

CALIFORNIA COASTAL COMMISSION

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

Staff: S. Hudson
Staff Report: 08/27/08
Hearing Date: 09/10/08



W 25e

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-07-145

APPLICANTS: Gemma Marshall and Deborah English

AGENTS: Schmitz & Associates
Gaines & Stacey, LLP

PROJECT DESCRIPTION: Request for after-the-fact approval to subdivide an existing 10.52-acre lot into two separate lots (5.29 acres and 5.23 acres in respective size).

PROJECT LOCATION: 1035 Henry Ridge Motorway, Santa Monica Mountains, Los Angeles County

MOTION & RESOLUTION: Page 5

LOCAL APPROVALS RECEIVED: Conditional Certificates of Compliance CC 01-489 & CC 01-490.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 5-90-115 (Marshall); Coastal Development Permit Waiver 4-93-019-W (Marshall); Los Angeles County Certificate of Compliance – Exemption (E) No. CC1433; Conditional Certificates of Compliance CC 01-489 & CC 01-490; Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains dated March 25, 2003 and prepared by Dr. John Dixon; Memorandum Regarding Determination of ESHA at 1035 Henry Ridge Road in the Santa Monica Mountains dated August 26, 2008 and prepared by Dr. Jonna Engel.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends **Denial** of the proposed project. The proposed project is a request for after-the-fact approval to subdivide an existing 10.52-acre lot into two separate lots (5.29 acres and 5.23 acres in respective size).

The primary issue raised by this application is new development within an environmentally sensitive habitat area (ESHA) in non-compliance with the resource protection policies of the Coastal Act, particularly Section 30240, which specifically provides that “only uses dependent on such resources shall be allowed within such areas.” In this case, the proposed subdivision of the site would create an additional

parcel that could be developed with residential development. Since such use is not dependent on the ESHA resources on site, it would not comply with the provisions of Section 30240. The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) serve as guidance.

The subject site is located in a rural area of the Santa Monica Mountains and is developed with an existing residence, a water well, a non-habitable storage trailer, an approximately 500 ft. long access road to the well, and Henry Ridge Road. With the exception of the above referenced development, the entire 10.52 acre project site is densely vegetated with relatively undisturbed chaparral vegetation with some oak trees and is part of a large, contiguous chaparral habitat that extends offsite in all directions and constitutes an environmentally sensitive habitat area (ESHA).

In addition, Henry Ridge Road crosses the subject site in a north/south direction and provides the only vehicular access to the property. In addition, this roadway is also designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as the "Topanga-Henry Ridge Trail, a public hiking and equestrian trail. An offer to dedicate a public trail easement was previously recorded on the subject site on the entire portion of Henry Ridge Road crossing the subject site pursuant to the Commission's previous approval of Coastal Development Permit 5-90-115, which authorized the construction of the existing residence on site in 1990.

Further, the certified LUP designates a portion of the site as "*M2 - Mountain Land*" (1 unit/20 acres) and the remaining portion of the site as "*Rural Land I*" (1 unit/10 acres). Thus, pursuant to the certified LUP, the minimum allowable lot size within the subject area is ten (10) acres in size. Although the existing 10.52 acre subject lot complies with these provisions, the proposed division of the subject parcel to create two new smaller lots (each less than 10 acres in size) would not comply with either the "*M2 - Mountain Land*" or the "*Rural Land I*" designation for the site and would result in the creation of substandard sized lots in non-compliance with the certified LUP.

The applicants are seeking after-the-fact approval of a division of real property that purportedly has already occurred. The purported division of the property was based on the following facts. First, on May 22, 2000, the Los Angeles County Superior Court issued a judgment in a partition action between the applicants (LA Co. Sup. Ct. Case No. 056036) ordering the subject site divided into two parcels. The judgment made no reference to the requirement for a coastal development permit for the division of real property.

Next, on July 19, 2000, Gemma Marshall executed a Quitclaim Deed that purported to divide the subject 10.52 acre property (APN: 4438-017-019) into two separate 5+ acre parcels (APNs: 4438-017-021 & 022) with Gemma Marshall granting the eastern half of the subject site to Deborah English as a separate parcel. However, Ms. Marshall did not seek a coastal development permit for such a division, and no such permit was ever issued.

Finally, in October of 2001, both Ms. Marshall and Ms. English applied to the County for certificates of compliance, and the County issued Conditional Certificates of Compliance (CC 01-489 & CC 01-490) on April 4, 2002, effectively subdividing the subject 10.52-acre lot into two separate lots (5.29 acres and 5.23 acres in respective size) for purposes of the Subdivision Map Act. This purported land division occurred after the effective date of the Coastal Act of 1976; therefore, a coastal development permit was required for the land division to be legal and effective. Again, no such permit was ever issued, or even sought (until this application was submitted).¹

In response to an ongoing enforcement action by the Commission's Enforcement Division, the applicant is now requesting after-the-fact approval for the unpermitted subdivision of the subject 10.52-acre parcel into two separate parcels through this coastal development permit application. However, Fred Gaines, the attorney for Deborah English, asserts that although the subdivision of the property into two separate parcels clearly occurred after the effective date of the Coastal Act, his client should not be required to obtain a coastal permit for the subdivision because the division of land was part of a judgment resulting from litigation between the co-applicants.

However, Mr. Gaines' assertion is in contradiction to Title 10.5 of Part 2 of the California Code of Civil Procedure, which provides the rules and procedures for the judicial partitioning of real property. Cal Civ. Proc. Code (CCP) § 872.020 (West 1980). CCP Section 872.040 specifically provides: "[n]othing in this title excuses compliance with any applicable laws, regulations, or ordinances governing the division, sale, or transfer of property." Id. at § 872.040 ("Section 872.040"). Moreover, the Attorney General has further explained that Section 872.040 means that a court "may not order the physical division of the property in violation of 'any applicable laws . . . governing the division, sale, or transfer of property.'" 64 Ops. Cal. Atty. Gen. 762 (1981). Thus, the Coastal Act's coastal development permit requirements apply to and govern the division of real property within the Coastal Zone, and under the plain language of Section 872.040, that permitting requirement must be complied with in a judicial partition action.

Moreover, with respect to the merits of this subdivision request, as discussed in detail in this report, the proposed subdivision of land to create an additional developable parcel within ESHA is not consistent with either the Chapter 3 resource protection policies in the Coastal Act, including Section 30240, or with the resource protection policies of the certified Malibu/Santa Monica Mountains LUP. If an additional lot were developed with a residence within the ESHA, instead of only the one existing residence on the subject 10.52 acre parcel, this would increase the density and intensity of use on the site two-fold, and the impacts of grading and vegetation removal for creating building footprints, additional vegetation removal required to comply with Los Angeles County Fire Department fuel modification requirements, installation of an additional water well,

¹ For convenience, this report will, at times, refer to the project site as comprising two lots and/or to the completed subdivision of the property. These references do not change the fact that the purported division was not conducted in compliance with the Coastal Act, and thus, is not legally effective.

storage tanks, septic system, and other development required for a additional single-family home construction would be approximately two-times greater than would otherwise occur if the property was developed as a single lot only.

Further, in this case, the proposed subdivision of the subject site is not necessary to provide an economically viable use of the applicants' property because there is already an existing residence on site (which was constructed by the applicants and previously approved by the Commission pursuant to Coastal Development Permit 5-90-115, which constitutes an existing economically viable residential use of the site. Thus, the "no project" alternative is feasible, in this case, and would avoid significant adverse impacts to ESHA. Therefore, for the above reasons and for the reasons more fully explained in the following sections of this report, staff recommends that the Commission deny this application.

STAFF NOTE:

This application was submitted by the applicants on November 26, 2007, in response to an ongoing enforcement action by the Commission's Enforcement Division over the unpermitted subdivision of the subject site. In a letter dated December 21, 2007, staff informed the applicants that the application was incomplete and that several additional items, including project plans approved-in-concept by the Los Angeles County Department of Regional Planning, a biological survey of the subject site prepared by a qualified biologist or resource specialist, and current geologic reports and percolation test results, still needed to be submitted in order to complete this application.

However, in a letter dated January 29, 2008, from Fred Gaines, the attorney for Deborah English, staff was informed that the applicants refused to submit the above referenced items (Exhibit 7). Subsequently, in a letter dated June 19, 2008, Ms. English's representative, Schmitz & Associates, assert that because staff did not respond to the letter from Mr. Gaines dated January 29, 2008, within 30 days from receipt, that this application "was considered complete for processing on February 29, 2008, pursuant to the Permit Streamlining Act" (Exhibit 8). Staff disagrees with the assertion that this application was deemed complete by operation of law. Staff did not respond to Mr. Gaines' above-referenced letter since Mr. Gaines made no pretension of satisfying the explicit requirements for completion of the application, but rather, openly refused to submit the previously required items. Regardless, notwithstanding the failure of the applicants to provide the required materials to complete this application, Staff informed Mr. Gaines in a letter dated July 15, 2008 (Exhibit 9) that it is willing to simply proceed with the processing of the application as soon as feasible to resolve the permitting issue in this case. Therefore, this item is scheduled to be heard at the Commission's September 10, 2008, meeting. In addition, staff recommends the Commission act on the permit application at the September meeting to avoid a conflict with the applicant regarding compliance with the 180 day Permit Streamlining Act deadline.

TABLE OF CONTENTS

I. STAFF RECOMMENDATION.....	6
DENIAL.....	6
II. FINDINGS AND DECLARATIONS.....	6
A. PROJECT DESCRIPTION AND BACKGROUND	6
1. Existing Development on Site and Coastal Permit History.....	7
2. Unpermitted Subdivision of Land	7
3. Relevance of Litigation between Co-Applicants, English v. Marshall	9
B. ENVIRONMENTALLY SENSITIVE RESOURCES AND WATER QUALITY.....	11
C. CUMULATIVE IMPACTS	18
D. UNPERMITTED DEVELOPMENT	20
E. LOCAL COASTAL PROGRAM.....	21
F. CEQA.....	21

EXHIBITS

Exhibit 1.	Vicinity Map
Exhibit 2.	Parcel Map
Exhibit 3.	Project Plans
Exhibit 4.	Certificate of Compliance – Exemption (E) No. CC1433 in 1978
Exhibit 5.	Conditional Certificates of Compliance (CC 01-489 & CC 01-490) – 2001
Exhibit 6.	Judgment for <u>English v. Marshall</u>, Case No. SC 056036
Exhibit 7.	Letter from Fred Gaines dated January 29, 2008
Exhibit 8.	Letter from Schmitz and Associates dated June 19, 2008
Exhibit 9.	Response Letter from Commission Staff dated July 15, 2008
Exhibit 10.	Memorandum by Dr. Jonna Engel dated August 26, 2008
Exhibit 11.	Memorandum by Dr. John Dixon Regarding ESHA dated March 25, 2003
Exhibit 12.	Aerial Photograph of Subject Site

I. STAFF RECOMMENDATION

DENIAL

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-07-145 for the development as proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicants request after-the-fact approval to subdivide an existing 10.52-acre lot into two separate lots (5.29 acres and 5.23 acres in respective size). The proposed project site (APN: 4438-017-019) is a ten-acre parcel located at 1035 Henry Ridge Road, unincorporated Los Angeles County (Exhibit 1).

The subject parcel is located in a rural area of the Santa Monica Mountains and is developed with an existing residence, a water well, a non-habitable storage trailer, an approximately 500 ft. long access road to the well, and Henry Ridge Road. With the exception of the above referenced development, the entire 10.52 acre project site is densely vegetated with relatively undisturbed chaparral vegetation with some oak trees and is part of a large, contiguous chaparral habitat which extends offsite in all directions and constitutes an environmentally sensitive habitat area (ESHA).

In addition, Henry Ridge Road crosses the subject site in a north/south direction and provides the only vehicular access to the property. In addition, this roadway is designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as the "Topanga-Henry Ridge Trail, a public hiking and equestrian trail. An offer to dedicate a public trail easement was previously recorded on the subject site across the entire portion of Henry Ridge Road crossing the subject site, pursuant to Commission's previous approval of Coastal Development Permit 5-90-115, which authorized the construction of the existing residence on site in 1990.

Further, the certified LUP designates a portion of the site as "*M2 - Mountain Land*" (1 unit/20 acres) and the remaining portion of the site as "*Rural Land I*" (1 unit/10 acres). Thus, pursuant to the certified LUP, the minimum allowable lot size within the subject area is ten (10) acres in size. Although the existing 10.52 acre subject lot complies with these provisions, the proposed division of the subject parcel to create two new smaller lots (each less than 10 acres in size) would not comply with either the "*M2 - Mountain Land*" or the "*Rural Land I*" designation for the site and would result in the creation of substandard sized lots in non-compliance with the certified LUP.

1. Existing Development on Site and Coastal Permit History

The Commission has previously approved development on the subject parcel. At least one of the applicants has owned the subject parcel since 1990 when she obtained Coastal Development Permit 5-90-115 (Marshall) for the construction of the existing 3,128 sq. ft. single family residence, septic system, water well, and 2,500 cu. yds. of grading on site. This coastal permit was approved by the Commission subject to special conditions, including the requirement that the applicant record an offer for a public hiking and equestrian trail easement over all portions of Henry Ridge Road which cross the subject site. In addition, in 1993, the Commission issued Coastal Permit Waiver 4-93-019-W (Marshall) for after-the-fact approval of the approximately 500 ft. long paved road on the eastern portion of the site to provide access to the well and a storage trailer adjacent to the well. Coastal Permit Application 4-93-019-W was submitted by the applicants in response to a previous enforcement action by the Commission's Enforcement Division for the unpermitted construction and paving of the approximately 500 ft. long road on the eastern portion of the site.

