a network of dirt roadways on adjacent parcels. As discussed in Section D below, the Commission finds no evidence that the spur road is generally utilized by the public as an established riding or hiking trail or public roadway, and no other mapped riding or hiking trail crosses the property. In addition, the Commission finds no evidence that the development would interfere with public access rights in a manner inconsistent with the provisions of the Coastal Act.

The Commission approved CDP 4-00-147 contingent upon nine (9) Special Conditions addressing: Conformance with Geologic Recommendations, Landscaping and Erosion Control, Assumption of Risk, Removal of Excess Graded Material, Drainage and Polluted Runoff Control, Removal of Natural Vegetation, Future Improvements Deed Restriction, Removal of Temporary Construction Trailer, and Night Lighting.

On September 28, 2001, the prior to issuance special conditions were met and the permit was issued. The residence was built in 2002.

## **B. BACKGROUND**

The subject site is located at 2240 Latigo Canyon Road, approximately 6½ miles northerly of the intersection of Latigo Canyon Road and Pacific Coast Highway, in Los Angeles County, near Malibu (see Exhibit 1). The 4½ -acre parcel is a hilltop property situated along the east side of Latigo Canyon Road. The site is designated as "Mountain Land" and "Rural Land" in the certified Malibu/Santa Monica Mountains Land Use Plan, characterized by very low-intensity rural development.

The site is situated on a prominent northwest to southeast-trending ridgeline. Natural slopes from the ridge line descend to the north and south at 3:1 (Horizontal:Vertical) and 1.5:1 (H:V) ratios. To the east and west the ridgeline is gently sloping. Topographic relief across the development varies from 30 feet to the north to the lower access road and 100 feet to the south toward Latigo Canyon Road. Drainage is by sheet flow runoff from the natural topography to the north or south. There are no United States Geological Survey (U.S.G.S.) designated "blueline" drainage courses on the site. However, the subject parcel drains into blueline tributaries of Escondido Creek, a USGS blueline stream. Escondido Creek courses to the Pacific Ocean approximately 5 miles downgradient of the subject parcel.

The proposed project is located within an area designated by the certified Malibu/Santa Monica Mountains Land Use Plan as a Wildlife Migration Corridor. The certified LUP establishes specific policies and development standards to protect the resources of these relatively undisturbed areas. Impacts to these resources by the proposed development are discussed further in Section D below. The proposed project will not be visible from scenic highways or from parkland or trails.

There are several reported violations on the subject property, including non-native landscaping, failure to remove excess graded (cut) material from the Coastal Zone, failure to remove a construction trailer as required, as well as placement of an unpermitted gazebo, shed, manual gate, and both chainlink & wooden fencing, all in a designated wildlife corridor. The Commission's enforcement division will independently evaluate further actions to address the unpermitted development.

Development has occurred on the subject site in non-compliance with the terms, conditions, and previously approved plans of the underlying Coastal Development Permit 4-00-147 including, but not limited to, the following: (1) installation of non-native landscaping in non-compliance with the previously approved landscape plans; (2) failure to remove excess graded (cut) material from the Coastal Zone as specifically required by

a special condition of the underlying permit; (3) failure to remove a construction trailer as specifically required by a special condition of the underlying permit; and (4) placement of both chainlink and wooden fencing in a designated wildlife corridor specifically prohibited by a special condition of the underlying permit. Additionally, development has occurred on the subject site without the required coastal development permit including but not limited to installation/construction of an unpermitted gazebo, shed, and manual gate. Except for the removal of the manual gate, the applicant is not proposing to address any of the above referenced unpermitted development or other violations involving non-compliance with the previously approved plans and conditions of the underlying coastal permit as part of this pending amendment application. Therefore, the Commission's enforcement division will investigate further and take appropriate action to address the unpermitted development.

### **C. COMMISSION ACTION PRIOR TO COASTAL DEVELOPMENT PERMIT NO. 4-00-147 ISSUED IN 2001**

On April 13, 1994, the Commission approved Coastal Development Permit 4-93-200 for a 4,899 sq. ft., 28 ft. high from existing grade single family residence with 660 sq. ft. tack room, 880 sq. ft. paddle tennis court, swimming pool, patio, water well, septic system and 1,400 cu. yds. of grading (1,400 cu. yds. cut, 0 cu. yds. fill) on the subject site. The applicant did not fulfill the special conditions associated with CDP 4-93-200 or obtain an extension. The permit expired on April 13, 1996.

### **D. PUBLIC ACCESS/RECREATION & ENVIRONMENTALLY SENSITIVE HABITAT**

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act further states:

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

Section 30213 of the Coastal Act states in part:

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

Coastal Act Section 30240 affords protection of environmentally sensitive habitat areas as follows:

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

***(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.***

The provisions of the Coastal Act require the protection of coastal resources, including public access, sensitive habitat, marine resources and water quality, biological productivity, coastal-dependent uses, and visual resources. Specifically, Coastal Act Sections 30210, 30211, and 30213 mandate that maximum public access and recreational opportunities and facilities be provided and protected and that development not interfere with the public's right to access the coast. Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHA) be protected and that development be sited and designed to prevent impacts to such areas.

The applicant is requesting modification of Coastal Development Permit Application No 4-00-147 to construct a 20-foot long, maximum six-foot high wrought iron electric gate across the roadway to the residence and remove an unpermitted manual gate in approximately the same location.

## **1. Public Access**

The subject site is located in a rural area of the Santa Monica Mountains, east of Latigo Canyon Road, approximately ½-mile south of the stretch of the Backbone Trail from Castro Peak Motorway to Newton Motorway. The subject site is situated in proximity to a large network of publicly owned lands. Specifically, the site is located less than ¼-mile from a large area of National Park Service land known as "Castro Crest" to the north and to the east of the subject property. Further to the east and coterminous with the NPS land is Malibu Creek State Park.

The site is developed with a single family residence located approximately 700 feet off of Latigo Canyon Road. Access is via a common road easement that extends approximately 520 feet from Latigo Canyon Road to join a road on the subject parcel which leads to the building pad site. In addition to the road that leads directly to the residence, there is a "spur road" located approximately 100 feet west of the residence. The spur road crosses through approximately 120 feet of the subject parcel, then crosses to the north to adjoin an unimproved road that leads to a network of dirt roads on adjacent parcels.

The spur road is not part of a designated trail system for Los Angeles County or the National Park Service (NPS) and is not shown as part of the trail system on the recreation guide for the area (Tom Harrison Trail Maps, Malibu Creek State Park Trail Map, 2005). Additionally, staff has contacted NPS and Mountains Recreation and Conservation Authority (MRCA) staff directly to determine whether there is any known use of the spur road as part of the trail system. Neither NPS or MRCA claim an easement interest, nor



have they any reported activity along the spur road. The subject spur road is remote and winding, and it is not a convenient connection to the established trail system.

The spur road joins a network of dirt roads that connect Latigo Canyon Road and McReynolds Fire Road. However, there are alternative methods to reach both Latigo Canyon Road and McReynolds Fire Road and the known public trails systems located offsite that would not require use of these roadways on the subject site.

There have been assertions by neighbors that public and/or private easements exist over the spur road. The neighbors have stated that they consider the spur road to be an open public roadway for a number of reasons. The first of which is that the spur road has been unobstructed and in use since a private roadway easement was granted in 1943. Neighboring property owner Richardson asserts that he has been using the subject spur road since 1963 and that there have been no gates, no signs, or any other obstructions until the recent placement of the unpermitted chainlink gate. Additionally, Richardson asserts that the road is used by 30 different property owners because it connects McReynolds Road to Latigo Canyon Road. Further, according to Blake, the road has been used by the public, including use during the annual equestrian Malibu Endurance Ride.

a. Consistency with Section 30211 of the Coastal Act

Section 30211 of the Coastal Act states, in part, that “development shall not interfere with the public’s right of access to the sea where acquired through use or legislative authorization.” Applicants for coastal development permits must demonstrate that their proposed developments are consistent with the Coastal Act, including the requirements of Section 30211 of the Act. In implementing these policies, the Commission, must consider whether a proposed development will interfere with or adversely affect an area over which the public has obtained public rights of access. The agency must determine whether there is substantial evidence to support the conclusion that the area has been impliedly dedicated to public use.

A right of access through use is, essentially, an easement over real property which comes into being without the explicit consent of the owner. The acquisition of such an easement by the public is referred to as an “implied dedication.” The doctrine of implied dedication was confirmed and explained by the California Supreme Court in Gion v. City of Santa Cruz (1970) 2 Cal.3d 29. The right acquired is also referred to as a public prescriptive easement, or easement by prescription. This term recognizes the fact that the use must continue for the length of the “prescriptive period,” before an easement comes into being.

The rule establishes a statute of limitations, after which the owner cannot assert formal full ownership rights to terminate an adverse use. In California, the prescriptive period is five years.

For the public to obtain an easement by way of implied dedication, it must be shown that:

- 1) The public has used the land for a period of five years or more as if it were public land;

- 2) Without asking for or receiving permission from the owners;
- 3) With the actual or presumed knowledge of the owner;
- 4) Without significant objection or bona fide attempts by the owner to prevent or halt the use; and
- 5) The use has been substantial, rather than minimal.

When evaluating the conformance of a project with 30211, the Commission or the applicable local government cannot determine whether public prescriptive rights actually do exist; rather, that determination is made by a court of law. However, the Commission or the applicable local government is required under Section 30211 to prevent development from interfering with the public's right of access where acquired through use or legislative authorization. As a result, where there is substantial evidence that such rights may exist, the Commission or the applicable local government must ensure that proposed development would not interfere with any prescriptive rights which may exist.

The courts have recognized the strong public policy favoring access to the shoreline, and have been more willing to find implied dedication for that purpose on shoreline properties than when dealing with inland properties. A further distinction between inland and coastal properties was drawn by the Legislature subsequent to the Gion decision when it enacted Civil Code Section 1009. Civil Code Section 1009 provides that if lands are located more than 1,000 yards from the Pacific Ocean its bays, and inlets, unless there has been a written, irrevocable offer of dedication or unless a government entity has improved, cleaned, maintained the lands, the five years of continual public use must have occurred prior to March 4, 1972. In this case, the subject site is *not* within 1,000 yards of the sea; therefore the required five-year period of use must have occurred *prior* to March of 1972 in order to establish public rights in the property.

As stated above, the neighbors have stated that they consider the spur road to be an open public roadway for a number of reasons. The first of which is that the access road has been unobstructed and in use since a private easement was granted in 1943. Neighboring property owner Richardson asserts that he has been using the subject access road since 1963 and that there have been no gates, no signs, or any other obstructions until the recent placement of the unpermitted chainlink gate. Additionally, Richardson asserts that the road is used by 30 different property owners because it connects McReynolds Road to Latigo Canyon Road.

Although this information suggests a period of use in the past, the evidence does not by itself establish potential prescriptive rights of public access. The applicants have submitted an aerial photograph from I.K. Curtis Services, Inc. dated 1976 which demonstrates that there were some trails or small roadways in the vicinity, including the "spur" portion of the road on the subject property. However, the common access road initiating from Latigo Canyon Road did not extend to the subject property and therefore did not provide a connection to the spur road. Based on staff's review of historic aerial photographs, the road did not extend from Latigo Canyon Road to the subject property until 1977. In addition, the information provided by the neighbors focuses on localized use by neighbors of the subject site after a private easement was granted over the spur road and does not show the extent of general public use or whether general public use was adverse or without the permission of the property owner. Moreover, even if

substantial general public use without the permission of the property owner could be established, there is no evidence such use occurred for the requisite 5 years prior to March 1, 1972. Therefore, there is no substantial evidence of an implied dedication at the subject site.