2. Unpermitted Subdivision of Land

The subject 10.52 acre property (APN: 4438-017-019) was divided by the applicants, without the required coastal development permit, into two separate 5+ acre parcels (APNs: 4438-017-021 & 022) pursuant to a Quitclaim Deed in 2000 and two Certificates of Compliance issued by Los Angeles County Department of Regional Planning in 2002.

The Subdivision Map Act (SMA), Cal. Gov't Code §§ 66410 *et seq.*, sets statewide standards for the divisions of land that are implemented by local governments through

their ordinances. Effective March 4, 1972, the SMA required that divisions of fewer than five parcels must be approved through a parcel map and divisions of five or more lots must be approved through a tract map. Prior to March 4, 1972, the SMA did not require property owners to obtain approval for divisions of land into fewer than five parcels (although divisions of land into five or more parcels did require a tract map approval). The procedure followed by Los Angeles County (County) is that it issues a "Certificate of Compliance – Exemption (E)" for lots that were created prior to 1967 via a division that resulted in four or fewer parcels. However, the pre-1972 SMA did provide that a local government could adopt ordinances to regulate the division of land into fewer than five parcels, so long as the provisions of such an ordinance were not inconsistent with the SMA. The County of Los Angeles adopted Ordinance No. 9404 (effective September 22, 1967) to regulate land divisions of fewer than five parcels. This ordinance required the approval of a "Certificate of Exception" for a "minor land division", which was defined as: "...any parcel or contiguous parcels of land which are divided for the purpose of transfer of title, sale, lease, or financing, whether present or future, into two, three, or four parcels...". After March 4, 1972, when the SMA required a parcel map for divisions of fewer than five parcels, the County abandoned the "Certificate of Exception" requirement and began requiring the approval of a parcel map instead.

In the case of the subject property, the County of Los Angeles originally issued Certificate of Compliance – Exemption (E) No. CC1433 in 1978 for the 10.52 acre subject parcel after it had determined that the parcel had been created pursuant to a subdivision of land involving four or fewer parcels prior to 1967. Thus, in 1978, the subject property was determined by the County of Los Angeles to consist of a single, legal parcel that was 10.52 acres in size. The applicants submitted a copy of the 1978 Certificate of Compliance – Exemption (E) No. CC1433 as part of their application for Coastal Development Permit 5-90-115 for the construction of the single family residence on site (Exhibit 4). In reliance on Certificate of Compliance – Exemption (E) No. CC1433, the Commission specifically found in the staff report for Coastal Development Permit 5-90-115 that the approximately "10 acre site is a legal parcel which is partially designated M2 (1du/20 acres) and Rural Land I (1 du/10 acres) in the certified Malibu/Santa Monica Mountains Land Use Plan."

Thus, based on the above evidence, the Commission finds that the subject property existed as a single, legal 10.52 acre parcel as of 1978. The Coastal Act requires a coastal development permit prior to undertaking development, including the division of land. The effective date of the Coastal Act was January 1, 1977. Therefore, any division of land on the subject site after January 1, 1977, requires a coastal development permit.

The subject 10.52 acre property (APN: 4438-017-019) was purportedly divided, without the required coastal development permit, into two separate 5+ acre parcels (APNs: 4438-017-021 & 022) pursuant to a May, 2000 Los Angeles Superior Court order, and then a Quitclaim Deed dated July 19, 2000, in which Gemma Marshall granted the eastern half of the subject site to Deborah English as a separate parcel. In addition, in

October of 2001, both Ms. Marshall and Ms. English applied to the County for certificates of compliance, and the County issued the Conditional Certificates of Compliance (CC 01-489 & CC 01-490) on April 4, 2002, effectively subdividing the subject 10.52-acre lot into two separate lots (5.29 acres and 5.23 acres in respective size) for purposes of the Subdivision Map Act. These various attempts to divide the land all occurred after the effective date of the Coastal Act of 1976; therefore, a coastal development permit was required for the land division to be legal and effective.

However, Commission records indicate that no coastal development permit has been issued for the unpermitted subdivision of the 10.52 acre subject lot. Since the Conditional Certificates of Compliance (CC 01-489 & CC 01-490) were recorded without the required coastal development permit, they were not legally effective, and no legal lot was created. A County-issued "Clearance of Conditions" for Certificate of Compliance (CC 01-490) was recorded on January 20, 2005, which confirmed that the condition of the Certificate of Compliance to record a road right-of-way easement was completed. Another Clearance (for Certificate of Compliance CC 01-489) was recorded in April 2005. The County, by issuing the Clearances of Conditions, indicated that it then considered the lots to comply with applicable provisions of the Subdivision Map Act and the County Subdivision Ordinance.

3. Relevance of Litigation between Co-Applicants, English v. Marshall

In response to an ongoing enforcement action by the Commission's Enforcement Division over the purported division of the property, the applicant is now requesting after-the-fact approval for the unpermitted subdivision of the subject 10.52 acre parcel into two separate parcels through this coastal development permit application. However, in a letter (included as Exhibit 7) dated January 29, 2008, Fred Gaines, the attorney for Deborah English, asserts that although the subdivision of the property into two separate parcels clearly occurred after the effective date of the Coastal Act, his client should not be required to obtain a coastal permit for the subdivision because the division of land was part of a judgment resulting from litigation between the co-applicants (Gemma Marshall and Deborah English) in the case of English v. Marshall, LA County Superior Court Case No. SC 056036 (included as Exhibit 6).

The Commission finds that the subdivision of the subject property constitutes a violation of the Coastal Act that is not excused by the judicial nature of the partition judgment. The Coastal Act requires that any person wishing to undertake development in the Coastal Zone obtain a coastal development permit, in addition to any local permits which might be required. Cal. Pub. Res. Code § 30600(a). The Coastal Act defines development to include any "change in density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act, and any other division of land, including lot splits." *Id.* at §30106. No coastal development permit was issued by the Commission for the division of the subject property, and the property has, therefore, not been legally subdivided.

In regards to the May 22, 2000 judgment of the Los Angeles Superior Court in the above-referenced case of English v. Marshall ("partition judgment"), in a letter dated December 18, 2007 letter, Fred Gaines, the attorney for Deborah English, incorrectly asserts that the partition judgment was valid and binding upon the Coastal Commission. Title 10.5 of Part 2 of the California Code of Civil Procedure provides the rules and procedures for the judicial partitioning of real property. Cal Civ. Proc. Code (CCP) § 872.020 (West 1980). CCP Section 872.040 provides "[n]othing in this title excuses compliance with any applicable laws, regulations, or ordinances governing the division, sale, or transfer of property." Id. at § 872.040 ("Section 872.040"). As the prior paragraph makes clear, the Coastal Act's coastal development permit requirements apply to and govern the division of real property within the Coastal Zone, and under the plain language of Section 872.040, that permitting requirement must be complied with in a judicial partition action.

Section 872.040 was adopted in part to codify the earlier holding in the case of Pratt v. Adams, wherein the court upheld a county's denial of building permits to a group of land owners who subdivided their land by judicial partition without observing the requirements of the Subdivision Map Act. 229 Cal. App. 2d 602, 40 Cal. Rptr. 505 (1964). Pratt stands for the proposition that public agencies are not required to recognize as legal any land division that was achieved through a judicial partition action if the use of that mechanism would circumvent the agency process and undermine the salutary purposes behind the agency's charge. Thus, based on both Pratt and Section 872.040, the Commission need not, and indeed cannot, treat the division as a legal subdivision.

Moreover, while Section 872.040 provides simply that the partition action statutory scheme does not excuse compliance with other laws, the Attorney General has gone further to explain that Section 872.040 means that a court "may not order the physical division of the property in violation of 'any applicable laws . . . governing the division, sale, or transfer of property.'" 64 Ops. Cal. Atty. Gen. 762 (1981). It is clear, given these restrictions, that the Superior Court's order dividing the property should not have issued, as it failed to conform to the requirements of the Coastal Act, and the Commission is not bound by the order.²

Therefore, for the reasons discussed above, the Commission finds that the proposed subdivision of the 10.52 acre subject parcel into two separate parcels requires a coastal development permit.

² It should be noted, as well, that, at the time of the order's issuance, the Commission was neither notified of, nor a party to, the litigation, and thus not able to object to the court's order.

B. ENVIRONMENTALLY SENSITIVE RESOURCES AND WATER QUALITY

Section 30231 of the Coastal Act states:

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

Section 30240 states:

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

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

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

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

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of environmentally sensitive habitats. The Coastal Commission has applied the following relevant policies as guidance in the review of development proposals in the Santa Monica Mountains.

P68 *Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resource dependent use.*

P69 *Development in areas adjacent to environmentally sensitive habitat areas (ESHAs) shall be subject to the review of the Environmental Review Board, shall be sited and designed to prevent impacts which*

would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

- P72** *Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.*
- P74** *New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.*
- P81** *To control runoff into coastal waters, wetlands and riparian areas, as required by Section 30231 of the Coastal Act, the maximum rate of storm water runoff into such areas from new development should not exceed the peak level that existed prior to development.*
- P82** *Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.*
- P84** *In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.*

Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through, among other means, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. Section 30240 of the Coastal Act states that environmentally sensitive habitat areas ("ESHAs") must be protected against significant disruption of habitat values.

Pursuant to Section 30107.5, in order to determine whether an area constitutes an ESHA, and is therefore subject to the protections of Section 30240, the Commission must answer three questions:

- 1) Is there a rare species or habitat in the subject area?
- 2) Is there an especially valuable species or habitat in the area, which is determined based on:
 - a) whether any species or habitat that is present has a special nature, OR
 - b) whether any species or habitat that is present has a special role in the ecosystem;

- 3) Is any habitat or species that has met either test 1 or 2 (i.e., that is rare or especially valuable) easily disturbed or degraded by human activities and developments?

If the answers to questions one or two and question three are “yes”, the area is ESHA.

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. In addition, habitat areas that provide special, important roles in that ecosystem are especially valuable and meet the third criterion for the ESHA designation. In the Santa Monica Mountains, coastal sage scrub and chaparral provide habitat that has many important roles in the ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. The special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission’s Ecologist, Dr. John Dixon³ (hereinafter “Dr. Dixon Memorandum”) which is included as Exhibit 11, for reference. For these and other reasons discussed in the Dr. Dixon Memorandum, which is incorporated herein, the Commission finds that large contiguous, relatively pristine stands of coastal sage scrub and chaparral in the Santa Monica Mountains meet the definition of ESHA. This is consistent with the Commission’s past findings on the Malibu LCP⁴.

For any specific property within the Santa Monica Mountains, it is necessary to satisfy two tests in order to assign the ESHA designation. The first question is whether there is a species or habitat in the subject area that is either rare or especially valuable. This requires that the existing habitat is properly identified, for example as coastal sage scrub or chaparral, and it generally requires that any habitat at issue be relatively pristine and that it be part of a large, contiguous block of relatively pristine native vegetation. The second test is whether the habitat or species is easily disturbed or degraded by human activities and developments.

The subject 10.52-acre property is developed with an existing residence, a water well, a non-habitable storage trailer, an access road to the well, and Henry Ridge Road. Henry Ridge Road crosses the subject site in a north/south direction and is designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as the “Topanga-Henry

³ The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-asha-memo.pdf>

⁴ Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

Ridge Trail, a public hiking and equestrian trail. An offer to dedicate a public trail easement covering the entire portion of Henry Ridge Road crossing the subject property has been previously recorded on the subject site pursuant to the Commission's previous approval of Coastal Development Permit 5-90-115, which authorized the construction of the existing residence on site in 1990.

While there is some scattered residential development in the area, including one single family residence on the neighboring parcel immediately to the north, the surrounding area is rural and relatively undeveloped in nature. With the exception of the above described developed areas on the subject property, the site is densely vegetated with chaparral habitat which extends offsite in all directions as part of a large, contiguous habitat area as shown in the aerial photograph of the vicinity included as Exhibit 12.

This application was submitted by the applicants on November 26, 2007, in response to an ongoing enforcement action by the Commission's Enforcement Division for the unpermitted subdivision of the subject site. This application was submitted without many of the normally required filing materials for a new subdivision, including, among several other items, a biological survey of the subject site. In a letter dated December 21, 2007, staff requested the applicants submit the necessary items, including a biological survey of the site, in order to complete this application. However, in a letter dated January 29, 2008, from Fred Gaines, the attorney for Deborah English, staff was informed that the applicants refused to submit many of the required items necessary to complete the application, including the required biological survey. In his letter, Mr. Gaines states, "[a] biological analysis will not be provided to the Commission at this time as it is irrelevant to the Application."

Thus, lacking a biological assessment of the project site prepared by the applicants' biological consultants, it was necessary for the Commission's Staff Ecologist, Dr. Jonna Engel, to review all available information in order to determine the presence of ESHA on the subject site. Dr. Engel has reviewed the pending application, current and historic aerial imagery of the subject site, photographs of the subject site from previous site visits by Commission staff, and vegetation maps from the National Park Service for the Santa Monica Mountains. As discussed in Dr. Engel's memorandum to staff dated August 26, 2008, the subject site clearly constitutes ESHA (Exhibit 10). Dr. Engel's memorandum states, in part, that:

The property supports large areas of relatively undisturbed chaparral associations and oak woodland. The vegetation on this property is part of a much larger, contiguous stand of chaparral and associated plant communities. The native habitats on the property meet the definition of ESHA under the Coastal Act because of their important roles in that ecosystem and because they are clearly easily degraded by human activities.