There are additional assertions that the spur road has been in use for an annual equestrian event, known as the Malibu Endurance Ride, for decades. Staff research indicates that the Malibu Endurance Ride is an annual event hosted by various "Ride Managers," resulting in the initiation, conclusion, and required stops to occur in various locations in the central part of the Santa Monica Mountains. It is possible that the Ride has crossed through the subject property, especially given that the Ride occurs along the Backbone Trail immediately north of the subject property. However, since this event did not take place for 5 years prior to March 1, 1972, such usage did not establish public rights in the property. Moreover, since the route does not follow the same trail each year and there is flexibility in the course, the proposed gate will not serve as an impediment to the continuation of the annual Malibu Endurance Ride.

For the above reasons, staff finds that the proposed gate will not interfere with public access rights in a manner inconsistent with the provisions of the Coastal Act. Therefore, the Commission finds that the amended development will not adversely impact recreational opportunities or public access and the proposed amendment is consistent with Sections 30210, 30211, and 30213 of the Coastal Act.

## **2. Wildlife Corridor/ESHA**

The proposed project is located within an area designated by the Malibu/Santa Monica Mountains Land Use Plan as a Wildlife Migration Corridor. In the approval of 4-00-147, the Commission found that fencing of the site would adversely impact the movement of wildlife and therefore fencing was limited to within 50 feet of the residence and around the pool.

Specifically, Special Condition 6 (Future Improvements Deed Restriction) requires:

***... any proposed fencing of the subject property is prohibited except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence approved with a valid coastal development permit or permit amendment from the Commission or from the applicable certified local government. The applicant agrees that fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife; barbed wire, mesh or chain link fencing shall not be permitted, except that chain link fencing may be permitted for safety around the pool pursuant to the Uniform Building Code.***

The applicant is requesting a gate across a road on his property. The proposed gate will be located within the footprint of an existing paved road approved under CDP 4-00-147 and will not require the removal of any native vegetation or result in the loss of any sensitive habitat on site. The gate will stand alone and will not connect to fencing on either side. No fencing is proposed, nor would it be consistent with the underlying permit. As a result, the roadway would be blocked to wildlife travel at this one location. To allow

continued wildlife travel along the roadway, the Commission finds it necessary to impose Special Condition 10 to require that the gate be a wildlife permeable design. Specifically, the minimum distance from ground level to the gate's first rung shall be 18 inches to allow wildlife passage underneath the gate. Additionally, the gate shall ensure passage around the gate, wide enough for animals as large as deer. The maximum height of the gate shall be 48 inches. Barbed-wire or chainlink are prohibited. Additionally, pursuant to the Commission's previous action on the underlying permit, the remaining undeveloped portion of the property, including native chaparral habitat, cannot be fenced and therefore will remain passable to wildlife. Therefore, the proposed amendment as conditioned will not result in any adverse impacts to wildlife or ability of wildlife to continue using the property as a wildlife corridor.

The Commission found that night lighting on the property had the potential to alter or disrupt feeding, nesting, and roosting activities of native wildlife species. In order to ensure that night lighting will not create adverse night time visual impacts that may adversely affect wildlife in this Wildlife Corridor, the Commission applied Special Condition 9 to the underlying permit. Special Condition 9 requires that night lighting, if any, shall be directed downward, be of low intensity, at low height and shielded; security lighting, if any, shall be controlled by motion detector to avoid creating adverse night time visual impacts. However, the project plans submitted for this gate do not include a lighting component. Since Special Condition 6 of the underlying permit requires that any improvements to the property receive an amendment or new coastal development permit, lighting of the gate or other changes to the project plans would require an amendment or new coastal development permit.

In addition, Special Condition 11 allows for recovery of costs and attorney fees in the event of litigation associated with the subject permit: The applicant shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit amendment. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

Therefore the Commission finds that the amended development will not adversely impact biological resources or sensitive habitat and therefore, the amended development as conditioned is consistent with Section 30240 of the Coastal Act.

## **E. OTHER DISPUTES & ISSUES**

Neighbors have stated concerns regarding placement of the gate for multiple reasons: (1) the gate will cross a roadway, not a driveway; (2) the spur road has been used by neighboring property owners since 1943; (3) the spur road is a public roadway (4) the spur road is a wildlife corridor; and (5) there are existing violations on the subject site that should be reconciled prior to approval of a gate.

Items 1 and 2, above, involving the use of the spur road by neighboring property owners are private disputes and not subject to review under the Coastal Act. Tim and Kerry Parker own the property under fee title, and therefore have the right to apply for a coastal development permit. The standard of review of the proposed gate is whether or not the gate itself is consistent with the Chapter 3 policies of the Coastal Act.

Section 30601.5 of the Coastal Act requires that all holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant. It appears that two neighbors, Kristin Blake and Doug Richardson, may have an easement interest in the property. Given the history of litigation amongst the parties, the neighbors were provided written notice but are not considered project proponents or co-applicants.

In addition to the private easement issues, the neighbors have stated that they consider the spur road to be an open public roadway for a number of reasons. The first of which is that the spur road has been unobstructed and in use since a private easement was granted in 1943. Neighboring property owner Richardson asserts that he has been using the subject spur road since 1963 and that there have been no gates, no signs, or any other obstructions until the recent placement of the unpermitted chainlink gate. Additionally, Richardson asserts that the road is used by 30 different property owners because it connects McReynolds Road to Latigo Canyon Road. Further, according to Blake, the spur road has been used by the public, including the annual equestrian Malibu Endurance Ride. As detailed in the public access analysis in Section D above, the Commission finds no evidence that the amended development would interfere with public access rights in a manner inconsistent with the provisions of the Coastal Act.

The neighbors have also stated that the spur road is a wildlife corridor and that allowing a gate would adversely affect wildlife passage. As detailed in Section D above, the gate does not function as a fence because it will stand alone and will not connect to fencing on either side. No fencing is proposed, nor would it be consistent with the underlying permit. Special Condition 6 of the underlying permit restricts fencing on the property to within 50 feet of the residence, and requires a coastal development permit for new fencing. However, because the gate would not serve in the capacity of a fence, Special Condition 6 need not be amended to accommodate the proposed gate. Further, Special Condition 10 requires that the gate be a wildlife permeable design. Additionally wildlife will retain the ability to travel and access the remainder of the undeveloped portions of the property including native chaparral habitat.

With regard to the neighbors' final assertion, the Commission finds that development has occurred on the subject site in non-compliance with the terms, conditions, and previously approved plans of the underlying Coastal Development Permit 4-00-147 including, but not limited to, the following: (1) installation of non-native landscaping in non-compliance with the previously approved landscape plans; (2) failure to remove excess graded (cut) material from the Coastal Zone as specifically required by a special condition of the underlying permit; (3) failure to remove a construction trailer as specifically required by a special condition of the underlying permit; (4) placement of both chainlink and wooden fencing in a designated wildlife corridor specifically prohibited by a special condition of the underlying permit. Additionally, development has occurred on the subject site without the

required coastal development permit including but not limited to installation/construction of an unpermitted gazebo, shed, and manual gate. Except for removal of the manual gate, the applicant is not proposing to address any of the above referenced unpermitted development or other violations involving non-compliance with the previously approved plans and conditions of the underlying coastal permit as part of this pending amendment application. Therefore, the Commission's enforcement division will investigate further and take appropriate action to address the unpermitted development. Unless an alleged violation is functionally related to proposed development, it is the Commission's practice to address alleged violations separately from permit applications.

## F. VIOLATIONS

Development has occurred on the subject site in non-compliance with the terms, conditions, and previously approved plans of the underlying Coastal Development Permit 4-00-147 including, but not limited to, the following: (1) installation of non-native landscaping in non-compliance with the previously approved landscape plans; (2) failure to remove excess graded (cut) material from the Coastal Zone as specifically required by a special condition of the underlying permit; (3) failure to remove a construction trailer as specifically required by a special condition of the underlying permit; (4) placement of both chainlink and wooden fencing in a designated wildlife corridor specifically prohibited by a special condition of the underlying permit. Additionally, development has occurred on the subject site without the required coastal development permit including but not limited to installation/construction of an unpermitted gazebo, shed, and manual gate. Except for the removal of the manual gate, the applicant is not proposing to address any of the above referenced unpermitted development or other violations involving non-compliance with the previously approved plans and conditions of the underlying coastal permit as part of this pending amendment application. Therefore, the Commission's enforcement division will investigate further and take appropriate action to address the unpermitted development.

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

## G. LOCAL COASTAL PROGRAM

Section 30604 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 to 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 projects and are accepted by the applicant. As conditioned, the proposed developments 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 developments, 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).

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

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

The Commission 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.

**CALIFORNIA COASTAL COMMISSION**

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



Page 1 of 8  
Date: September 28, 2001  
Permit Application No. 4-00-147

**COASTAL DEVELOPMENT PERMIT**

On June 15, 2001, the California Coastal Commission granted to Tim & Kerry Parker, permit 4-00-147, subject to the attached Standard and Special Conditions, for development consisting of: Construct a 3,630 sq. ft., two story, 21-foot high, single family residence with 776 sq. ft. attached garage, septic system, water well, swimming pool, jacuzzi, pave access road and driveway, temporary construction trailer, and 136 cu. yds. of grading (68 cu. yds. cut, 68 cu. yds. fill). The project further entails revegetation of an abandoned spur road on the subject parcel and is more specifically described in the application on file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 2240 Latigo Canyon Road, Malibu.

Issued on behalf of the California Coastal Commission by,

PETER DOUGLAS  
Executive Director

By: Shana Gray  
Coastal Program Analyst

**ACKNOWLEDGMENT:**

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

**IMPORTANT:** THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Permittee

**Exhibit 1  
4-00-147-A1  
Standard & Special Conditions  
CDP 4-00-147**



**COASTAL DEVELOPMENT PERMIT**

Page 2 of 8  
Permit Application No. 4-00-147

**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.

**SPECIAL CONDITIONS:**

**1. Plans Conforming to Geologic Recommendations**

- (a) All recommendations contained in the GeoSystems Updated Soils and Engineering Geologic Report for Proposed Residence at 2240 Latigo Canyon Road dated April 17, 2000 and Preliminary Soils and Engineering Geologic Investigation for Proposed Single Family Residence APN 4465-6-4418 dated October 25, 1993 reports shall be incorporated into all final design and construction including recommendations concerning foundations, lateral design, temporary excavation slopes, pool subdrain, on-grade slabs, settlement, drainage, grading, reviews, and limitations. All plans must be reviewed and approved by the geotechnical consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval two (2) sets of all final project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- (b) The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

**COASTAL DEVELOPMENT PERMIT**

Page 3 of 8  
Permit Application No. 4-00-147

**2. Landscape and Erosion Control Plan and Fuel Modification**

Prior to issuance of a coastal development permit, the applicant shall submit two (2) sets of landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

**A) Landscaping Plan**

- 1) All disturbed areas, including the abandoned spur road and location of the construction trailer, on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants 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. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) All development approved herein shall be undertaken in accordance with the final approved plans. Any proposed changes to the approved final landscape or fuel modification plans shall be reported to the Executive Director. No changes to said plans shall occur without a Coastal-Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

**COASTAL DEVELOPMENT PERMIT**

Page 4 of 8  
Permit Application No. 4-00-147

- 5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

**B) Interim Erosion Control Plan**

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

**COASTAL DEVELOPMENT PERMIT**

Page 5 of 8  
Permit Application No. 4-00-147

**C) Monitoring**

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified 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.