Therefore, due to the important ecosystem roles of chaparral in the Santa Monica Mountains, and the fact that the subject site contains relatively undisturbed native chaparral vegetation that is part of a large, unfragmented block of habitat, the Commission finds that the chaparral vegetation and oak woodland areas on and surrounding the project site meets the definition of ESHA under the Coastal Act.

Section 30240 of the Coastal Act requires that ESHA shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.” Section 30240 restricts development on the parcel to only those uses that are dependent on the resource. For the reasons explained above, the project site and the surrounding area (excluding the previously approved residence, water well, and access road) constitutes an ESHA pursuant to Section 30107.5. The applicants request after-the-fact authorization to subdivide the subject 10.52 acre parcel into two separate developable lots. This subdivision would result in the creation of a second developable lot, which, in conjunction with Coastal Act Section 30010 and federal “takings” jurisprudence (as explained below), would allow for the construction of a second residence on site within ESHA. Construction of additional residential development on site would result in the loss of ESHA habitat area and vegetation, as well as within those areas where fuel modification would be required for fire protection purposes. As residential development does not have to be located within ESHAs to function, the Commission does not consider these uses to be dependent on ESHA resources. Thus, application of Section 30240 requires denial of this application, because the project would result in significant disruption of habitat values and uses within ESHA that are not dependent on those sensitive habitat resources.

The reason that approval of a subdivision would expose the site to additional development, notwithstanding Coastal Act section 30240 is that Coastal Act Section 30010 Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what sort of governmental action may result in a “taking” was addressed by the U.S. Supreme Court in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S. Ct. 2886. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow him or her to undertake the proposed project, and that project denial would deprive that applicant of all economically viable use of the property, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Other Supreme Court precedent establishes that another factor that should be considered is the extent to which a project denial would interfere with the property owner’s reasonable investment-backed expectations regarding the ability to develop the property.

Federal takings jurisprudence has also generally held that the unit of analysis for determining whether a taking has occurred, meaning the geographic area the courts will review to determine if any economic value remains, is the legal lot. See, e.g., Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U.S. 302, 327, 331, 122 S.Ct. 1465, 1481, 1483. Although in some circumstances, courts may treat multiple parcels as one for purposes of the takings analysis, see, e.g., District Intown Properties v. District of Columbia, 198 F.3d 874 (D.C. Cir. 1999), cert. denied 531 U.S. 812, 121 S.Ct. 34 (2000); and Forest Properties v. Big Bear Municipal Water District, 177 F.3d 1360 (Fed. Cir. 1999), cert. denied sub nom. RCK Properties v. U.S., 528 U.S. 951, 120 S. Ct. 371 (1999), once the subdivision is effective, the parcels may be sold off, defeating such an approach.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that, if the subdivision were approved, the Commission might not be able to deny a subsequent proposal for physical development.

While the applicant is entitled under Section 30010 to an assurance that the Commission will not construe or implement the Coastal Act in such a way as to take their property without compensation, in this case, the Commission has previously approved other development on site pursuant to Coastal Development Permit 5-90-115 (Marshall) including a single family residence on the western portion of the property, which has been constructed and is in use. This existing residential development on site indicates that the property, as it is currently legally constituted (i.e., the 10.52-acre site), already realizes an economically viable use. Further, the single family residence on the property has already resulted in the loss of ESHA from construction of the residence itself and associated fuel modification. Subdivision of the land to create a second lot, as proposed, would allow for the construction of a second residence on site and would result in even greater loss of ESHA. Additionally, removal of habitat area for additional residential development and the increased presence of human activity on the site will result in impacts to the ESHA that will remain on the site through habitat fragmentation and disturbance through noise, lighting, and other impacts.

Since a single family residence was previously approved by the Commission, and constructed on the site, the applicant is already realizing a reasonable economic use of the property. Thus, in regards to the proposed subdivision of land, the “no project” alternative is considered feasible as it would not prevent the applicant from a reasonable economic use of the property.

Further, the Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality because changes such as the removal of native vegetation, the increase in impervious surfaces, and the introduction of new residential uses cause increases in runoff, erosion, and sedimentation and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems.

In this case, the proposed division of land would create a second developable parcel that would allow for additional residential development on site. Additional residential development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters in non-compliance with Section 30231 of the Coastal Act. In addition, construction of a second residence on site would also require installation of a new septic system which can also result in adverse impacts to water quality. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health. Therefore, for the above reasons, the proposed project would result in adverse impacts to coastal waters in conflict with Section 30231 of the Coastal Act.

Conclusion:

In conclusion, the primary coastal resource that potentially would be impacted by any additional future development on the site is ESHA consisting of chaparral vegetation with some oak woodland areas, which covers almost the entire subject property. If an additional lot were developed with a residence within the ESHA instead of only the one existing residence on the single 10.52 acre parcel, this would increase the density and intensity of use on the site two-fold, and the impacts of grading and vegetation removal for creating building footprints, additional vegetation removal required to comply with Los Angeles County Fire Department fuel modification requirements, installation of an additional water well, storage tanks, and septic system, and other development required for an additional single-family home construction would be approximately two-times greater than would otherwise occur if the property was developed as a single lot only. Accordingly, subdivision of the 10.52 acre lots into two smaller 5+ acre lots is not consistent with the sensitive habitat protection policies of Section 30240 of the Coastal Act because it would create the potential for development of more than one residence on site and, therefore, result in destruction of a larger area of ESHA.

Further, as discussed in detail above, the proposed subdivision of land to create additional developable parcels within ESHA is not consistent with either the Chapter 3 resource protection policies in the Coastal Act, including Sections 30231 and 30240 or with the resource protection policies of the certified Malibu/Santa Monica Mountains LUP. Moreover, in this case, the proposed subdivision of the subject site is not necessary to provide an economically viable use because the existing residence on site (which was constructed by the applicants and previously approved by the Commission pursuant to Coastal Development Permit 5-90-115) already constitutes an existing economically viable residential use of the site. Thus, the “no project” alternative is feasible, in this case, and would avoid significant adverse impacts to ESHA.

Therefore, the Commission finds that the proposed project will result in significant and unavoidable adverse impacts to ESHA, in direct conflict with the Chapter 3 resource

protection policies in the Coastal Act, including Sections 30231 and 30240, and must be denied.

C. CUMULATIVE IMPACTS

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

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

Section 30252 of the Coastal Act states that:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

New development raises coastal issues related to cumulative impacts on coastal resources. The subdivision of property to create additional lots for development intensifies the use of a parcel increasing impacts on public services, such as water, sewage, electricity and roads. New development also raises issues as to whether the location and amount of new development maintains and enhances public access to the coast and results in new adverse impacts to visual resources in the Coastal Zone.

In the case of the proposed project, the applicants request after-the-fact approval to subdivide an existing 10.52-acre lot into two separate lots (5.29 acres and 5.23 acres in respective size). The subject parcel is already developed with one single family residence. The proposed subdivision of land would effectively double the amount of development which could occur on the subject site by allowing for the future construction of a second single family residence on site and any additional ancillary

development including roads, water wells, septic systems, vegetation clearance for fuel modification, necessary to service a second residence.

The Commission typically reviews the creation of lots through a subdivision of land in a comprehensive manner and not on a piecemeal basis. The Commission's review necessarily includes the analysis of the individual and cumulative impacts of the subdivision on coastal resources. To accomplish this, the Commission reviews the proposed lot sizes and lot configurations to ensure consistency with minimum lot size requirements of the certified Malibu/Santa Monica Mountains Land Use Plan (LUP), surrounding lot sizes in order to ensure that adverse cumulative impacts to coastal resources are minimized and that each resulting lot can be feasibly developed consistent with the Chapter Three Policies of the Coastal Act.

In this case, the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) designates a portion of the subject site as "*M2 - Mountain Land*" (1 unit/20 acres) and the remaining portion of the site as "*Rural Land I*" (1 unit/10 acres). Thus, pursuant to the certified LUP, the minimum allowable lot size within the subject area is ten (10) acres in size. Although the existing 10.52 acre subject lot complies with these provisions, the proposed division of the subject parcel to create two new smaller lots (each less than 10 acres in size) would not comply with either the "*M2 - Mountain Land*" or the "*Rural Land I*" designation for the site and would result in the creation of substandard sized lots in non-compliance with the certified LUP. Thus, the proposed project is not consistent with the requirements of the certified LUP.

Additional factors considered by the Commission in its review of such development include: 1) whether the applicant carried out the unpermitted land division that created the parcel or acquired the parcel later in a good faith, arm's length transaction, and if the latter, whether the applicant had reason to know of the illegal subdivision; 2) whether the lots involved in the unpermitted land division are in common or separate ownership; 3) whether any of the unpermitted lots has been developed; and 4) whether the Commission has previously approved a CDP(s) for development on the proposed project site or other lots involved in the unpermitted land division, and if such CDP(s) is effective.

In this case, the applicants carried out the unpermitted land division that created the proposed second parcel without the required coastal permit in 2000. In addition, Commission records indicate that at least one of the applicants has owned the property since prior to 1990 when Coastal Development Permit 5-90-115 was issued to Gemma Marshall for the construction of a single family residence on site. Specifically, in its findings of approval, the Commission found that the 10.52 acre subject parcel was a single, legal parcel. Thus, the applicants were both fully aware that the subject property consisted of a single, legal parcel prior their carrying out the unpermitted subdivision. Therefore, based on the above set of facts, denial of the coastal development permit would not, in any way, result in any unreasonable hardship to the applicants, since they have owned this property since prior to the unpermitted subdivision.

Further, creation of an additional parcel in the Santa Monica Mountains will result in adverse cumulative impacts to coastal resources. The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Due to the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, future build-out of many lots located in environmentally sensitive areas would create adverse cumulative impacts on coastal resources.

Currently, the 10.52 acre parcel is developed with a single family residence. The proposed subdivision of the subject site would create an additional lot which could also be developed with a second residential development. This would increase the density and intensity of use on the site two-fold, and the related impacts of grading and vegetation removal for creating building footprints, additional vegetation removal within ESHA required to comply with Los Angeles County Fire Department fuel modification requirements, installation of an additional water well, storage tanks, septic system, and other development required for single-family home construction would be approximately two-times greater than would otherwise occur if the property was developed as a single lot only.

In conclusion, the Commission finds that the project will result in significant and unavoidable adverse cumulative impacts to coastal resources in direct conflict with Sections 30250 and 30252 of the Coastal Act and must be denied.

D. UNPERMITTED DEVELOPMENT

Unpermitted development occurred on the subject parcel prior to submission of this permit application including, but not limited to, the subdivision the subject 10.52-acre lot (APN: 4438-017-022) into two separate lots (APNs: 4438-017-021 & 022, respectively). The applicants are now requesting after-the-fact approval to authorize the unpermitted subdivision pursuant to this application. Staff is recommending the Commission deny this application for the reasons discussed in full in the preceding sections of this report. Therefore, if the Commission denies this application pursuant to the staff recommendation, then the Commission's enforcement division will evaluate further actions to address this matter.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 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.

E. 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 that conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will not be in conformity with the provisions of Chapter 3. The proposed development will create adverse impacts and is found to be inconsistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development would prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

F. CEQA

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development is not consistent with the policies of the Coastal Act. There is a feasible alternative that would avoid the adverse environmental effects of the project, the "no project" alternative is such a feasible alternative, for the reasons listed in this report. Therefore, the Commission finds that the proposed project is not consistent with the requirements of the Coastal Act to conform to CEQA.

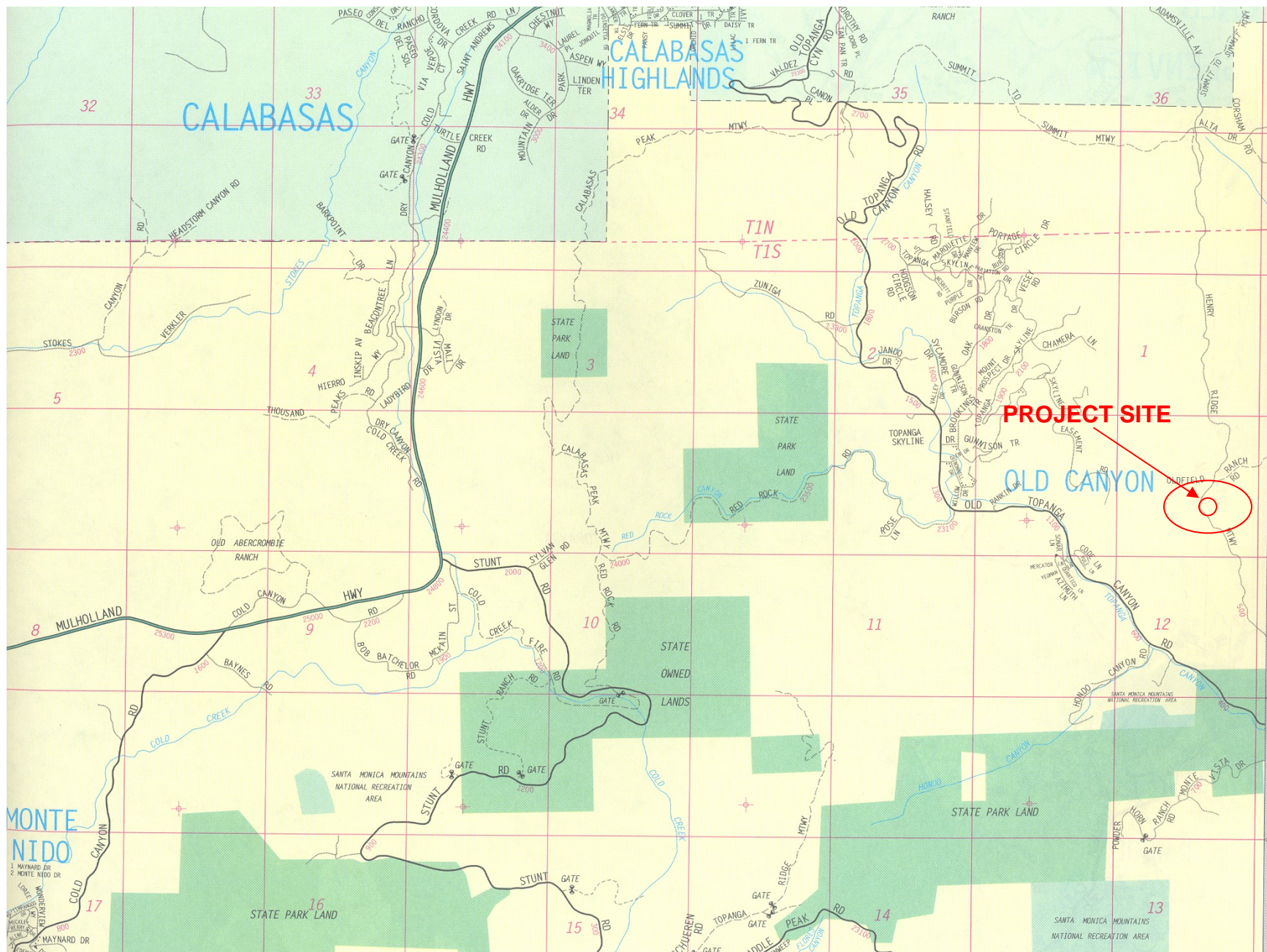


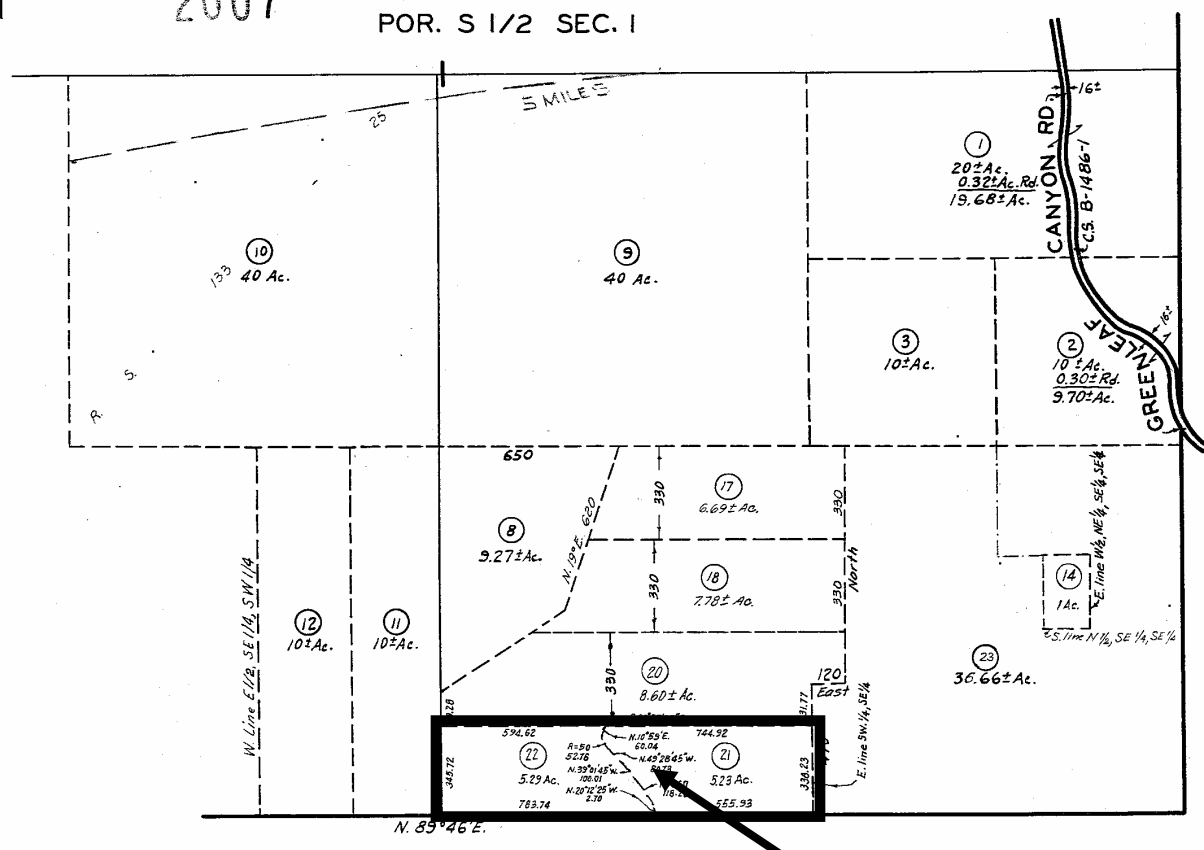
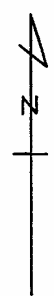
EXHIBIT 1
CDP 4-07-145 (Marshall & English)
Vicinity Map

4438 | 17
 SCALE 1" = 400'

2007

POR. S 1/2 SEC. 1

12-21-64
 681122
 890210167
 830816801-84
 830824-84
 860520014-86 L
 2001041609003001-07
 2007031909008001-07
 REVISED
 1-22-62



PROJECT SITE

T. 1 S., R. 17 W.

CODE
 1653

FOR PREV. ASSM'T. SEE: 496-1

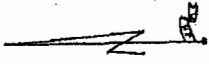
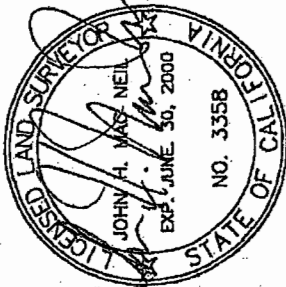
APR 04 2007

ASSESSOR'S MAP
 COUNTY OF LOS ANGELES, CALIF.

EXHIBIT 2
 CDP 4-07-145 (Marshall & English)
 Parcel Map

33

BEING A DIVISION OF LAND IN THE S. 1/2 OF THE
SW 1/4, SE 1/4 SEC. 1, T.1S., R.17W. S.B.M.



SCALE: 1"=150'
FEB. 11, 2000

THE SOUTHERLY LINE OF THE NORTHERLY 990' OF
SAID SW 1/4, SE 1/4

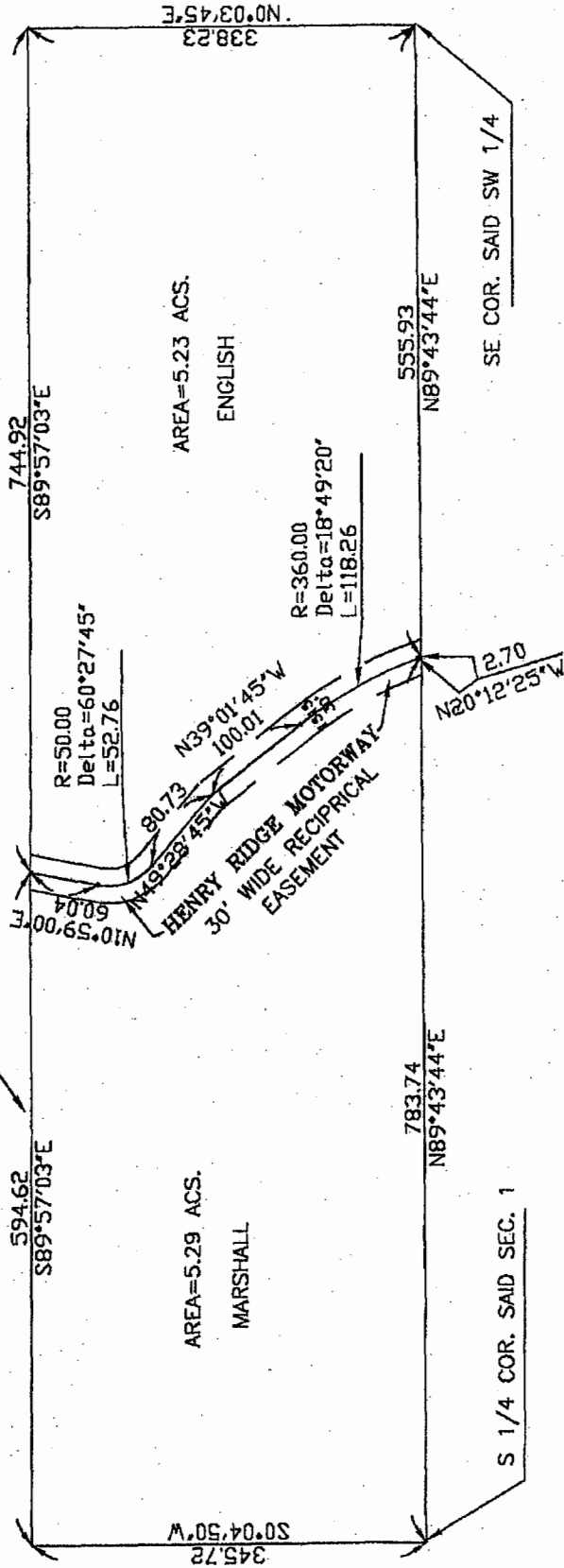


EXHIBIT 3
CDP 4-07-145 (Marshall & English)
Site Plan

78-1147428

RECORDING REQUESTED BY AIR MAIL

Name: Department of Regional Planning
Street: 100 West Temple Street
Room 1363, Hall of Records
City: Los Angeles, California 90012

RECORDED IN OFFICIAL RECORDS
OF LOS ANGELES COUNTY, CA
BY 1 P.M. OCT 30 1978
Recorder's Office

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CERTIFICATE OF COMPLIANCE C 1433

REQUEST FOR CERTIFICATE OF COMPLIANCE

I/We the undersigned owner(s) of record of real property within the unincorporated territory of the County of Los Angeles hereby REQUEST the County of Los Angeles to determine if said real property described below complies with the provisions of the Subdivision Map Act (Sec. 86410 et seq., Government Code, State of California) and the County Subdivision Ordinance (Ord. 4478, County of Los Angeles).

Arnold E. Bernstein, Partner
Signature

Name (typed or printed)

August 8, 1978

Date

1900 Group
Signature

Name (typed or printed)

Date

Signature

Name (typed or printed)

Date

Parcel 4: That portion of the south half of the southeast quarter of Section 1, Township 1 South, Range 17 West, San Bernardino Meridian, in the County of Los Angeles, State of California, according to the official plat of said land filed in the District Land Office, August 31, 191096, included within the following described lines:

Beginning at a point in the west line of the southeast quarter of said section, distant north thereon 435 feet from the south quarter of said section; thence south thereon 435 feet to the south line of said section; thence east thereon to the southeast corner of the southwest quarter of the southeast quarter of said section; thence north along the east line of the southwest quarter to the southeast quarter of said section, a distance of 470 feet; thence east 120 feet; thence north to the north line of said south half of the southeast quarter; thence west thereon to a point thereon 650 feet east from the northwest corner of the said south half of the southeast quarter; thence south 190° 00' west 620 feet; thence southwesterly along a direct line to the point of beginning.

Except that portion of said land lying northerly of the southerly line of the northerly 990 feet, measured at right angles, of said south half of the southeast quarter of Section 1.

DETERMINATION OF COMPLIANCE (E)

I hereby certify that the above described parcel complies with the applicable provisions of the State Subdivision Map Act and of the County Subdivision Ordinance; having been exempt from said act and ordinance at the time of its creation; and may therefore be sold, leased, rented or transferred.

This determination DOES NOT GUARANTEE that any design or improvement standards have been met.

AS 44,381:17 (por 7)



DEPARTMENT OF REGIONAL PLANNING
County of Los Angeles, State of California
Harmon Abrutyn, Planning Director

John Edwards
Signature

Title: Chief, Subdivision Admin. Div.

Date: OCT 13 1978

EXHIBIT 4

CDP 4-07-145 (Marshall & English)

CofC (E) No. CC1433

RECORDING REQUEST BY

WHEN RECORDED MAIL TO

Name: John Mac Neil

Mailing
Address: 2330 North Topanga Cyn. Blvd.

City, State
Zip Code: Topanga, CA 90290

APR 05 2002

COPY

02-0817304

Has not been
Original with
processing has been completed
LOS ANGELES COUNTY REGISTRAR - RECORDER

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TITLE(S)

Certificate of Compliance

01-490 CONDITIONAL

3-23-05

* Needs to be corrected,
contact MacNeil.

EXHIBIT 5

CDP 4-07-145 (Marshall & English)

CofC Nos. CC 01-489 & 01-490



RECORDING REQUESTED BY
Department of Regional Planning
320 West Temple Street
Room 1390 Hall of Records
Los Angeles, California 90012

AND WHEN RECORDED MAIL TO

Name: John Mac Neil

Street: 2330 N. TOPANGA CYN. BLVD.