**3. Assumption of Risk**

A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire; (ii) to assume the risks to the applicants 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 arising from any injury or damage due to such hazards.

B. Prior to the issuance of the coastal development permit, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

## **COASTAL DEVELOPMENT PERMIT**

Page 6 of 7  
Permit Application No. 4-00-147

### **4. Removal of Excess Graded Material**

The applicant shall remove all excavated material consisting of approximately 68 cubic yards of material to an appropriate disposal site located outside of the Coastal Zone.

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

### **5. Drainage and Polluted Runoff Control Plan**

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, two (2) sets of final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure that the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85<sup>th</sup> percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

## **COASTL DEVELOPMENT PERMIT**

Page 7 of 8  
Permit Application No. 4-00-147

### **6. Future Improvements**

This permit is only for the development described in Coastal Development Permit No. 4-00-147. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall apply to the entire property. Accordingly, any future improvements to the entire property including the permitted residence and garage, and clearing of vegetation or grading, other than as provided for in the approved fuel modification landscape and erosion control plan prepared pursuant to Special Condition Number Two (2), shall require an amendment to Permit No. 4-00-147 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, any proposed fencing of the subject property is prohibited except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence approved with a valid coastal development permit or permit amendment from the Commission or from the applicable certified local government. The applicant agrees that fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife; barbed wire, mesh or chain link fencing shall not be permitted, except that chain link fencing may be permitted for safety around the pool pursuant to the Uniform Building Code.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

### **7. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the Zone A Setback area pursuant to the applicant's Fuel Modification Plan required pursuant to Special Condition Number Two (2) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Further vegetation thinning pursuant to the Fuel Modification Plan shall not occur until commencement of construction of the structure approved pursuant to this permit.

**COSTAL DEVELOPMENT PERMIT**

Page 8 of 8  
Permit Application No. 4-00-147

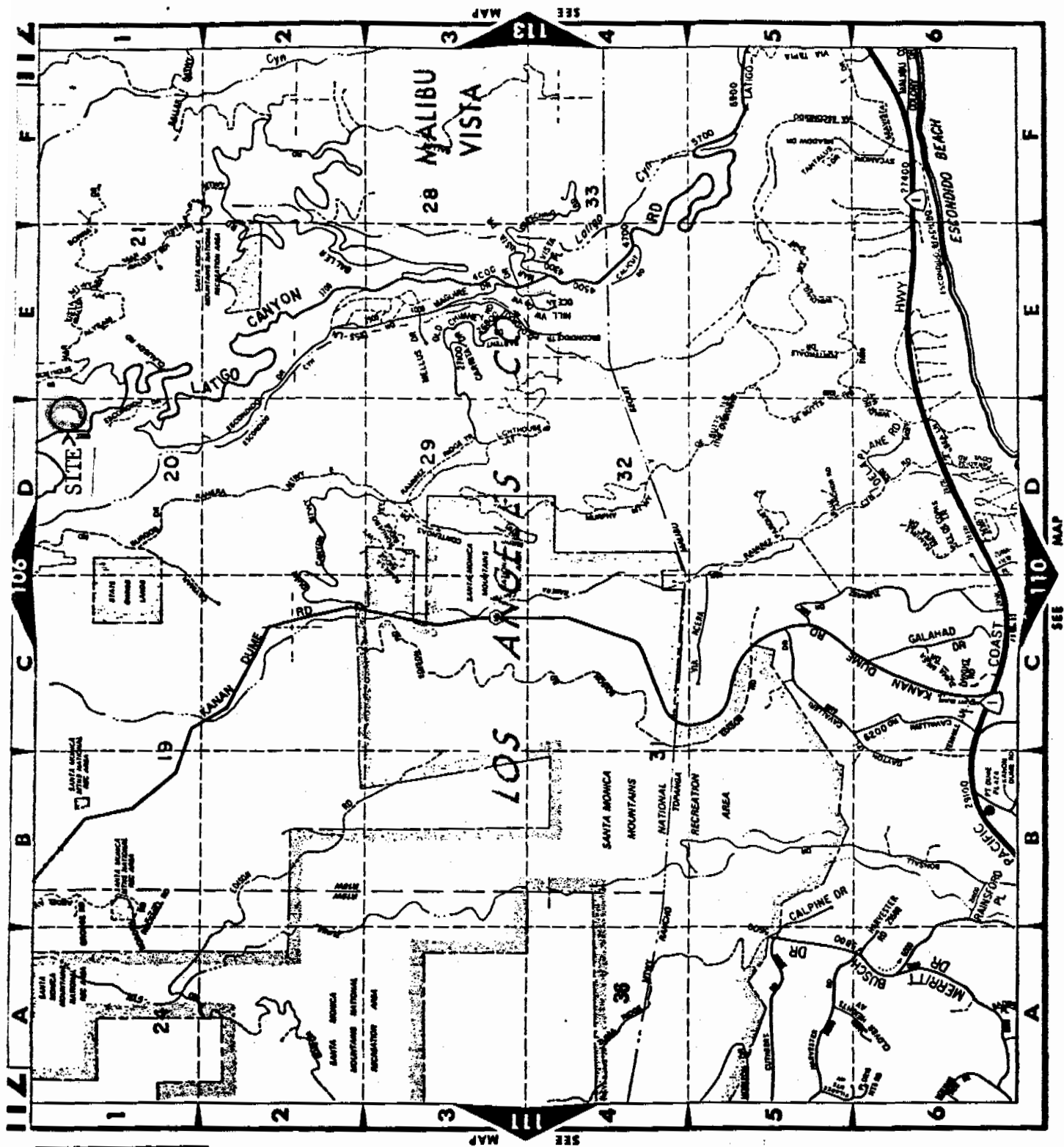
**8. Removal of Construction Trailer**

With the acceptance of this coastal permit, the applicant agrees that the temporary trailer for construction staging shall be removed from the site within two years of the issuance of this Coastal Permit or within sixty (60) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from the County of Los Angeles, whichever is less, to a site located outside of the Coastal Zone or a site with a valid coastal development permit for the trailer. After the trailer is removed the disturbed site shall be revegetated as required by Special Condition Number Two (2) within 60 days.

**9. Night Lighting**

Night lighting, if any, shall be directed downward, be of low intensity, at low height and shielded; security lighting, if any, shall be controlled by motion detector.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.



4-00-147 Parker

EXHIBIT 2  
4-00-147-A1  
Vicinity Map



Existing Vegetation Profile:

The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

FUEL MODIFICATION

1. INTRODUCTION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

2. FUEL MODIFICATION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

3. FUEL MODIFICATION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

4. FUEL MODIFICATION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

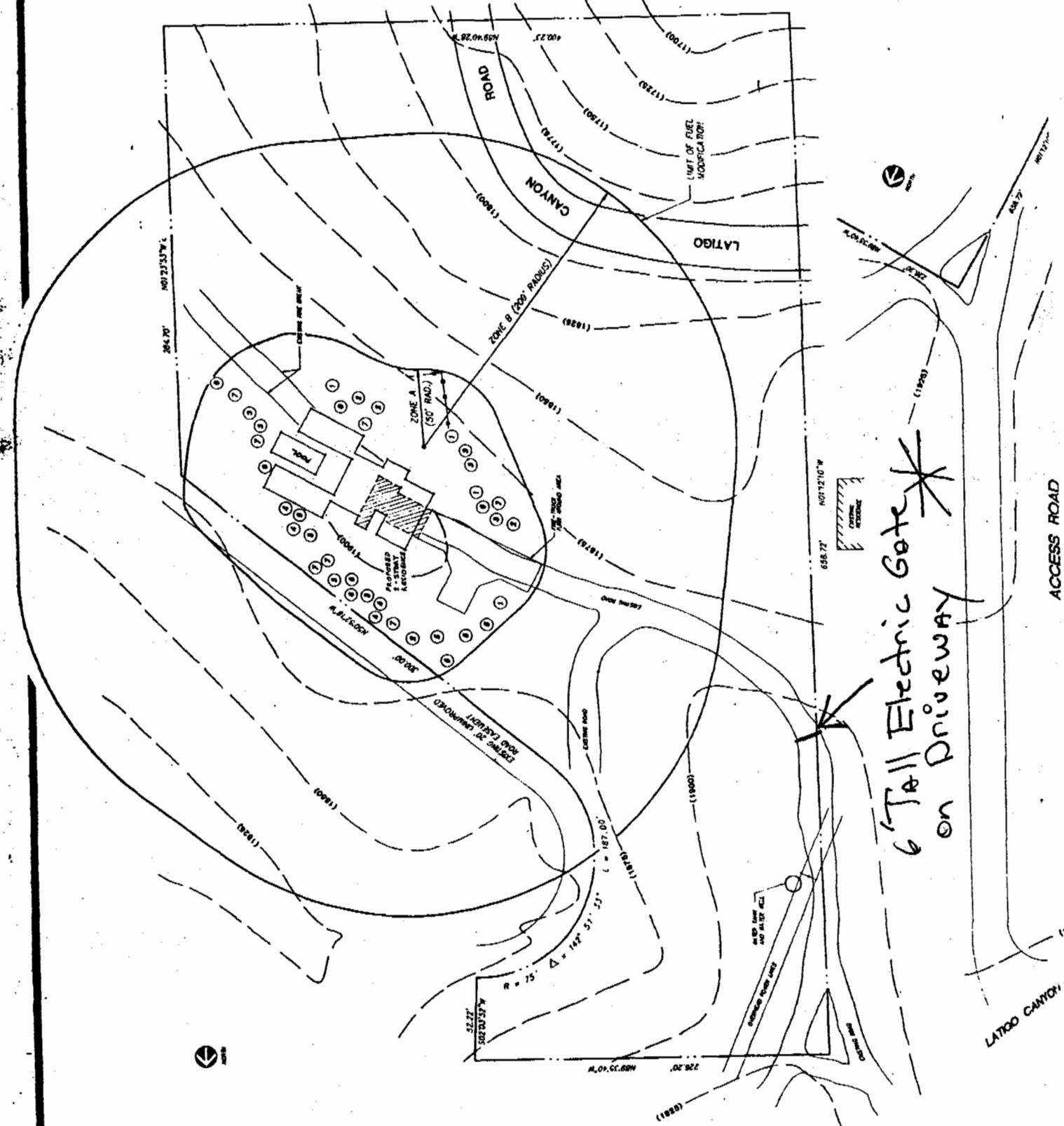
5. FUEL MODIFICATION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