City: TOPANGA, CA 90290

SPACE ABOVE THIS LINE FOR RECORDERS USE

CERTIFICATE OF COMPLIANCE

REQUEST FOR CERTIFICATE OF COMPLIANCE

I/We the undersigned owner(s) of record (and/or vendee(s) pursuant to a contract of sale) in the following described property within the unincorporated territory of the County of Los Angeles, we REQUEST the County of Los Angeles, to determine if said property described below complies with the provisions of the Subdivision Map Act (sec. 66410 et seq. Government Code, State of California) and the Los Angeles code, Title 21 (Subdivisions).

Signature On File

Deborah L. English

Name (typed or printed)

10/30/01

Date

Signature

Signature

Name (typed or printed)

Name (typed or printed)

Date

Date

LEGAL DESCRIPTION OF NEW PARCELS (TYPED)

That portion of the southwest quarter of the southeast quarter of Section 1, Township 1 South, Range 17 West, San Bernardino Meridian in the County of Los Angeles, lying southerly of the northerly 990.00 feet of said southwest quarter and easterly of the following described line:

Beginning at a point in the southerly line of said southwest quarter distant thereon N.89°43'44"E. 783.74 feet from the southwest corner of said southwest quarter, thence N.20°12'25"W. 2.70 feet, thence northwesterly 118.26 feet along a tangent curve concave southwesterly having a radius of 360.00 feet and a central angle of 18°49'20", thence tangent N.39°01'45"W. 100.01 feet, thence N.49°28'45"W. 80.73 feet, thence northerly 52.76 feet along a tangent curve concave easterly having a radius of 50.00 feet and a central angle of 60°27'45", thence tangent N.10°59'00"E. 60.04 feet to a point in the southerly line of the northerly 990.00 feet of said southwest quarter, distant thereon S.89°57'03"E. 594.62 feet from the westerly terminus of last mentioned southerly line.

OWNER (S):

Deborah L. English

CERTIFICATE OF COMPLIANCE CONTINUATION

CERTIFICATE OF COMPLIANCE NO.: 01-490 CONDITIONAL

Condition (s):

1. Offer for private and future street right-of-way the North 30 feet, East 30 feet, and the South 32 feet of the subject property and the radius at the intersection of said right-of-way.
2. Offer said private and future street right-of-way as Easement for Section 1 Township 1 South Range 17 West, S.B.B.M. and the general public.

APN: 4438-017-019 easterly portion

NOTES:

Prior to authorization to build on this property, the applicant will be required to conform to the County Building regulations. Such regulations include, but are not limited to; programs for appropriate sanitary sewage disposal, water supply for domestic use and fire suppression.

GEOLOGIC, soils and/or Drainage Conditions may exist on the subject property, which could limit development or necessitate that remedial measures be taken in order to obtain a Building Permit.

DETERMINATION OF COMPLIANCE (E)

I hereby certify the above described parcel complies with the applicable provisions of the State Subdivisions Map Act and of the County Subdivision Ordinance, having been exempt from said act and ordinance at the time of its creation, and may therefore be sold, financed, leased or transferred.

NOTE:

This determination DOES NOT GUARANTEE that the subject property meets current design and improvement standards for subdivided parcels. Prospective purchasers should check site conditions and applicable development codes to determine whether the property is suitable for their intended use and approval of a Coastal Development permit may be required by the California Coastal Commission prior to the issuance of a building permit.

CERTIFICATE OF COMPLIANCE

Pursuant to the provisions of the Subdivisions Map Act (Sec. 66410 et. Seq., Government Code, State of California) and the County Subdivision Ordinance (Title 21 of the Los Angeles County Code). I hereby certify that I have reviewed the above-described division of real property and have found it to be in conformance with all requirements of the Subdivision Map Act and of the County Subdivision Ordinance.

DEPARTMENT OF REGIONAL PLANNING

By: Paul D. Hartl

DEPARTMENT OF REGIONAL PLANNING
County of Los Angeles
James E. Hartl, AICP
Director of Planning

Title Administrator, Current Planning Div.

Date April 4, 2022



RECORDING REQUEST BY

02-0817803

WHEN RECORDED MAIL TO

Name: John Mac Neil

Mailing
Address: 2330 North Topanga Cyn. Blvd.

City, State
Zip Code: Topanga, CA 90290

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TITLE(S)

Certificate of Compliance

01-489 CONDITIONAL



RECORDING REQUESTED BY
Department of Regional Planning
320 West Temple Street
Room 1390 Hall of Records
Los Angeles, California 90012

AND WHEN RECORDED MAIL TO

Name: John Mac Neil

Street: 2330 N. TOPANGA CYN. BLVD.

City: TOPANGA, CA 90290

OK - sign & return
with check

02 0817303

3

SPACE ABOVE THIS LINE FOR RECORDERS USE

CERTIFICATE OF COMPLIANCE

REQUEST FOR CERTIFICATE OF COMPLIANCE

I/We the undersigned owner(s) of record (and/or vendee(s) pursuant to a contract of sale) in the following described property within the unincorporated territory of the County of Los Angeles, we REQUEST the County of Los Angeles, to determine if said property described below complies with the provisions of the Subdivision Map Act (sec. 66410 et seq., Government Code, State of California) and the Los Angeles code, Title 21 (Subdivisions).

Signature On File

Gemma Marshall

Name (typed or printed)

10/9/01

Date

Signature

Name (typed or printed)

Date

Signature

Name (typed or printed)

Date

LEGAL DESCRIPTION OF NEW PARCELS (TYPED)

That portion of the southwest quarter of the southeast quarter of Section 1, Township 1 South, Range 17 West, San Bernardino Meridian in the County of Los Angeles, lying southerly of the northerly 990.00 feet of said southwest quarter and westerly of the following described line:

Beginning at a point in the southerly line of said southwest quarter distant thereon N.89°43'44"E. 783.74 feet from the southwest corner of said southwest quarter, thence N.20°12'25"W. 2.70 feet, thence northwesterly 118.26 feet along a tangent curve concave southwesterly having a radius of 360.00 feet and a central angle of 18°49'20", thence tangent N.39°01'45"W. 100.01 feet, thence N.49°28'45"W. 80.73 feet, thence northerly 52.76 feet along a tangent curve concave easterly having a radius of 50.00 feet and a central angle of 60°27'45", thence tangent N.10°59'00"E. 60.04 feet to a point in the southerly line of the northerly 990.00 feet of said southwest quarter, distant thereon S.89°57'03"E. 594.62 feet from the westerly terminus of last mentioned southerly line.

OWNER(S): **Gemma Marshall**

02 0817303

CERTIFICATE OF COMPLIANCE
CONTINUATION

4

CERTIFICATE OF COMPLIANCE NO.: 01-489 CONDITIONAL

Condition (s):

1. Offer for private and future street right-of-way the North 30 feet, West 32 feet, and the South 32 feet of the subject property and the radius at the intersection of said right-of-way.
2. Offer said private and future street right-of-way as Easement for Section 1 Township 1 South Range 17 West, S.B.B.M. and the general public.

APN: 4438-017-019 westerly portion

NOTES:

Prior to authorization to build on this property, the applicant will be required to conform to the County Building regulations. Such regulations include, but are not limited to; programs for appropriate sanitary sewage disposal, water supply for domestic use and fire suppression.

GEOLOGIC, soils and/or Drainage Conditions may exist on the subject property, which could limit development or necessitate that remedial measures be taken in order to obtain a Building Permit.

DETERMINATION OF COMPLIANCE (E)

I hereby certify the above described parcel complies with the applicable provisions of the State Subdivisions Map Act and of the County Subdivision Ordinance, having been exempt from said act and ordinance at the time of its creation, and may therefore be sold, financed, leased or transferred.

NOTE:

This determination DOES NOT GUARANTEE that the subject property meets current design and improvement standards for subdivided parcels. Prospective purchasers should check site conditions and applicable development codes to determine whether the property is suitable for their intended use and approval of a Coastal Development permit may be required by the California Coastal Commission prior to the issuance of a building permit.

CERTIFICATE OF COMPLIANCE

Pursuant to the provisions of the Subdivisions Map Act (Sec. 66410 et. Seq., Government Code, State of California) and the County Subdivision Ordinance (Title 21 of the Los Angeles County Code). I hereby certify that I have reviewed the above-described division of real property and have found it to be in conformance with all requirements of the Subdivision Map Act and of the County Subdivision Ordinance.



DEPARTMENT OF REGIONAL PLANNING
County of Los Angeles
James E. Hartl, AICP
Director of Planning

DEPARTMENT OF REGIONAL PLANNING

By: *Paul H. Hartl for*

Title Administrator, Current Planning Div.

Date *April 4, 2002*

#3
1 Jay B. Siegel, Esq., #92928
2 Siegel & Siegel
3 2727 Main Street
4 Santa Monica, CA 90405-4052
5 (310) 392-9549

6 Attorneys for Plaintiff Deborah L. English
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10
11 DEBORAH L. ENGLISH,

12 Plaintiff,

13 vs.

14 GEMMA MARSHALL,
15 DOES 1 through 10, inclusive.

16 Defendants.
17

CASE NUMBER SC056036

~~PROPOSED~~ JUDGMENT
TRANSFERRING THE INTERESTS OF
THE PARTIES IN ACCORDANCE WITH
THE SIGNED STIPULATION AND
COURT ORDER

[CCP 873.960]

Date: May 22, 2000
Time: 1:30 p.m.
Dept.: B

Trial Date: May 23, 2000

18
19 This cause previously having come on for hearing on various occasions, along with
20 the within motion of Plaintiff Deborah L. English for entry of judgment confirming the
21 transfer of the interests of the parties in accordance with signed stipulation and court
22 order, came on regularly for hearing by the Court on May 22, 2000. Plaintiff appeared by
23 counsel Jay B. Siegel, Esquire, of Siegel & Siegel; Defendant appeared by counsel
24 Bradley Dale Tubin, Esquire.

25 On proof made to the satisfaction of the court that the motion ought to be granted,
26 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:
27 THAT CERTAIN real property, located in the unincorporated area of the County
28 of Los Angeles, State of California, and more particularly described as:

~~PROPOSED~~

EXHIBIT 6

CDP 4-07-145 (Marshall & English)

Judgment for English v. Marshall

ENTERED
SUSTAIN
FILED
LOS ANGELES SUPERIOR COURT
MAY 22 2000
JOHN A. CLARKE, CLERK
Clarke
BY J. HERNANDEZ, DEPUTY

1 THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER
2 OF SECTION 1, TOWNSHIP 1 SOUTH, RANGE 17 WEST, SAN BERNARDINO
3 MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN
4 THE DISTRICT LAND OFFICE AUGUST 31, 1986, IN THE COUNTY OF LOS
5 ANGELES, STATE OF CALIFORNIA, INCLUDED WITHIN THE FOLLOWING
6 DESCRIBED LINES:

7 BEGINNING AT A POINT IN THE WEST LINE OF THE SOUTHEAST
8 QUARTER OF SAID SECTION, DISTANT NORTH THEREON 435 FEET FROM
9 THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE SOUTH
10 THEREON 435 FEET TO THE SOUTH LINE OF SAID SECTION; THENCE EAST
11 THEREON TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF
12 THE SOUTHEAST QUARTER OF SAID SECTION; THENCE NORTH ALONG THE
13 EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER
14 OF SAID SECTION, A DISTANCE OF 470 FEET;. THENCE EAST 120 FEET;
15 THENCE NORTH LINE OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER;
16 THENCE WEST THEREON TO A POINT THEREON 650 FEET EAST FROM THE
17 NORTHWEST CORNER OF THE SAID SOUTH HALF OF THE SOUTHEAST
18 QUARTER; THENCE SOUTH 19 00' 00" WEST 620 FEET; THENCE
19 SOUTHWESTERLY ALONG A DIRECT LINE TO THE POINT OF BEGINNING.

20 EXCEPT THAT PORTION OF SAID LAND LYING NORTHERLY OF THE
21 SOUTHERLY LINE OF THE NORTHERLY 990 FEET, MEASURED AT RIGHT
22 ANGLES OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION
23 1.

24 ALSO EXCEPT FROM THE PORTION OF SAID LAND INCLUDED WITHIN
25 THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID
26 SECTION 1, ONE-HALF OF ALL MINERALS, OIL, GAS, ASPHALTUM AND
27 OTHER HYDROCARBONS IN, OVER, OR UNDER SAID LAND, TOGETHER
28 WITH THE RIGHT TO REMOVE SAID AS RESERVED BY M. H. MARJENHOFF,

1 AN UNMARRIED MAN, IN DEED RECORDED AUGUST 16, 1955 IN BOOK 48666
2 PAGE 218, OF OFFICIAL RECORDS.

3 IS HEREBY divided into the parcels as more particularly described on Exhibit A
4 hereto and as depicted on Exhibit B attached hereto and incorporated herein by this
5 reference,

6 The court retains jurisdiction over the parties at their request in order enforce the
7 terms of the until performance in full of its terms.

8 DATED: May 22, 2000

9
10 **Signature On File**

11 Judge of the Superior Court
12 **PATRICIA L. COLLINS**
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LEGAL DESCRIPTION OF THE MARSHALL PARCEL

That portion of the southwest quarter of the southeast quarter of Section 1, Township 1 South, Range 17 West, San Bernardino Meridian in the County of Los Angeles, lying southerly of the northerly 990.00 feet of said southwest quarter and westerly of the following described line:

Beginning at a point in the southerly line of said southwest quarter distant thereon N.89°43'44"E. 783.74 feet from the southwest corner of said southwest quarter, thence N.20°12'25"W. 2.70 feet, thence northwesterly 118.26 feet along a tangent curve concave southwesterly having a radius of 360.00 feet and a central angle of 18°49'20", thence tangent N.39°01'45"W. 100.01 feet, thence N.49°28'45"W. 80.73 feet, thence northerly 52.76 feet along a tangent curve concave easterly having a radius of 50.00 feet and a central angle of 60°27'45", thence tangent N.10°59'00"E. 60.04 feet to a point in the southerly line of the northerly 990.00 feet of said southwest quarter distant thereon S.89°57'03"E. 594.62 feet from the westerly terminus of last mentioned southerly line.

LEGAL DESCRIPTION OF THE ENGLISH PARCEL

That portion of the southwest quarter of the southeast quarter of Section 1, Township 1 South, Range 17 West, San Bernardino Meridian in the County of Los Angeles, lying southerly of the northerly 990.00 feet of said southwest quarter and easterly of the following described line:

Beginning at a point in the southerly line of said southwest quarter distant thereon N.89°43'44"E. 783.74 feet from the southwest corner of said southwest quarter, thence N.20°12'25"W. 2.70 feet, thence northwesterly 118.26 feet along a tangent curve concave southwesterly having a radius of 360.00 feet and a central angle of 18°49'20", thence tangent N.39°01'45"W. 100.01 feet, thence N.49°28'45"W. 80.73 feet, thence northerly 52.76 feet along a tangent curve concave easterly having a radius of 50.00 feet and a central angle of 60°27'45", thence tangent N.10°59'00"E. 60.04 feet to a point in the southerly line of the northerly 990.00 feet of said southwest quarter distant thereon S.89°57'03"E. 594.62 feet from the westerly terminus of last mentioned southerly line.

LEGAL DESCRIPTION OF THE EASEMENT TO MARSHALL

An easement for ingress, egress, road, drainage and utility purposes with the right to grant said easement to others over that portion of the southwest quarter of the southeast quarter of Section 1, Township 1 South, Range 17 West, San Bernardino Meridian in the County of Los Angeles, lying southerly of the northerly 990.00 feet of said southwest quarter, said easement is a strip of land 15.00 feet wide and the westerly line of said easement is described as follows:

Beginning at a point in the southerly line of said southwest quarter distant thereon N.89°43'44"E. 783.74 feet from the southwest corner of said southwest quarter, thence N.20°12'25"W. 2.70 feet, thence northwesterly 118.26 feet along a tangent curve concave southwesterly having a radius of 360.00 feet and a central angle of 18°49'20", thence tangent N.39°01'45"W. 100.01 feet, thence N.49°28'45"W. 80.73 feet, thence northerly 52.76 feet along a tangent curve concave easterly having a radius of 50.00 feet and a central angle of 60°27'45", thence tangent N.10°59'00"E. 60.04 feet to a point in the southerly line of the northerly 990.00 feet of said southwest quarter distant thereon S.89°57'03"E. 594.62 feet from the westerly terminus of last mentioned southerly line.

The easterly line of said easement shall be lengthened or shortened to terminate southerly in the southerly line of said southwest quarter and northerly in the southerly line of the northerly 990.00 feet of said southwest quarter.

LEGAL DESCRIPTION OF THE EASEMENT TO ENGLISH

An easement for ingress, egress, road, drainage and utility purposes with the right to grant said easement to others over that portion of the southwest quarter of the southeast quarter of Section 1, Township 1 South, Range 17 West, San Bernardino Meridian in the County of Los Angeles, lying southerly of the northerly 990.00 feet of said southwest quarter, said easement is a strip of land 15.00 feet wide and the easterly line of said easement is described as follows:

Beginning at a point in the southerly line of said southwest quarter distant thereon N.89°43'44"E. 783.74 feet from the southwest corner of said southwest quarter, thence N.20°12'25"W. 2.70 feet, thence northwesterly 118.26 feet along a tangent curve concave southwesterly having a radius of 360.00 feet and a central angle of 18°49'20", thence tangent N.39°01'45"W. 100.01 feet, thence N.49°28'45"W. 80.73 feet, thence northerly 52.76 feet along a tangent curve concave easterly having a radius of 50.00 feet and a central angle of 60°27'45", thence tangent N.10°59'00"E. 60.04 feet to a point in the southerly line of the northerly 990.00 feet of said southwest quarter distant thereon S.89°57'03"E. 594.62 feet from the westerly terminus of last mentioned southerly line.

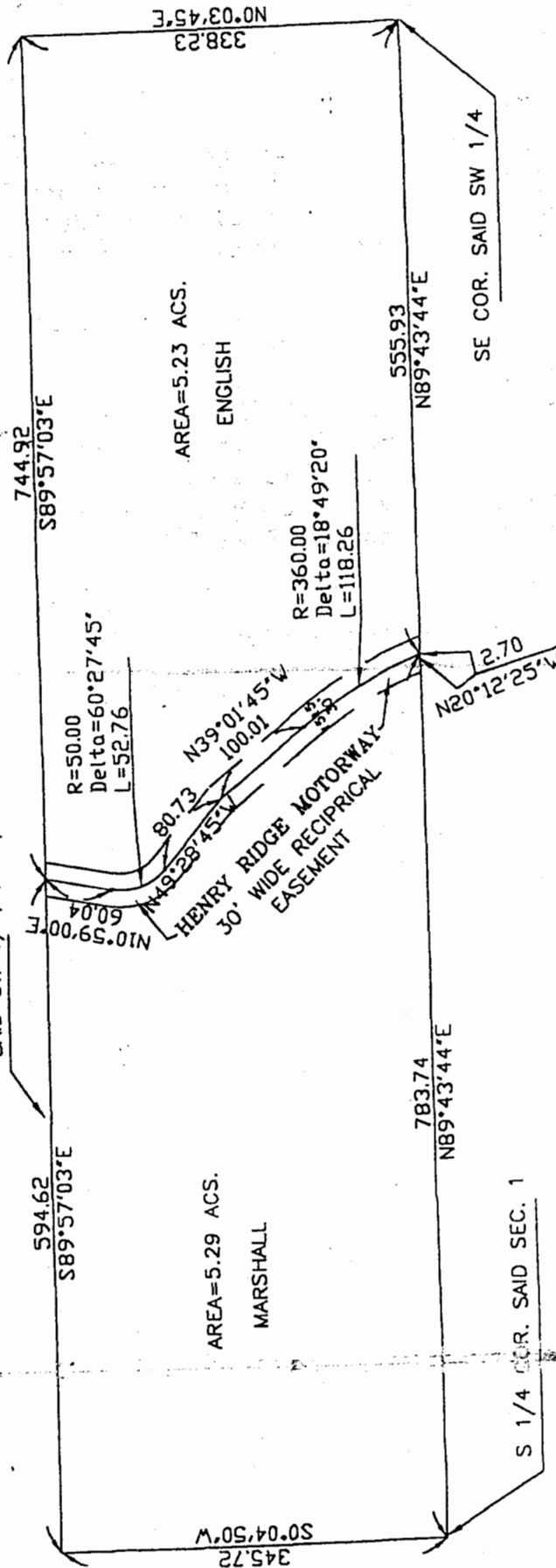
The westerly line of said easement shall be lengthened or shortened to terminate southerly in the southerly line of said southwest quarter and northerly in the southerly line of the northerly 990.00 feet of said southwest quarter.

BEING A DIVISION OF LAND IN THE S. 1/2 OF THE
SW 1/4, SE 1/4 SEC. 1, T.1S., R.17W. S.B.M.



SCALE: 1"=150'
FEB. 11, 2000

THE SOUTHERLY LINE OF THE NORTHERLY 990' OF
SAID SW 1/4, SE 1/4



FILE# 8106PL1

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG*
REBECCA A. THOMPSON
NANCI SESSIONS-STACEY
KIMBERLY A. RIBLE
ALICIA B. BARTLEY
NOELLE V. BENSUSSEN

* a professional corporation

LAW OFFICES OF
GAINES & STACEY LLP
16633 VENTURA BOULEVARD, SUITE 1220
ENCINO, CA 91436-1872

TELEPHONE (818) 933-0200
FACSIMILE (818) 933-0222
INTERNET: WWW.GAINESLAW.COM

RECEIVED
JAN 31 2008

CLERK
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

January 29, 2008

ORIGINAL SENT BY U.S. MAIL

VIA FACSIMILE (805) 641-1732

Ms. Melissa Hetrick
Coastal Program Analyst
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Re: 1035 Henry Ridge Mountain Way, County of Los Angeles
APNs: 4438-017-021 and 4438-017-022
CDP Application No.: 4-07-145

Dear Ms. Hetrick:

This law office, in conjunction with Schmitz & Associates, represents Ms. Deborah English with regard to her ownership of Los Angeles County APN No. 4438-017-022 and the above-referenced application (the "Application"). Specifically, this letter responds to your December 21, 2007 correspondence regarding the Application.

For your reference, we are enclosing as "Exhibit A" a copy of our letter to N. Patrick Veasart, dated December 18, 2007. That letter provides some historical perspective with regard to the subject property and Application. Specifically, in an effort to resolve the matter amicably and without litigation involving the Commission, the Application was filed in response to an October 23, 2007 letter from Mr. Veasart which alleged Coastal Act violations. We explained to him that the property was the subject of litigation between the then co-property owners (English v. Marshall, LASC Case No. 056836) and that, as a result of the litigation, a Judgment of the Los Angeles Superior Court was entered on May 22, 2000.

The Judgment specifically "divided" the prior APN 4438-017-019 "into the parcels" now recognized as APNs 4438-017-021 and 4438-017-022. As you know, the County of Los Angeles issued Conditional Certificates of Compliance for the two new lots. As a result, no Coastal Commission approval is required to subdivide the property because the subject property is already legally subdivided. Our client is not legally required to seek or receive approval from the Coastal

G&S\1649-001

EXHIBIT 7

CDP 4-07-145 (Marshall & English)

Letter from Fred Gaines 1/29/08

Ms. Melissa Hetrick
January 29, 2008
Page 2

Commission to subdivide the property, given the Court's definitive and long standing Judgment in this matter. Any action by the Commission to the contrary would be in direct disregard of a valid Court order.

No grading, construction or development of any kind is being proposed at this time. Again, the Application was simply submitted in an effort to cooperate with the Commission, with the expectation that the Commission's proceedings on the Application would be consistent with the Judgment as legally required.

Notwithstanding the above, the following responds to your December 21st letter, item by item:

- Page 1, Item #2: Enclosed as "Exhibit B" please find a copy of the Court's May 22, 2000 Judgment Transferring the Interests of the Parties in Accordance with the Signed Stipulation and Court Order and as "Exhibit C" the most recent secured property tax bills for APNs 4438-017-021 and 4438-017-022. We expect that these enclosures should satisfy your request for proof of legal interest in the property.
- Page 2, Item #13: The existing residence, potential building pad areas and potential locations for driveways and access roads are irrelevant to the Application which only seeks approval of the Court ordered lot division.
- Page 3, Item #19: Enclosed as "Exhibit D" please find a reduced copy of the MacNeil Survey/project plan previously provided with the Application. To the extent that the Commission requests reduced copies of the more detailed plans requested in your December 21, 2007 correspondence, such plans will not be provided for the same reasons as already stated herein.
- Page 3, Item #1: Deborah English is represented by Gaines & Stacey LLP and Schmitz and Associates.
- Page 4, Item #2: Enclosed with the Application were copies of valid geo-soils reports previously prepared by Harley Tucker, Inc., and SWN Soiltech Consultants, Inc. Again, updated reports ("not more than one year old") are irrelevant to the Application as no grading, construction or development of any kind is being proposed at this time.
- Page 4, Item #5: See response to Page 4, Item #2.

Ms. Melissa Hetrick
January 29, 2008
Page 3

- Staff Comments:

- 1.) A biological analysis will not be provided to the Commission at this time as it is irrelevant to the Application.
- 2.) Enclosed as "Exhibit E" please find a copy of the English/Marshall parcel creation history.
- 3.) Deborah English is represented by Gaines & Stacey LLP and Schmitz and Associates. All communications regarding the Application should be directed accordingly.

Thank you your for your attention to this matter. As always, please do not hesitate to contact me at any time with any comments or questions that you may have.

Sincerely,

GAINES & STACEY LLP

Signature On File

By

FRED GAINES

Enclosures

EXHIBITS ON FILE

June 19, 2008

Via Fed-Ex

Melissa Hetrick
South Central Coast Area
California Coastal Commission
89 South California St., Suite 200
Ventura, CA 93001

RECEIVED
JUN 24 2008

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RE: 1030 & 1035 Henry Ridge Motorway (CDP 4-07-145)

Dear Melissa,

We are writing to follow up on correspondence from the applicant's attorney, Fred Gaines, that was submitted to your office on January 29, 2008 in response to the incompleteness notice from your office dated December 21, 2007 for the above application. No correspondence or notification of application completeness was received from Coastal staff in response to Mr. Gaines' January correspondence and submittal of requested items. As such, it is our understanding that the application was considered complete for processing on February 29, 2008 pursuant to the Permit Streamlining Act (§65920 et. seq), which states in part,

"Upon receipt of a project application containing a statement identifying the application as being for a 'development permit,' an agency has 30 calendar days to notify the applicant, in writing, of whether or not the project application is complete enough for processing." If the agency fails to notify the applicant of completeness within either of the 30-day periods, the application is deemed to be complete (§65943; *Orsi v. City Council* (1990) 219 Cal. App. 3d 1576).