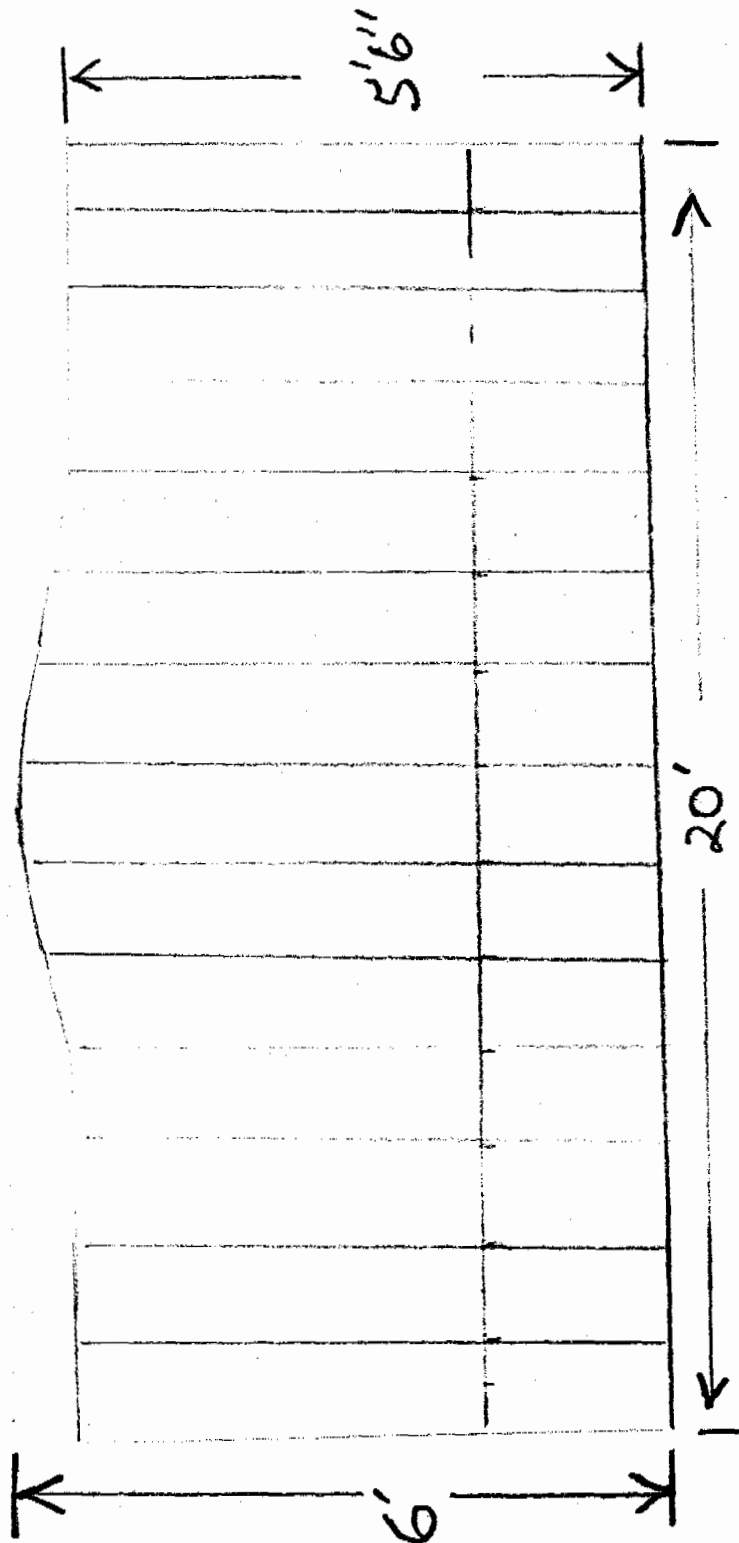
6. FUEL MODIFICATION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

7. FUEL MODIFICATION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

8. FUEL MODIFICATION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.

9. FUEL MODIFICATION  
The fuel modification project has been designed to meet the requirements of the National Fire Protection Association (NFPA) 1142 standard for fuel modification of structures. The project is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees. The site is located within a wooded area of approximately 100 acres. The vegetation is primarily composed of oak, pine, and deciduous trees.





Wrought Iron Gate  
 2240 Lattice Cyn Rd  
 Mililim CA 90265

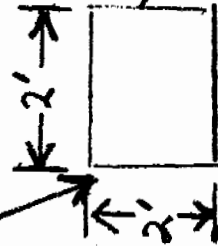
EXHIBIT 4

4-00-147-A1

Gate Drawings

Elite Gate  
Motor

Gate



21' 6"

6" x 6"  
Solid Steel Post

6" x 6"  
Solid Steel Post

Wrought Iron Gate Top View  
2240 Lattice Cyn Rd  
Matibu CH 910265

California Coastal Commission  
89 S. California Street Suite 200  
Ventura, CA 93001

January 2, 2007

Attn: Shaana Grey

Re: Opposition to Timothy Parker Permit Application #4-00-147-A1

RECEIVED  
JAN 08 2007

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Mr. Parker is applying for a permit to put a gate across a roadway that he has characterized as "his driveway", "an abandoned spur road", etc. and that all he wants to do is assure his privacy. If any of that were true, there would be no opposition, but that is not the truth.

What Mr. Parker seeks to do is to close off a roadway that has been in existence since 1943 and known locally as the Wallner Road. The Wallner Road connects to another roadway established in 1927 which is known as the McConnell Road. Combined, these roadway sections created a thoroughfare from Latigo Canyon Road on the west to Corral Canyon Road on the east. Various names have been applied to these roadways including McReynolds, Mar Vista, Baller, etc.

Since I took up residence in the area in 1963, not only have I used the roadways regularly but so did everyone else in the area as well as the public. That situation existed without interference, gates, signs, or any other indication that anyone who wanted to use the road was not welcome to do so. The roadways were, in fact, well used and were public in nature. Before Latigo Canyon Road was an all weather road, those roadways were the main route to the Pacific Coast Highway.

Horse riders from the surrounding areas used the roadway as did hikers, bikers and motor vehicles. Wild life also used the roadway extensively. The only time I saw a mountain lion was on that roadway although I was aware of sightings by others of the mountain lions using the roadway on a regular basis. The deer also use the roadway as a regular trail.

That all came to an end when Mr. Parker gated, fenced and posted the roadway and assaulted anyone he found using the roadway. Mr. Parker's motivation has nothing to do with his driveway to his house. It has to do with the fact that the roadway cuts across his property. If he can close the road, he can increase the value of his property. But, he bought the property with full knowledge that the road existed and that its use was virtually public.

If Mr. Parker is granted a permit to gate the road, then why not everyone else who owns property over which the road passes. Why not hundreds of gates and more fences?

We are rapidly losing the wilderness character of the region where the wild animals abound and people can travel the roadway to enjoy that kind of environment. No one is asking Mr. Parker to give up anything he owns. But, he never owned the road as clearly evidenced by his deed.

  
Signature On File

Doug Richardson  
2100 McReynolds Road  
Malibu, CA 90265  
310-457-6400

EXHIBIT NO. 5

APPLICATION NO.

4-00-147-A1

Correspondence

Ms. Cricket Blake  
23852 Pacific Coast Hwy #761  
Malibu, Ca 90265  
310/245-6998

RECEIVED  
OCT 23 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

South Central Coast District Office  
Ms. Shana Gray  
89 South California Street, Suite 200  
Ventura, CA 93001-2801  
(805) 585-1800  
FAX (805) 641-1732  
Re: Parker application 4-00-147 A1

10-18-06

Dear Ms. Gray,

I am sorry that it took a few days to get back to you. I have marked the roadway on each of the 3 maps that you sent to me. The roadway is marked in green. This road has been used by the public (horses, hikers, bike riders etc) since 1943. The Malibu Endurance Ride (50 mile horse ride) had used that road for more than 30 years, prior to Mr. Parker fencing and otherwise blocking the road. The road was a deer, bobcat and coyote corridor until Mr. Parker fenced and gated all the animals out of the road. The deer traveled the road twice a day going from one area of the Santa Monica Mountains National Park to another area of the park. There was a bobcat that lived near or on these properties that I would see on the roadway several times a week.

When Mr. Parker bought the property he aggressively denied access to all. He allows his dogs to run free and chase any hapless animal that tries to use the roadway. I have seen the dogs chasing deer. The Parker CCC Permit # 4-00-147, Item 6, specifically denies Mr. Parker the right to put up any fencing except if he has a pool. *If* he has a pool, which he does not, he has the right to seek an addition CCC permit or amendment to his original permit to put up fencing only if the fencing is to within 50' of his house.

There is no reason to change this restriction.

1) Restricting all fencing (including gates) to within 50' of Mr. Parker's residence would minimize the damage Mr. Parker does to the wildlife in the area, especially the deer, coyote and bobcat corridor.

2) The public has used the roadway since 1943 for access to the recreational trails in the Santa Monica Mountains. Any gate outside of the 50' restriction denies access to the public hikers, bike riders and horse riders.

3) The roadway has been the public access for the Malibu Endurance Ride for more than 30 years.

4) The roadway that Mr. Parker seeks to block is my deeded easement to my property. (As found by Judge Karlan) Others also have prescriptive easement rights over that roadway.

5) Mr. Parker has shown reckless disregard for the CCC. Despite his deed restrictions and CCC permit restrictions he has built 3 wood outbuildings, 5 fences (distance from his house: 400'-wood, 330'- wood, 250'-the chain link gate across the road, 230'-chain link, 70'- wire mesh), failed to remove the staging trailer and 20' storage container, etc. Allowing Mr. Parker to obtain a CCC permit for a gate across the wildlife corridor would be rewarding him for his egregious behavior.

6) Mr. Parker's permit application is incomplete. He has failed to state that the gate must have telephonic access to my home. (per Judge Karlan). This will necessitate the digging of a trench that is at least 250' long. He also fails to specifically locate where he intends to place the gate.

7) Mr. Parker falsified his original CCC permit application. He failed to report that the roadway he claimed was an "abandoned spur road" was

A) a wildlife corridor

B) a long standing public access for hiking, riding and biking

C) a deeded easement

D) a prescriptive easement

We have proven in Judge Karlan's court that Mr. Parker knew all of these facts.

8) Mr. Parker has falsely stated on application 4-00-147 A1, that the gate would be placed across a "driveway". Judge Karlan has ruled that this is a **roadway**. It is not Mr. Parker's private driveway. Mr. Parker's private driveway extends 80 feet from his house, where it then joins with the roadway.

Please require Mr. Parker to remove all of his unpermitted development (fencings, gate, structures, trailer, shipping container, etc) prior to consideration of any new development. In any case, Mr. Parker should only be allowed a gate that is within 50' of his residence as specified by his original CCC permit and deed restrictions.

If you have any questions or there is anything that I can help with, please don't hesitate to call. Cricket Blake 310/245-6998

Thank you for your consideration and action on these items.

Sincerely,

**Signature On File**

-----  
Cricket Blake

RECEIVED

NOV 15 2006

Oct. 31, 2006

To: Tim Parker

From: H.K. Klatte

Re: Easements on Parcel 4465-006-017 SOUTH CENTRAL COAST DISTRICT

CALIFORNIA  
COASTAL COMMISSION

The now asphalted driveway that runs from Latigo Canyon Road across my property to 2240 Latigo Canyon Road is covered by private easements.

When I purchased this property 30 years ago this, then dirt, driveway did not connect with your property. There were "No Trespassing" signs in place at the Latigo Canyon Rd. entrance which are still there.