We presume that Coastal staff's lack of notification of a completeness determination means that sufficient materials have been submitted for the application at hand. We look forward to working with your staff to prepare this application for the Coastal Commission's consideration.

Thank you for your time and attention to this matter. Please feel free to call me or Chris Deleau at (818) 338-3636 with any questions or comments you may have.

Sincerely,
SCHMITZ & ASSOCIATES INC.

Signature On File

Mindy Commans
Project Team Manager



HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265
TEL: 310.589.0773 FAX: 310.589.031
EMAIL: INFO@SCHMITZANDASSOCIATES.

EXHIBIT 8
CDP 4-07-145 (Marshall & English)
Letter from Schmitz & Assoc. 6/19/08

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



July 15, 2008

Ms. Kimberly Rible
Law Offices of Gaines & Stacey LLP
16633 Ventura Boulevard, Suite 1220
Encino, CA 91436-1872

RE: 1035 Henry Ridge Mountain Way, Los Angeles County
Violation File No.: V-4-07-041; CDP Application No.: 4-07-145

Dear Ms. Rible:

This letter is being provided pursuant to your request during our conversation on July 7, 2008. In that conversation, I explained the position of the Coastal Commission staff ("Staff") regarding the May 22, 2000 judgment of the Los Angeles Superior Court in the case of English v. Marshall, Case No. SC 056036 ("partition judgment"), and the relevance of that judgment to the pending application by your client, Deborah English, for a Coastal Development Permit ("CDP") that would grant after-the-fact approval of the subdivision that purportedly created her lot known as Assessor's Parcel Number ("APN") 4438-017-021 (CDP Application No. 4-07-145). In addition, this letter responds to the December 18, 2007 letter from Fred Gaines to Pat Veasart, and to statements made in Mr. Gaines's January 29, 2008 letter to Melissa Hetrick and his March 18, 2008 letter to Jack Ainsworth. Please forgive the delay in our providing this response.

In response to your letters, we have performed additional legal research, which has confirmed that the subdivision of the property without a CDP constitutes a violation of the Coastal Act that is not excused by the judicial nature of the partition judgment. As a result, we must decline Mr. Gaines's request, in his December 18, 2007 letter, that we confirm that we will not pursue violation proceedings. A detailed explanation follows.

The Coastal Act ("Act") requires that any person wishing to undertake development in the coastal zone obtain a CDP, in addition to any local permits which might be required. Cal. Pub. Res. Code § 30600(a). The Act defines development to include any "change in density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act, and any other division of land, including lot splits." Id. at §30106. No CDP was issued by the Commission for the division of the subject property, and the property has therefore not been legally subdivided.

In the December 18, 2007 letter, Mr. Gaines states your position that the partition judgment was valid and binding upon the Coastal Commission. We disagree. Title 10.5 of Part 2 of the California Code of Civil Procedure provides the rules and procedures for the judicial partitioning of real property. Cal Civ. Proc. Code §872.020 (West 1980).

EXHIBIT 9

CDP 4-07-145 (Marshall & English)

Staff Response Letter 7/15/08

the judicial partitioning of real property. Cal Civ. Proc. Code §872.020 (West 1980). Section 872.040 provides: "[n]othing in this title excuses compliance with any applicable laws, regulations, or ordinances governing the division, sale, or transfer of property." Id. at § 872.040 ("Section 872.040"). As the paragraph immediately above makes clear, the Coastal Act's CDP requirements apply to and govern the division of real property within the Coastal Zone, and under the plain language of Section 872.040, that permitting requirement must be abided in any judicial partition action.

Section 872.040 codifies the earlier holding of Pratt v. Adams, wherein the court upheld a county's denial of building permits to a group of land owners who subdivided their land by judicial partition without observing the requirements of the Subdivision Map Act. 229 Cal. App. 2d 602, 40 Cal. Rptr. 505 (1964). Pratt stands for the proposition that public agencies are not required to recognize as legal any land division that was achieved through a judicial partition action if the use of that mechanism would circumvent the agency process and undermine the salutary purposes behind the agency's charge. Thus, the Commission need not, and indeed cannot, treat the division as a legal subdivision.

Moreover, while Section 872.040 provides simply that the partition action statutory scheme does not excuse compliance with other laws, the Attorney General has explained that Section 872.040 means that a court "may not order the physical division of the property in violation of 'any applicable laws . . . governing the division, sale, or transfer of property.'" 64 Ops. Cal. Atty. Gen. 762 (1981). It is clear, given these restrictions, that the Superior Court's order dividing the property should not have issued, as it failed to conform to the requirements of the Coastal Act, and the Commission is not bound by the order.¹

As was discussed in our July 7, 2008 conversation, notwithstanding your failure to provide the materials Staff indicated it needed in order to process CDP Application No. 4-07-145,² and the resulting continued incompleteness of the application, Staff is willing to proceed with the processing of the application and will bring it to the Commission in the next few months. However, given (1) that the property contains contiguous areas of undisturbed chaparral that likely meet the Coastal Act definition of an environmentally sensitive habitat area, (2) your refusal to provide the information requested in our Incomplete Letter, and (3) the land-use designation of the parcel in the Malibu/Santa Monica Mountains certified Land Use Plan ("LUP"), Staff will be recommending denial of the application. See Cal Pub. Res. Code §30240 (West 2007), Incomplete Letter, and the LUP, respectively. If you nevertheless choose to proceed with your permit application, and provided Commission action on the application occurs within the next

¹ It should be noted that, at the time of the order's issuance, the Commission was neither notified of, nor a party to, the litigation, and thus not able to object to the court's order. Furthermore, as the Commission was not a party to the litigation, your assertion that pursuit of violation proceedings would constitute contempt of court and abuse of legal process is baseless.

² See December 21, 2007 letter from Melissa Hetrick, Coastal Program Analyst, California Coastal Commission ("Incomplete Letter"); and January 29, 2008 response letter from Fred Gaines.

Ms. Kimberly Rible
July 15, 2008
Page -3-

few months, the Enforcement division will await final disposition of your permit application before moving forward with any enforcement actions. While it has not yet been decided what remedies will be pursued in the event your CDP application is denied, enforcement division staff will be meeting in the near future to determine a possible course of action. In the meantime, should you wish to withdraw your CDP application and work with the Commission towards an expeditious and amicable resolution of this matter, we invite you to do so.

Thank you for your attention regarding this matter. If you have any questions regarding this letter or your pending application, please feel free to contact me.

Very truly yours,

Signature On File

ALEX N. HELPERIN
Staff Counsel

cc: Fred Gaines
Jack Ainsworth
Steve Hudson
Pat Veasart

CALIFORNIA COASTAL COMMISSION

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



M E M O R A N D U M

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: Steve Hudson
District Manager

SUBJECT: 1035 Henry Ridge Motorway ESHA Determination

DATE: August 26, 2008

The property at 1035 Henry Ridge Motorway falls within the area that has been mapped using aerial imagery in a cooperative effort of several governmental agencies. We obtained a vegetation map from the National Park Service that includes this property. According to the mapped vegetation, the native habitats on the site are big pod ceanothus (*C. megacarpus*) chaparral, greenbark ceanothus (*C. spinosus*) chaparral, and coast live oak (*Quercus agrifolia*) woodland. Plants associated with the chaparral communities include laurel sumac (*Malosma laurina*), chamise (*Adenostema fasciculatum*), hoary-leaved ceanothus (*C. crassifolius*), and black sage (*Salvia mellifera*). I've confirmed that the property supports these plant communities using current and historical aerial photographs as well as photographs taken during previous site visits made by Commission staff.

The developed area on the property is classified as urban/disturbed or built-up. Development on the property consists of a single family home, a water well, and access road to the well and Henry Ridge Road. The most salient effect of the development is the direct loss of native habitat.

In their findings for the Malibu Local Coastal Plan, the Commission found that the Mediterranean Ecosystem in the Santa Mountains is rare, and especially valuable because of its relatively pristine character, physical complexity, and resultant unusually high biological diversity. The Commission also found that, within the Santa Monica Mountains, native habitats, including chaparral, that are large, relatively unfragmented, and that have not been significantly degraded may meet the definition of ESHA by virtue of their valuable roles in that ecosystem, regardless of their rarity throughout the state.

The property supports large areas of relatively undisturbed chaparral associations and oak woodland. The vegetation on this property is part of a much larger, contiguous stand of chaparral and associated plant communities. The native habitats on the property meet the definition of ESHA under the Coastal Act because of their important roles in that ecosystem and because they are clearly easily degraded by human activities.

EXHIBIT 10
CDP 4-07-145 (Marshall & English)
Memo from Dr. Jonna Engel 8/26/08

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



M E M O R A N D U M

FROM: John Dixon, Ph.D.
Ecologist / Wetland Coordinator

TO: Ventura Staff

SUBJECT: Designation of ESHA in the Santa Monica Mountains

DATE: March 25, 2003

In the context of the Malibu LCP, the Commission found that the Mediterranean Ecosystem in the Santa Mountains is rare, and especially valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Therefore, areas of undeveloped native habitat in the Santa Monica Mountains that are large and relatively unfragmented may meet the definition of ESHA by virtue of their valuable roles in that ecosystem, regardless of their relative rarity throughout the state. This is the only place in the coastal zone where the Commission has recognized chaparral as meeting the definition of ESHA. The scientific background presented herein for ESHA analysis in the Santa Monica Mountains is adapted from the Revised Findings for the Malibu LCP that the Commission adopted on February 6, 2003.

For habitats in the Santa Monica Mountains, particularly coastal sage scrub and chaparral, there are three site-specific tests to determine whether an area is ESHA because of its especially valuable role in the ecosystem. First, is the habitat properly identified, for example as coastal sage scrub or chaparral? The requisite information for this test generally should be provided by a site-specific biological assessment. Second, is the habitat largely undeveloped and otherwise relatively pristine? Third, is the habitat part of a large, contiguous block of relatively pristine native vegetation? This should be documented with an aerial photograph from our mapping unit (with the site delineated) and should be attached as an exhibit to the staff report. For those habitats that are absolutely rare or that support individual rare species, it is not necessary to find that they are relatively pristine, and are neither isolated nor fragmented.

**Designation of Environmentally Sensitive Habitat in the
Santa Monica Mountains**

The Coastal Act provides a definition of "environmentally sensitive area" as: "Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments" (Section 30107.5).

EXHIBIT 11
CDP 4-07-145 (Marshall & English)
Memo from Dr. John Dixon 3/25/03

There are three important elements to the definition of ESHA. First, a geographic area can be designated ESHA either because of the presence of individual species of plants or animals or because of the presence of a particular habitat. Second, in order for an area to be designated as ESHA, the species or habitat must be either rare or it must be especially valuable. Finally, the area must be easily disturbed or degraded by human activities.

The first test of ESHA is whether a habitat or species is rare. Rarity can take several forms, each of which is important. Within the Santa Monica Mountains, rare species and habitats often fall within one of two common categories. Many rare species or habitats are globally rare, but locally abundant. They have suffered severe historical declines in overall abundance and currently are reduced to a small fraction of their original range, but where present may occur in relatively large numbers or cover large local areas. This is probably the most common form of rarity for both species and habitats in California and is characteristic of coastal sage scrub, for example. Some other habitats are geographically widespread, but occur everywhere in low abundance. California's native perennial grasslands fall within this category.

A second test for ESHA is whether a habitat or species is especially valuable. Areas may be valuable because of their "special nature," such as being an unusually pristine example of a habitat type, containing an unusual mix of species, supporting species at the edge of their range, or containing species with extreme variation. For example, reproducing populations of valley oaks are not only increasingly rare, but their southernmost occurrence is in the Santa Monica Mountains. Generally, however, habitats or species are considered valuable because of their special "role in the ecosystem." For example, many areas within the Santa Monica Mountains may meet this test because they provide habitat for endangered species, protect water quality, provide essential corridors linking one sensitive habitat to another, or provide critical ecological linkages such as the provision of pollinators or crucial trophic connections. Of course, all species play a role in their ecosystem that is arguably "special." However, the Coastal Act requires that this role be "especially valuable." This test is met for relatively pristine areas that are integral parts of the Santa Monica Mountains Mediterranean ecosystem because of the demonstrably rare and extraordinarily special nature of that ecosystem as detailed below.

Finally, ESHAs are those areas that could be easily disturbed or degraded by human activities and developments. Within the Santa Monica Mountains, as in most areas of southern California affected by urbanization, all natural habitats are in grave danger of direct loss or significant degradation as a result of many factors related to anthropogenic changes.

Ecosystem Context of the Habitats of the Santa Monica Mountains

The Santa Monica Mountains comprise the largest, most pristine, and ecologically complex example of a Mediterranean ecosystem in coastal southern California.