This driveway has never been opened to public use.

However, now that this driveway has been surfaced, a gate is needed to keep the week-end motorcycles and other non authorized users out. This seems especially true since you have children in your family; we do not want to see a serious accident here.

H.K. Klatte

Signature On File

2200 Latigo Canyon Rd.  
Malibu, Ca. 90265



RECEIVED

NOV 15 2006

November 7, 2006

To: California Coastal Commission  
From: Tim and Kerry Parker  
2240 Latigo canyon road

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

The driveway from Latigo canyon road to 2240 Latigo canyon has never been open for public use it is covered by private easements. However now that this driveway has been surfaced a gate is needed for privacy and protection of our family. We live in a rural area of Malibu and need to place safety devices such as a gate across our driveway for protection of our property and children. We are only asking for a gate across our driveway it will have no restrictions on both sides of the gate.

Enclosed are 2 photographs from IK Curtis Services one dated 1976 and one 1977 showing the road going to our home never existing before 1977.

Thank You,

Tim and Kerry Parker

Signature On File

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**CALIFORNIA COASTAL COMMISSION**

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

**ADDENDUM****W11c**

**DATE:** February 9, 2007  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Addendum to Agenda Item W11c, Coastal Development Permit Application No. 4-00-147-A1 (Parker), for Wednesday, February 14, 2007 Commission Hearing

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The purpose of this addendum is to: (1) clarify the project description; (2) attach correspondence as of February 8, 2007; and (3) modify Special Condition 10, Gate Design, to modify the requirements for wildlife permeability. *Note: Double ~~striethrough~~ indicates text to be deleted from the January 25, 2007 staff report and double underline indicates text to be added to the January 25, 2007.*

1. The applicant has clarified that the project description includes a key pad and 1" conduit to house electrical and telephone hookups for the electric gate. Paragraph 1 under Section III.A, Amendment Description, on Page 5 of the January 25, 2007 staff report shall be modified as follows:

The applicant is requesting modification of Coastal Development Permit Application No 4-00-147 to construct a 20-foot long, maximum six-foot high wrought iron electric gate across the roadway to the residence and remove an unpermitted manual gate in approximately the same location. The project further includes installation of a 3-ft high key pad and 1" conduit immediately adjacent to the paved road to house the electrical and telephone connections to the electrical gate. The project would not entail landform alteration or removal of vegetation.

2. Letters received as of February 8, 2007 shall be appended to Exhibit 5, Correspondence, of the January 25, 2007 staff report. Two neighbors and ten members of the public have provided correspondence in opposition to the proposed project.

Twelve people, including two neighbors, indicated that they have used roads through the Parker property for recreational purposes including driving, hiking, biking, and riding trails through the property. As explained in the January 25, 2007 staff report, the spur road is not part of a designated trail system for Los Angeles County or the National Park Service (NPS) and is not shown as part of the trail system on the recreation guide for the area. Additionally, staff has contacted NPS and Mountains Recreation and Conservation Authority (MRCA) staff directly to determine whether there is any known use of the spur road as part of the trail system. Neither NPS or MRCA claim an easement interest, nor have they any reported activity along the spur road.

Exhibit 3 R-4-00-147-A1 CDP 4-00-147-A1 Addendum
---

Since there is no evidence of a trail system on the subject roadway, the neighbor who is in separate private dispute with regard to the easement, is seeking to establish public access. Since staff presently has no evidence of a recognized trail system on the Parker property, public access can only be established under public prescriptive rights laws. To establish the potential for public prescriptive rights, evidence must be submitted which indicates that the road/trail received substantial general public use without the permission of the property owner for 5 years prior to March 1, 1972.

Nine letters, including the two neighbors, stated that their use of the property was prior to 1972 and three letters either did not indicate a date or provided dates of use after 1972. One neighbor asserts use as a member of the general public, using it prior to 1972 and prior to taking up residence in the area. Though six letters from the general public asserted five years of use prior to 1972, none of the letters specified the extent, scope, exact location of their use, or whether their use was without the owners' consent. Although this information suggests a period of use in the past, the evidence does not by itself establish substantial public use of the specific roadway at issue without the owners consent. In addition, the information provided by the neighbors, other than the neighbor who used the area prior to living in the area, focuses on localized use by neighbors of the subject site after a private easement was granted over the spur road and does not evidence the extent of general public use or whether general public use was adverse or without the permission of the property owner. Even if substantial general public use without the permission of the property owner could be established, there is insufficient evidence that such use occurred on the specified roadway at issue for the requisite 5 years prior to March 1, 1972. Given the limited nature of the correspondence, the Commission concludes that these letters do not provide substantial evidence of implied dedication at the subject site.

Several opponents also indicated that the project is a wildlife corridor and raised concerns that the gate would block wildlife passage. As discussed in the staff report, Special Condition 10 requires that the gate design be wildlife permeable and include an area immediately adjacent to the gate to allow larger wildlife to pass around it. As proposed, the gate and location will provide the required clearance for larger wildlife. Additionally, wildlife will retain the ability to travel and access the remainder of the undeveloped portions of the property including native chaparral habitat. Therefore, as discussed in the January 25, 2007 staff report, the proposed amendment will not result in any adverse impacts to wildlife or ability of wildlife to continue using the property as a wildlife corridor.

3. The last paragraph on Page 10 of the staff report , and all subsequent references, shall be modified as follows:

Although this information suggests a period of use in the past, the evidence does not by itself establish potential prescriptive rights of public access. The applicants have submitted an aerial photograph from I.K. Curtis Services, Inc. dated 1976 which demonstrates that there were some trails or small roadways in the vicinity, including the "spur" portion of the road on the subject property. However, the 1976 aerial photograph suggests that the common access road initiating from Latigo Canyon Road did not extend to the subject property and therefore did not provide a connection to the spur

road. Based on staff's review of historic aerial photographs, the road did not extend from Latigo Canyon Road to the subject property until 1977. In addition, the information provided by the neighbors focuses on localized use by neighbors of the subject site after a private easement was granted over the spur road and does not show the extent of general public use or whether general public use was adverse or without the permission of the property owner. Moreover, even if substantial general public use without the permission of the property owner could be established, there is insufficient ~~no~~ evidence that such use occurred on the subject roadway at issue for the requisite 5 years prior to March 1, 1972. Therefore, there is no substantial evidence of an implied dedication at the subject site.

4. The second paragraph on Page 2 of the staff report shall be modified as follows:

There have been assertions by neighbors that public and private easements exist over the spur road because the spur road has been unobstructed and in use since a private easement was granted in 1943. The applicants have submitted an aerial photograph from I.K. Curtis Services, Inc. dated 1976 which demonstrates that there were some trails or small roadways in the vicinity, including the "spur" portion of the road on the subject property. However, the 1976 aerial photograph suggests that the common access road initiating from Latigo Canyon Road did not extend to the subject property and therefore did not provide a connection to the spur road. Based on staff's review of historic aerial photographs, the access road does not appear to have been extended to the subject site until 1977. In addition, although the neighbors provide evidence of past use, they do not provide substantial evidence of an implied dedication at the subject site. For example, the information provided by the neighbors focuses on localized use by neighbors of the subject site after a private easement was granted over the spur road and does not show the extent of general public use or whether general public use was adverse or without the permission of the property owner. Moreover, even if substantial general public use without the permission of the property owner could be established, there is insufficient ~~no~~ evidence that such use occurred on the subject roadway at issue for the requisite 5 years prior to March 1, 1972.

5. Additionally, Special Condition 10 on Page 4 of the staff report shall be modified as follows:

#### **10. Gate Design**

Prior to issuance of the coastal development permit amendment, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. The revised final project plans and project description shall reflect the following:

1. The gate shall be a wildlife permeable design, subject to the review and approval of the Executive Director. The minimum distance from ground level to the gate's first rung shall be ~~48~~ 10 inches to allow wildlife passage underneath the gate and the vertical spacing between bars shall be a minimum of 18 inches. Additionally, the gate shall ensure passage around the gate, wide enough for animals as large as deer. ~~The maximum height of the gate shall be 48 inches.~~ Barbed-wire or chainlink are prohibited.

The gate shall be constructed in compliance with the revised project plans approved by the Executive Director.

6. The last paragraph on Page 11 of the January 25, 2007 staff report, and all subsequent references, shall be modified as follows:

The applicant is requesting a gate across a road on his property. The proposed gate will be located within the footprint of an existing paved road and immediately adjacent road shoulder approved under CDP 4-00-147 and will not require the removal of any native vegetation or result in the loss of any sensitive habitat on site. The gate will stand alone and will not connect to fencing on either side. No fencing is proposed, nor would it be consistent with the underlying permit. As a result, the roadway would be blocked to wildlife travel at this one location. To allow continued wildlife travel along the roadway, the Commission finds it necessary to impose Special Condition 10 to require that the gate be a wildlife permeable design. Specifically, the minimum distance from ground level to the gate's first rung shall be at a minimum of ten inches to allow wildlife passage underneath the gate and the vertical spacing between bars shall be a minimum of 18 inches. Additionally, the gate shall ensure passage around the gate, wide enough for animals as large as deer. ~~The maximum height of the gate shall be 48 inches.~~ Barbed-wire or chainlink are prohibited. Additionally, pursuant to the Commission's previous action on the underlying permit, the remaining undeveloped portion of the property, including native chaparral habitat, cannot be fenced and therefore will remain passable to wildlife. Therefore, the proposed amendment as conditioned will not result in any adverse impacts to wildlife or ability of wildlife to continue using the property as a wildlife corridor.

The applicant has provided revised plans which would increase the vertical spacing of the bars to 18 inches. This would be an acceptable wildlife permeable design that would allow much of the wildlife to pass through the gate. However, there may be smaller wildlife species whose passage could be inhibited by a gate that extends nearly to the ground, and therefore a minimum of 10 inches of clearance under the gate would allow wildlife permeable design, where vertical spacing between bars is increased to 18 inches and the area around the gate is provided for larger species.

Agenda Item W 11c  
Permit No. 4-00-147-A1  
Opposed

Douglas W. Richardson  
2100 McReynolds Road  
Malibu, CA 90265 USA

Please do not allow the Parkers to close the public access point road and wildlife corridor that goes through the Parker property. The location of the proposed gate will block all wildlife movement due to the steep cliffs on each side of the gate. I have used the road that goes through the Parker property since 1963. I have used the road continuously up to the present time.

Signature on File

Doug Richardson

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FEB 02 2007

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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FEB 02 2007

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Opposed:W11c

4-00-147-A1

Feb 1, 2007

Please do not allow Mr. Parker to block the public access and wildlife corridor at 2240 Latigo Cyn Road, the Parker property.

I first started using the Wallner Roadway when I was a child in **1962**. My family lived in the San Fernando Valley. We would park the car on Latigo Canyon Road and hike to Upper Solstice Cyn. This roadway is still the best access to upper Solstice Cyn. This roadway was in continuous usage by us and our friends. In **1967**, I was given a horse that I boarded with Egon Mertz and later with Alice Kling. At least twice a week, a group of us would horse back ride through the roadway and into the trails. I, and my friends have continued to use the roadway openly since 1962.

The roadway is a public access. The Parkers should not be allowed to close it or interfere with it in any way. The roadway is also a wildlife corridor that the Parkers have completely blocked with their fencing.

I moved to Latigo Cyn, Malibu in 1984. I moved there because of the public access to the trails and because of the wildlife. In 1999 the Parkers bought the property at 2240 Latigo Cyn Rd. They first started interfering with the public access in June, 2001.

Please do not grant the Parkers a permit to build any gate or fencing. Please require that the Parkers remove all violations of their original CCC permit and deed restrictions.

Signature on File

Kristin Blake

23852 Pacific Coast Hwy #761

Malibu, CA 90265

Agenda: 1. Review 2. 11.1  
Permit 4-01-1977-4

Jan 27, 2007

Approved

Golly Blackman have been  
openly using riding, hiking, driving and hiking  
on the road that is now owned by  
the Parkers (2240 Lotige Cyn Rd.) since  
1966. I have continued to use that  
road consistently until the present  
time.

Golly Blackman

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT



Agenda 2112  
Permit 4-00-147-A1  
C. J. Seal

January, 2007

I Julia Blakeman have been openly  
riding, driving, working and picking on the  
road while it was owned by the  
Pacheco (2240) to King Canyon Rd. since  
1964. I have continued to use  
the road until the present time.

Julia S. Blakeman  
P.O. Box 746  
Nobles, CA 93570

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SOUTH CENTRAL COAST DISTRICT

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FEB 02 2007

COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Agenda Item W 11c  
Permit No. 4-00-147-A1  
Opposed

The Parkers are applying to close the road that crosses their property. This is a wildlife corridor and has been used as public access openly and continually for many years. I have been using the road with my family since 1964. I continue to use the roadway to this day.

The Parkers have repeatedly and continuously violated their original Coastal Permit and deed restrictions. If they must have a gate, let them have this gate within the 50 foot limit as stated in their deed restrictions. Even this would be a concession because the deed restriction states that it is irrevocable and the Parkers agreed to no fencing (including gates) except within 50 feet of their residence and only to protect a pool. The Parkers do not have a pool. The Parkers own four and one half acres and can find a place for a gate and fencing that will still allow them plenty of privacy and safety while still respecting the rights of the public and of the animals that use the wildlife corridor.

Signature on File

Jean Okazaki

7036 Kerkuk Avenue -  
Winnetka, California 91306

# Attention

# Shana Gray

Agenda Item W 11c  
Permit No. 4-00-147-A1  
Opposed

Please do not allow the Parkers to gate the public access road, horse road and wildlife corridor that goes through the Parker and Klatte properties.

I have ridden my horse, hiked and driven on the road that goes through the Parker and Klatte properties since 1967. The road was well established and in use by the public when I first started using it.

My understanding is that the Parkers have now changed the project location. There has not been any notification of the changes to the many members of the public who need to respond to the completely new location of the Parker gate.

The new location is unacceptable:

- 1) The gate blocks the public from driving their cars and horse trailers through the historic access road.
- 2) The gate is located next to a guy wire which is hazardous to horse back riders because a horse will be unable to see the thin wire.
- 3) The Parkers have an irrevocable deed restriction that does not allow them to have any fencing outside of a 50 foot radius of their house. The new location is about 300 feet from their house.

The old location was unacceptable:

- 1) The gate blocks all public access to the historic public roadway including access for cars, horses, hikers, bikers and other public recreation.
- 2) The gate blocks access for the wildlife through the wildlife corridor because of the steep cliffs on each side of the gate.
- 3) The Parkers have an irrevocable deed restriction that does not allow them to have any fencing outside of a 50 foot radius of their house. This location is about 250 feet from their house.

I am the first person to produce the Malibu Endurance Ride. Each year, starting in 1971, there were between 60 -120 entries to the ride. We have both local entries in addition to entries from all over the USA. When I produced the first Malibu Endurance Ride, I set the route over roads and

trails that were well established and had been in use by the public for many years before the first Malibu Endurance Ride.

Over the years we have had riders from about 6 different countries come to this area to participate in the Malibu Endurance Ride. The riders train year round, in all weather and conditions over the road that goes through the Parker and Klatte properties and over other roads and trails. The road that the Parkers are applying to close is a public access road and has been for more than 40 years.

Sincerely,

Signature on File

Boyd Zontelli

14777 Agave Buena Rd  
Malibu Ca 90265

Agenda Item W 11c  
Permit No. 4-00-147-A1

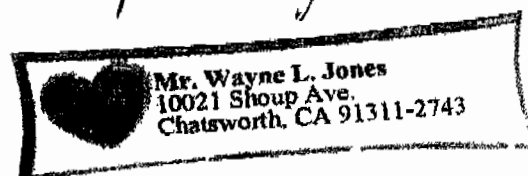
Opposed

I have used the roadway that goes through what is now the Parker property since 1967. The road is a well known public access point that was already in existence when I first started riding my horse through it. The public uses that roadway for access to the trails and roads in the Santa Monica Mountains. It was/is used by hikers, bike riders and horses.

The road is also a wildlife corridor. The proposed gate blocks all access by both wildlife and the public. Please do not permit the Parkers to have any gate on this road.

Wayne Jones

Signature on File



Attention Shana Gray

Attention: Anna Gray

Agenda Item W 11c  
Permit No. 4-00-147-A1

Opposed

I have used the roadway that goes through the Parker property since 1970<sup>KL</sup>. The proposed gate would fence the public off of this roadway. The road has been used by the public for as long as I can remember. I used that public access to get to the hiking trails in the Santa Monica Mountains. It is still the best way to get to The Meadow in Upper Solstice Canyon.

The road is a wildlife corridor. The gate would block all movement by the deer, coyotes, bobcats and mountain lions. The Parkers must not be allowed to interfere with the wildlife corridor or public access.

Kurt Lampson

Signature on File

2914 So. Foose Rd Malibu  
CA 90265

FEB-02-2007 10:09 FROM-RE/MAX GOLD COAST T.O.

8054843698

T-555 P.001/001 F-418

To Whom it May Concern,

I have hiked and ridden horseback on and through the property at ~~2240~~ Latigo Cyn and the present Parker property as well as numerous adjacent trails and properties since 1970. These trails, roads and pathways were shown to me by persons who had been using them for many years previous to the time I arrived in the area. They were well used and known at that time. I used these trails and roads continuously from thereafter including public events which were sponsored by myself and others for running events as well as horse events. I have lived at Malibu Lake for 37 years.

Karyne Ventris

Box 63 Agoura, Ca 91376

Attention Shana Gray  
Agenda Item W11c  
Permit No. 4-00-147-A1

Opposed

Fax 805 641-1732

Attention Shana Gray

Agenda Item W 11c

Permit No. 4-00-147-A1

Opposed

Please do not allow the Parkers to close the public access point road and wildlife corridor that goes through the Parker property. The location of the proposed gate will block all wildlife movement due to the steep cliffs on each side of the gate. The gate would also block the public.

I have used the road that goes through the Parker property since 1972. I have used the road continuously up to the present time.

Signature on File

Carol Lampson

2914 S Foose Rd  
Malibu, CA 90265



Agenda Item W 11c  
Permit No. 4-00-147-A1  
Opposed

Please do not allow the Parkers to close the public access point road and wildlife corridor that goes through the Parker property. The location of the proposed gate will block all wildlife movement due to the steep cliffs on each side of the gate. I have used the road that goes through the Parker property since 1981. I have used the road continuously up to the present time.

Signature on File

John McDonald

21114 LATIGO CANYON ROAD  
OR  
23852 PCN STE 761  
MALIBU, CA 90265  
310-589-1510

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FEB 02 2007  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Agenda with  
Robert 4-06-147-A  
Ogden

January 27, 2007

To Whom It May Concern:

I Sandra Gold have been riding horses on the roadway that was wallner rd. and now belongs to Tim and Terry Parker, I have continued to use this train/road to this present time.

Sincerely Sandra Gold

Signature on File

22657 Friar Street  
Woodland Hills, CA 91367

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SOUTH CENTRAL COAST DISTRICT

AGENDA NO. **W 11c**  
Permit application no. **4-00-147-A1**  
Ms. Kristin Blake  
23852 Pacific Coast Hwy #761  
Malibu, CA 90265  
(310) 245-6998

**OPPOSED**

Regarding Letters To California Coastal Commission  
By H.K. Klatte dated Oct 31, 3006 and  
By Tim and Kerry Parker dated Nov 7, 2007

CALIFORNIA COASTAL COMMISSION, VENTURA DISTRICT OFFICE, STATE OF  
CALIFORNIA

RE:COUNTY OF LOS ANGELES - PROJECT **4-00-147-1A**

Definition of Establishment of a prescriptive and/or public easement:

- 1) The land must be used continuously for a period of 5 years
- 2) Possessed in a manner which was open and clearly visible to the owner of the burdened land, and adverse to the owner of that land.

**Connolly v. McDermott (1984) 162 Cal. App. 3d 973, 976, 208 CR 796;**

**Bennett v. Lew (1984) 151 Cal.App. 3d 1177, 1183, 199 CR 241**

Enclosed find letters from some of the many members of the public who have been using the ROADWAY **continuously** and **openly** since the 1960s.

Tim and Kerry Parker falsified their application to the CCC. Judge Karlan has ruled that the easement is a ROADWAY not a driveway and that the ROADWAY has met the definitions of a prescriptive easement and that the Wallner ROADWAY has been in existence since 1943(**CASE NO. SC 073562**). **May 4, 2003** Judge Karlan stated: "Both sides agree that Mr. Parker knew about the claim to easement prior to breaking ground." Mr. Parker testified that the public usage of the Wallner Roadway, the road he is applying to block, was continuous and open. Parker testified that he believed that recording a letter of permission for the public to use the ROADWAY would eliminate all prior rights of easement. Judge Karlan ruled this was false. The Parkers knew that they were purchasing a property with public easements. (**CASE NO. SC 073562**).

Mr. Steve Hudson and Ms. Shana Gray, requested that the Parkers change the location of the gate to conform to the **irrevocable deed restrictions** on the project property. Mr. Parker refused. This is not an issue of safety as the Parkers claim. If the issue were really about privacy and protection, the Parkers would simply abide by their **irrevocable deed restrictions** and limit their fencing to within the 50 foot radius of their house.

Per the application, the gate is to be located in a part of the property where there is a steep upslope wall on the north and a steep downslope on the south. The size of the gate plus posts and motor total 23+ feet, which is the exact width of the ROADWAY at that point. If Mr. Parker locates the gate at that

1 location, he will exclude all wildlife, hikers, bikers and horse back riders in  
2 addition to excluding vehicles. The Parkers own 4.5 acres there are many places  
3 that they could place a gate that would not interfere with the usage of the road  
4 while still maintaining their privacy.

5 Jan 12, 2007 Mr. Parker stated in open court (Judge Karlan) that he did not  
6 intend to place the gate in the location that he was applying for in his Coastal  
7 Permit. Instead he would place the gate on an adjoining property with only 8  
8 feet of the gate actually on the Parker property. Jan 10, 2007, Ms. Gray stated  
9 that the CCC can not allow structures to be placed on the property of others.  
10 She informed me that even though the roadway is my property (parcel 2 on my  
11 deed) that the Parkers own the roadway. This is not true. Parcel 2 is my  
12 property that is owned by me and excluded from the property owned by the  
13 Parkers. In any case, Jan 12, 2007, in open court Mr. Parker gave notice that  
14 he intends to place the gate at a location 50 feet from the location on the CCC  
15 application and only a small portion of it on "Parker" land (Parcel 2 of my  
16 deeded property).

17 Tim Parker has already violated all of the deed restrictions and CCC permit  
18 requirements, now you are on notice that he intends to violate the provisions of  
19 the new CCC permit.

20 The Parkers claim that the photographs from IK Curtis Services show that the  
21 ROADWAY did not exist prior to 1977. This is false. The 1976 photograph and  
22 the 1977 photographs show the loop of road that goes through the Parker  
23 property. The attachment to Latigo Cyn road is not visible in the 1976  
24 photograph, but it was drivable and was used daily by members of the public as  
25 noted by the enclosed letters. It was and is a wildlife corridor, something the  
26 Parkers have not addressed in their application. Enclosed find a photograph  
27 from nVidea. As in the Curtis photos it is difficult to see that the roadway is  
28 continuous from Latigo Cyn Road through the Parker property to McReynolds road,  
29 but it does go all the way through. The portion of that roadway that goes  
30 through the Parker property is marked in red. Also enclosed is a USGS  
31 photograph dated 1997 (2 years prior to purchase by the Parkers) with the Klatte  
32 property in blue, Blake property in red and Parker property in green.

33 In his letter Mr. Klatte falsified the time frame of the usage by the public in  
34 order to try to eliminate the portion of the ROADWAY that is on Klatte property.  
35 Judge Karlan has ruled that the easement is a ROADWAY not a driveway and that  
36 the ROADWAY has met the definitions of a prescriptive easement and that the  
37 Wallner ROADWAY has been in existence since 1943(CASE NO. SC 073562). Judge  
38 Karlan also ruled that the Roadway goes through the Klatte property.

39 Sincerely,

40  
41 Kristin Blake  
42 23852 Pacific Coast Hwy #761  
43 Malibu, CA 90265

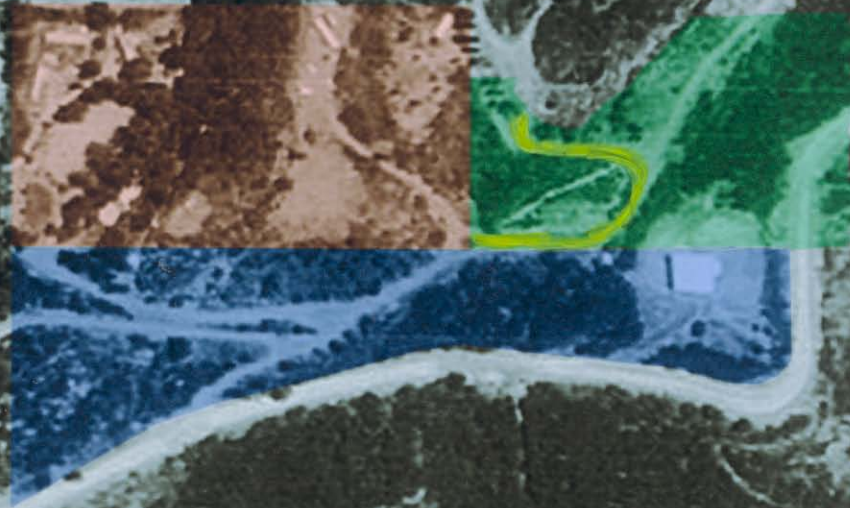
Feb 1, 2007

44 **Enclosed:**

- 45 1) Letter about Parker violations that was sent to the CCC enforcement division  
46 August 2005.
- 47 2) Letters from persons who established public right of easement over the  
48 ROADWAY.
- 49 3) 1 photograph with the portion of the ROADWAY that crosses the Parker  
50 property, marked in red.
- 51 4) 1 USGS photograph. Parker property marked in green.



Agenda will  
Permit ~~4-00-147~~ 147  
4-00-147-A1  
Opposed







Agenda Wtlc  
Permit 4-00-147-A1  
Opposed

© 2004 Keyhole, Inc.  
Image © 2004 AirPhotoUSA  
Maps © 2004 USGS





**South Central Coast District Office**  
Deborah Lee, Sr. Deputy Director  
John (Jack) Ainsworth, Deputy Director  
Gary Timm, District Manager  
89 South California Street, Suite 200  
Ventura, CA 93001-2801  
**(805) 585-1800**  
FAX (805) 641-1732

**RECEIVED**  
FEB 02 2007  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Re. Enforcement, Santa Monica Mountains

Dear Mr. Sinclair and Mr. Veasart,

I am writing to you concerning the property at 2240 Latigo Cyn Road, Malibu, CA. Tim and Kerry Parker own this property. Mr. Parker is in blatant violation of his coastal development permit (4-00-147).

**Specific Violations:**

On page paragraph one he is permitted grading of 136 cu. yds. By the time he sought the approval of the California Coastal Commission, he had already graded in excess of 15,440 cu yds. His permit was on calendar Sept 28, 2001. The grading was done in June 2001. Mr. Parker never removed the grading material from the site. He used the graded material to fill parts of the wildlife corridor. He did not get a Coastal Development Permit for using the material as fill, as required on page 6 item 4 of Mr. Parker's permit.

Also on page one, he was granted approval for a well, but not a storage structure over the well. The storage structure was completed without permits, in Feb 2002. The well was drilled over a period of two weeks starting June 21, 2001; this was 3 months, 7 days prior to obtaining CCC approval. Here is a picture of the first day the truck started drilling:



On page 2 item 5 under Standard Conditions, page 5 item 3.Assumption of Risk paragraph B, and\_ page 7 item 6. Future Improvements, Mr. Parker is required to execute and record a deed restriction prior to issuance of the Coastal Development Permit. Mr. Parker has recorded a deed restriction as required, however he has failed to live up to any of the terms of his deed restrictions and Coastal Development Permit.

Page 3, item A 1, requires that he landscape primarily with native and drought resistant plants. As you can see by the photograph, there are no native plants in his landscaping and very few drought resistant plants. The largest area of landscaping consists of grass.





The gazebo in the middle right side of the photo, was built July 2, 2005, without permits.

On page 7 item 6. Future Improvements, “any proposed fencing of the subject property is prohibited except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence with a valid coastal development permit or permit amendment from the Commission or from the applicable certified local government. The applicant agrees that fencing on site must be a type that will not restrict wildlife movement or cause injury to wildlife; barb wire, mesh or chain link fencing shall not be permitted except for safety around the pool pursuant to the Universal Building Code”.

Mr. Parker does not have a pool. The fencing he has installed is more than 200 feet from his residence at the closest point, and is designed to restrict wildlife movement.



Chain link fencing, 200 feet from Mr. Parker's residence.



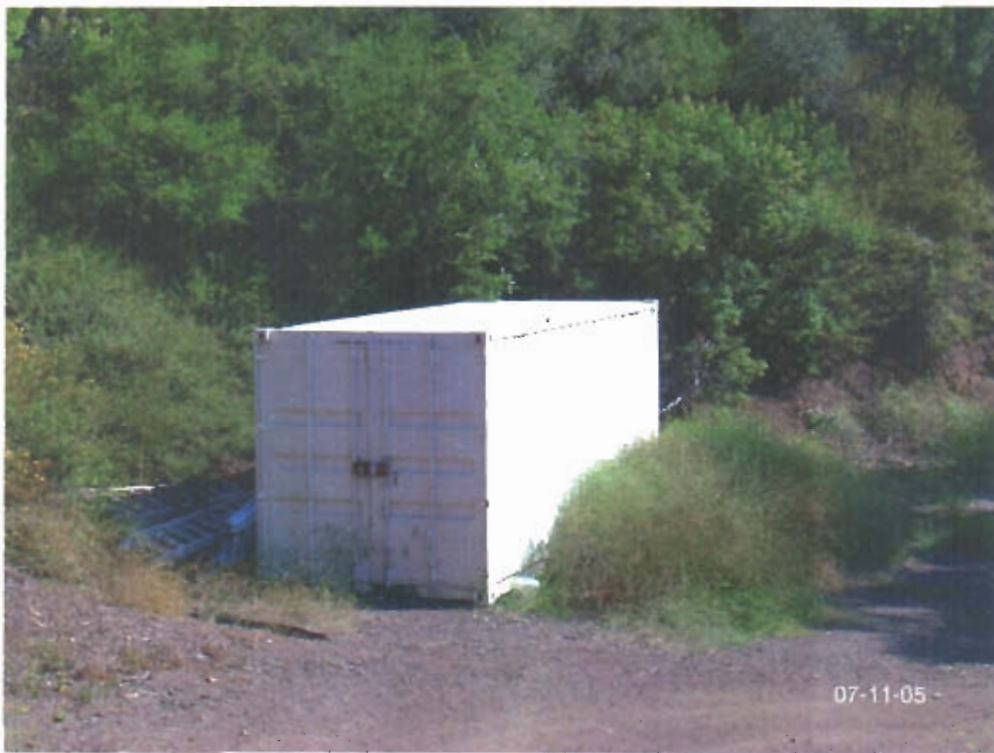
There is more white fencing at the left side of this photo. This fencing is 250-400 feet from Mr. Parker's residence.



White fence and chain link fence. This fencing is 350 feet from Mr. Parker's residence



Page 8 item 8. Removal of Construction Trailer the construction trailer is to be removed within sixty days of the applicant's receipt of the Certificate of Occupancy or within two years of receipt of the Coastal Permit, whichever is less. Mr. Parker has been living in his residence for approximately 3 years. The construction trailer is still on the property. In addition, Mr. Parker has moved onto his property a 20'x8'x5 foot trash bin, a travel trailer, and an 8'x8' garden shed.



Construction trailer, continuously on the property since June, 2001.



Garden shed, construction materials, trampoline all placed without permits, in the wildlife corridor on top of fill.



Fencing, construction style trash container, travel trailer, permanent stucco storage shed, no permits for any of these structures, all are within the wildlife corridor.



Photo of Mr. Parker.

In several places in Mr. Parker's Coastal Development Permit, it mentions the need to keep from restricting the movement of wildlife. Mr. Parker allows his two big dogs to run without confinement of any kind. I have seen Mr. Parker's dogs chasing deer many times, and, in a separate incident, a bobcat. I have been living in this area for 20+ years and we no longer see the deer walking along the road. Since Mr. Parker moved to the property and started letting his two big dogs run wild, the deer have moved farther and farther away from their traditional migration corridor. Mr. Parker has no regard for the leash law, or for the animals that his dogs molest.

Mr. Parker has been getting away with thumbing his nose at the Coastal Commission for more than 4 years.

I am attaching Mr. Parker's Coastal Development Permit for reference.

Sincerely,

Signature on File

Cricket Blake

**CALIFORNIA COASTAL COMMISSION**

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



Page 1 of 7

Date: March 22, 2007

Permit Application No. 4-00-147-A1

**NOTICE OF INTENT TO ISSUE AMENDMENT TO COASTAL PERMIT**  
**(Upon satisfaction of special conditions)**

On February 14, 2007, the California Coastal Commission granted to Tim & Kerry Parker, an amendment to Permit No. 4-00-147, subject to the conditions attached, for changes to the development or conditions imposed on the existing permit. The development originally approved by the permit consisted of: Construct a 3,630 sq. ft., two story, 21-foot high, single family residence with 776 sq. ft. attached garage, septic system, water well, swimming pool, jacuzzi, pave access road and driveway, temporary construction trailer, and 136 cu. yds. of grading (68 cu. yds. cut, 68 cu. yds. fill).

at: 2240 Latigo Canyon Road, Malibu (Los Angeles County).

Changes approved by this amendment consist of: Construction of a 20-foot long, maximum six-foot high wrought iron electric gate across driveway and removal of an unpermitted manuel gate in approximately the same location. The project further includes installation of a 3-ft high key pad and 1" conduit immediately adjacent to the paved road to house the electrical and telephone connections to the electrical gate. The project would not entail landform alteration or removal of vegetation. The project includes a provision that access shall not be impeded around the gate. This permit is more specifically described in the application filed in the Commission office.

Unless changed by the amendment, all conditions attached to the existing permit remain in effect.

The amendment is being held in the Commission office until fulfillment of all Special Conditions imposed by the Commission. Once these conditions have been fulfilled, the amendment will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission by,

PETER M. DOUGLAS  
Executive Director

By:Shana Gray  
Coastal Planner

Please sign and return a copy of this form to the Commission office.

**ACKNOWLEDGMENT**

I have read and understood the above Notice of Intent and agree to be bound by its conditions and the remaining conditions of Permit No: 4-00-147

Exhibit 4 R-4-00-147-A1 CDP 4-00-147-A1 Notice of Intent
--



**NOTICE OF INTENT TO ISSUE AMENDMENT TO COASTAL PERMIT**  
(Upon satisfaction of special conditions)

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**STANDARD AND SPECIAL CONDITIONS**

All standard and special conditions previously applied to Coastal Development Permit 4-00-147 continue to apply.

**SPECIAL CONDITIONS**

**1. Plans Conforming to Geologic Recommendations**

- (a) All recommendations contained in the GeoSystems Updated Soils and Engineering Geologic Report for Proposed Residence at 2240 Latigo Canyon Road dated April 17, 2000 and Preliminary Soils and Engineering Geologic Investigation for Proposed Single Family Residence APN 4465-6-4418 dated October 25, 1993 reports shall be incorporated into all final design and construction including recommendations concerning foundations, lateral design, temporary excavation slopes, pool subdrain, on-grade slabs, settlement, drainage, grading, reviews, and limitations. All plans must be reviewed and approved by the geotechnical consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval two (2) sets of all final project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- (b) The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

**2. Landscape and Erosion Control Plan and Fuel Modification**

Prior to issuance of a coastal development permit, the applicant shall submit two (2) sets of landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

**A) Landscaping Plan**

- 1) All disturbed areas, including the abandoned spur road and location of the construction trailer, on the subject site shall be planted and maintained for erosion

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control purposes within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants 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. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) All development approved herein shall be undertaken in accordance with the final approved plans. Any proposed changes to the approved final landscape or fuel modification plans shall be reported to the Executive Director. No changes to said plans shall occur without a Coastal-Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

**B) Interim Erosion Control Plan**

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.

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- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C) Monitoring**

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified 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.

**3. Assumption of Risk**

A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire; (ii) to assume the risks to the applicants 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,

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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 arising from any injury or damage due to such hazards.

B. Prior to the issuance of the coastal development permit, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**4. Removal of Excess Graded Material**

The applicant shall remove all excavated material consisting of approximately 68 cubic yards of material to an appropriate disposal site located outside of the Coastal Zone.

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

**5. Drainage and Polluted Runoff Control Plan**

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, two (2) sets of final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure that the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and

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repaired when necessary prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

**6. Future Improvements**

This permit is only for the development described in Coastal Development Permit No. 4-00-147. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall apply to the entire property. Accordingly, any future improvements to the entire property including the permitted residence and garage, and clearing of vegetation or grading, other than as provided for in the approved fuel modification landscape and erosion control plan prepared pursuant to Special Condition Number Two (2), shall require an amendment to Permit No. 4-00-147 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, any proposed fencing of the subject property is prohibited except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence approved with a valid coastal development permit or permit amendment from the Commission or from the applicable certified local government. The applicant agrees that fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife; barbed wire, mesh or chain link fencing shall not be permitted, except that chain link fencing may be permitted for safety around the pool pursuant to the Uniform Building Code.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**7. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the Zone A Setback area pursuant to the applicant's Fuel Modification Plan required pursuant to Special Condition Number Two (2) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Further vegetation thinning pursuant to the Fuel Modification Plan shall not occur until commencement of construction of the structure approved pursuant to this permit.

**8. Removal of Construction Trailer**

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With the acceptance of this coastal permit, the applicant agrees that the temporary trailer for construction staging shall be removed from the site within two years of the issuance of this Coastal Permit or within sixty (60) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from the County of Los Angeles, whichever is less, to a site located outside of the Coastal Zone or a site with a valid coastal development permit for the trailer. After the trailer is removed the disturbed site shall be revegetated as required by Special Condition Number Two (2) within 60 days.

**9. Night Lighting**

Night lighting, if any, shall be directed downward, be of low intensity, at low height and shielded; security lighting, if any, shall be controlled by motion detector.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**10. Gate Design**

Prior to issuance of the coastal development permit amendment, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. The revised final project plans and project description shall reflect the following:

1. The gate shall be a wildlife permeable design, subject to the review and approval of the Executive Director. The minimum distance from ground level to the gate's first rung shall be 10 inches to allow wildlife passage underneath the gate and the vertical spacing between bars shall be a minimum of 18 inches. Additionally, the gate shall ensure passage around the gate, wide enough for animals as large as deer. The maximum height of the gate shall be 48 inches. Barbed-wire or chainlink are prohibited.

The gate shall be constructed in compliance with the revised project plans approved by the Executive Director.

**11. Liability for Costs and Attorneys Fees**

Liability for Costs and Attorneys Fees: The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

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**12. Public Access**

A. Prior to issuance of the coastal development permit the applicant shall submit a plan, for review and approval of the Executive Director, that includes text, size and design specifications for the public access signage and the exact location in which the signage is to be installed. Sign text, design and size specifications shall ensure that all signs will be clearly visible. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. Any changes to the approved sign language shall be reviewed and approved by the Executive Director. No other changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required. *Within 60 days of issuance of Coastal Development Permit Amendment No. 4-00-147-A1*, the applicant shall install the public access signage, approved pursuant to the approved signage plan, on the gate that notifies the public that non-vehicular access is allowed around the gate.

B. The applicant shall maintain the area around the gate and along the roadway free of obstruction and available for non-vehicular use by the public.

# Existing Vegetation Profile

The following information is for the purpose of identifying and locating existing vegetation on the site. The information is based on a field survey conducted on 10/10/00. The survey was conducted by the following personnel: [List of names]. The survey was conducted in the following areas: [List of areas]. The survey was conducted in the following areas: [List of areas].

## FUEL MODIFICATION

1. INTRODUCTION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

2. FUEL MODIFICATION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

3. FUEL MODIFICATION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

4. FUEL MODIFICATION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

5. FUEL MODIFICATION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

6. FUEL MODIFICATION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

7. FUEL MODIFICATION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

8. FUEL MODIFICATION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

9. FUEL MODIFICATION  
The fuel modification work was done in accordance with the following specifications: [List of specifications]. The work was done in the following areas: [List of areas]. The work was done in the following areas: [List of areas].

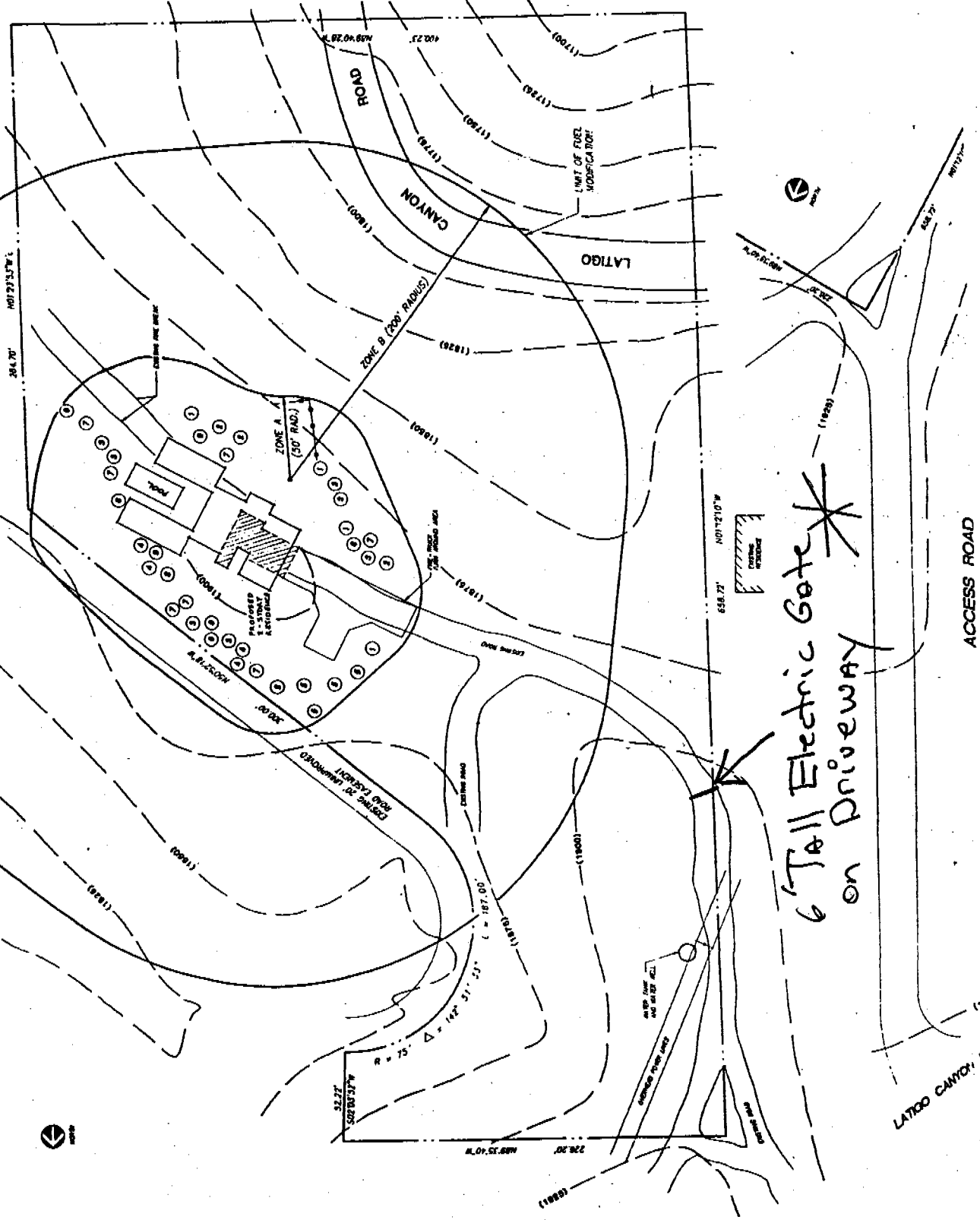


EXHIBIT 5
R-4-00-147-A1
Gate Location