California's coastal sage scrub, chaparral, oak woodlands, and associated riparian areas have analogues in just a few areas of the world with similar climate. Mediterranean ecosystems with their wet winters and warm dry summers are only found in five localities (the Mediterranean coast, California, Chile, South Africa, and south and southwest Australia). Throughout the world, this ecosystem with its specially adapted vegetation and wildlife has suffered severe loss and degradation from human development. Worldwide, only 18 percent of the Mediterranean community type remains undisturbed¹. However, within the Santa Monica Mountains, this ecosystem is remarkably intact despite the fact that it is closely surrounded by some 17 million people. For example, the 150,000 acres of the Santa Monica Mountains National Recreation Area, which encompasses most of the Santa Monica Mountains, was estimated to be 90 percent free of development in 2000². Therefore, this relatively pristine area is both large and mostly unfragmented, which fulfills a fundamental tenet of conservation biology³. The need for large contiguous areas of natural habitat in order to maintain critical ecological processes has been emphasized by many conservation biologists⁴.

In addition to being a large single expanse of land, the Santa Monica Mountains ecosystem is still connected, albeit somewhat tenuously, to adjacent, more inland ecosystems⁵. Connectivity among habitats within an ecosystem and connectivity among ecosystems is very important for the preservation of species and ecosystem integrity. In a recent statewide report, the California Resources Agency⁶ identified wildlife corridors and habitat connectivity as the top conservation priority. In a letter to governor Gray Davis, sixty leading environmental scientists have endorsed the

¹ National Park Service. 2000. Draft general management plan & environmental impact statement. Santa Monica Mountains National Recreation Area – California.

² Ibid.

³ Harris, L. D. 1988. Edge effects and conservation of biotic diversity. *Conserv. Biol.* 330-332. Soule, M. E, D. T. Bolger, A. C. Alberts, J. Wright, M. Sorice and S. Hill. 1988. Reconstructed dynamics of rapid extinctions of chaparral-requiring birds in urban habitat islands. *Conserv. Biol.* 2: 75-92. Yahner, R. H. 1988. Changes in wildlife communities near edges. *Conserv. Biol.* 2:333-339. Murphy, D. D. 1989. Conservation and confusion: Wrong species, wrong scale, wrong conclusions. *Conservation Biol.* 3:82-84.

⁴ Crooks, K. 2000. Mammalian carnivores as target species for conservation in Southern California. p. 105-112 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Sauvajot, R. M., E. C. York, T. K. Fuller, H. Sharon Kim, D. A. Kamradt and R. K. Wayne. 2000. Distribution and status of carnivores in the Santa Monica Mountains, California: Preliminary results from radio telemetry and remote camera surveys. p 113-123 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Beier, P. and R. F. Noss. 1998. Do habitat corridors provide connectivity? *Conserv. Biol.* 12:1241-1252. Beier, P. 1996. Metapopulation models, tenacious tracking and cougar conservation. In: *Metapopulations and Wildlife Conservation*, ed. D. R. McCullough. Island Press, Covelo, California, 429p.

⁵ The SMM area is linked to larger natural inland areas to the north through two narrow corridors: 1) the Conejo Grade connection at the west end of the Mountains and 2) the Simi Hills connection in the central region of the SMM (from Malibu Creek State Park to the Santa Susanna Mountains).

⁶ California Resources Agency. 2001. Missing Linkages: Restoring Connectivity to the California Landscape. California Wilderness Coalition, Calif. Dept of Parks & Recreation, USGS, San Diego Zoo and The Nature Conservancy. Available at: <http://www.calwild.org/pubs/reports/linkages/index.htm>

conclusions of that report⁷. The chief of natural resources at the California Department of Parks and Recreation has identified the Santa Monica Mountains as an area where maintaining connectivity is particularly important⁸.

The species most directly affected by large scale connectivity are those that require large areas or a variety of habitats, e.g., gray fox, cougar, bobcat, badger, steelhead trout, and mule deer⁹. Large terrestrial predators are particularly good indicators of habitat connectivity and of the general health of the ecosystem¹⁰. Recent studies show that the mountain lion, or cougar, is the most sensitive indicator species of habitat fragmentation, followed by the spotted skunk and the bobcat¹¹. Sightings of cougars in both inland and coastal areas of the Santa Monica Mountains¹² demonstrate their continued presence. Like the "canary in the mineshaft," an indicator species like this is good evidence that habitat connectivity and large scale ecological function remains in the Santa Monica Mountains ecosystem.

The habitat integrity and connectivity that is still evident within the Santa Monica Mountains is extremely important to maintain, because both theory and experiments over 75 years in ecology confirm that large spatially connected habitats tend to be more stable and have less frequent extinctions than habitats without extended spatial structure¹³. Beyond simply destabilizing the ecosystem, fragmentation and disturbance

⁷ Letters received and included in the September 2002 staff report for the Malibu LCP.

⁸ Schoch, D. 2001. Survey lists 300 pathways as vital to state wildlife. Los Angeles Times. August 7, 2001.

⁹ Martin, G. 2001. Linking habitat areas called vital for survival of state's wildlife Scientists map main migration corridors. San Francisco Chronicle, August 7, 2001.

¹⁰ Noss, R. F., H. B. Quigley, M. G. Hornocker, T. Merrill and P. C. Paquet. 1996. Conservation biology and carnivore conservation in the Rocky Mountains. *Conserv. Biol.* 10: 949-963. Noss, R. F. 1995. Maintaining ecological integrity in representative reserve networks. World Wildlife Fund Canada.

¹¹ Sauvajot, R. M., E. C. York, T. K. Fuller, H. Sharon Kim, D. A. Kamradt and R. K. Wayne. 2000. Distribution and status of carnivores in the Santa Monica Mountains, California: Preliminary results from radio telemetry and remote camera surveys. p 113-123 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Beier, P. 1996. Metapopulation models, tenacious tracking and cougar conservation. In: *Metapopulations and Wildlife Conservation*, ed. D. R. McCullough. Island Press, Covelo, California, 429p.

¹² Recent sightings of mountain lions include: Temescal Canyon (pers. com., Peter Brown, Facilities Manager, Calvary Church), Topanga Canyon (pers. com., Marti Witter, NPS), Encinal and Trancas Canyons (pers. com., Pat Healy), Stump Ranch Research Center (pers. com., Dr. Robert Wayne, Dept. of Biology, UCLA). In May of 2002, the NPS *photographed* a mountain lion at a trip camera on the Back Bone Trail near Castro Crest – Seth Riley, Eric York and Dr. Ray Sauvajot, National Park Service, SMMNRA.

¹³ Gause, G. F. 1934. The struggle for existence. Baltimore, William and Wilkins 163 p. (also reprinted by Hafner, N.Y. 1964). Gause, G. F., N. P. Smaragdova and A. A. Witt. 1936. Further studies of interaction between predators and their prey. *J. Anim. Ecol.* 5:1-18. Huffaker, C. B. 1958. Experimental studies on predation: dispersion factors and predator-prey oscillations. *Hilgardia* 27:343-383. Luckinbill, L. S. 1973. Coexistence in laboratory populations of *Paramecium aurelia* and its predator *Didinium nasutum*. *Ecology* 54:1320-1327. Allen, J. C., C. C. Brewster and D. H. Slone. 2001. Spatially explicit ecological models: A spatial convolution approach. *Chaos, Solitons and Fractals*. 12:333-347.

can even cause unexpected and irreversible changes to new and completely different kinds of ecosystems (habitat conversion)¹⁴.

As a result of the pristine nature of large areas of the Santa Monica Mountains and the existence of large, unfragmented and interconnected blocks of habitat, this ecosystem continues to support an extremely diverse flora and fauna. The observed diversity is probably a function of the diversity of physical habitats. The Santa Monica Mountains have the greatest geological diversity of all major mountain ranges within the transverse range province. According to the National Park Service, the Santa Monica Mountains contain 40 separate watersheds and over 170 major streams with 49 coastal outlets¹⁵. These streams are somewhat unique along the California coast because of their topographic setting. As a "transverse" range, the Santa Monica Mountains are oriented in an east-west direction. As a result, the south-facing riparian habitats have more variable sun exposure than the east-west riparian corridors of other sections of the coast. This creates a more diverse moisture environment and contributes to the higher biodiversity of the region. The many different physical habitats of the Santa Monica Mountains support at least 17 native vegetation types¹⁶ including the following habitats considered sensitive by the California Department of Fish and Game: native perennial grassland, coastal sage scrub, red-shank chaparral, valley oak woodland, walnut woodland, southern willow scrub, southern cottonwood-willow riparian forest, sycamore-alder woodland, oak riparian forest, coastal salt marsh, and freshwater marsh. Over 400 species of birds, 35 species of reptiles and amphibians, and more than 40 species of mammals have been documented in this diverse ecosystem. More than 80 sensitive species of plants and animals (listed, proposed for listing, or species of concern) are known to occur or have the potential to occur within the Santa Monica Mountains Mediterranean ecosystem.

The Santa Monica Mountains are also important in a larger regional context. Several recent studies have concluded that the area of southern California that includes the Santa Monica Mountains is among the most sensitive in the world in terms of the number of rare endemic species, endangered species and habitat loss. These studies have designated the area to be a local hot-spot of endangerment in need of special protection¹⁷.

Therefore, the Commission finds that the Santa Monica Mountains ecosystem is itself rare and especially valuable because of its special nature as the largest, most pristine,

¹⁴ Scheffer, M., S. Carpenter, J. A. Foley, C. Folke and B. Walker. 2001. Catastrophic shifts in ecosystems. *Nature* 413:591-596.

¹⁵ NPS. 2000. op.cit.

¹⁶ From the NPS report (2000 op. cit.) that is based on the older Holland system of subjective classification. The data-driven system of Sawyer and Keeler-Wolf results in a much larger number of distinct "alliances" or vegetation types.

¹⁷ Myers, N. 1990. The biodiversity challenge: Expanded hot-spots analysis. *Environmentalist* 10:243-256. Myers, N., R. A. Mittermeier, C. G. Mittermeier, G. A. B. da Fonseca and J. A. Kent. 2000. Biodiversity hot-spots for conservation priorities. *Nature* 403:853-858. Dobson, A. P., J. P. Rodriguez, W. M. Roberts and D. S. Wilcove. 1997. Geographic distribution of endangered species in the United States. *Science* 275:550-553.

physically complex, and biologically diverse example of a Mediterranean ecosystem in coastal southern California. The Commission further finds that because of the rare and special nature of the Santa Monica Mountains ecosystem, the ecosystem roles of substantially intact areas of the constituent plant communities discussed below are “especially valuable” under the Coastal Act.

Major Habitats within the Santa Monica Mountains

The most recent vegetation map that is available for the Santa Monica Mountains is the map that was produced for the National Park Service in the mid-1990s using 1993 satellite imagery supplemented with color and color infrared aerial imagery from 1984, 1988, and 1994 and field review¹⁸. The minimum mapping unit was 5 acres. For that map, the vegetation was mapped in very broad categories, generally following a vegetation classification scheme developed by Holland¹⁹. Because of the mapping methods used the degree of plant community complexity in the landscape is not represented. For example, the various types of “ceanothus chaparral” that have been documented were lumped under one vegetation type referred to as “northern mixed chaparral.” Dr. Todd Keeler-Wolf of the California Department of Fish and Game is currently conducting a more detailed, quantitative vegetation survey of the Santa Monica Mountains.

The National Park Service map can be used to characterize broadly the types of plant communities present. The main generic plant communities present in the Santa Monica Mountains²⁰ are: coastal sage scrub, chaparral, riparian woodland, coast live oak woodland, and grasslands.

Riparian Woodland

Some 49 streams connect inland areas with the coast, and there are many smaller drainages as well, many of which are “blue line.” Riparian woodlands occur along both perennial and intermittent streams in nutrient-rich soils. Partly because of its multi-layered vegetation, the riparian community contains the greatest overall biodiversity of all the plant communities in the area²¹. At least four types of riparian communities are discernable in the Santa Monica Mountains: walnut riparian areas, mulefat-dominated riparian areas, willow riparian areas and sycamore riparian woodlands. Of these, the

¹⁸ Franklin, J. 1997. Forest Service Southern California Mapping Project, Santa Monica Mountains National Recreation Area, Task 11 Description and Results, Final Report. June 13, 1997, Dept. of Geography, San Diego State University, USFS Contract No. 53-91S8-3-TM45.

¹⁹ Holland R. F. 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California. State of California, The Resources Agency, Dept. of Fish and Game, Natural Heritage Division, Sacramento, CA. 95814.

²⁰ National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000. (Fig. 11 in this document.)

²¹ Ibid.

sycamore riparian woodland is the most diverse riparian community in the area. In these habitats, the dominant plant species include arroyo willow, California black walnut, sycamore, coast live oak, Mexican elderberry, California bay laurel, and mule fat. Wildlife species that have been observed in this community include least Bell's vireo (a State and federally listed species), American goldfinches, black phoebes, warbling vireos, bank swallows (State listed threatened species), song sparrows, belted kingfishers, raccoons, and California and Pacific tree frogs.

Riparian communities are the most species-rich to be found in the Santa Monica Mountains. Because of their multi-layered vegetation, available water supply, vegetative cover and adjacency to shrubland habitats, they are attractive to many native wildlife species, and provide essential functions in their lifecycles²². During the long dry summers in this Mediterranean climate, these communities are an essential refuge and oasis for much of the areas' wildlife.

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

The streams themselves provide refuge for sensitive species including: the coast range newt, the Pacific pond turtle, and the steelhead trout. The coast range newt and the Pacific pond turtle are California Species of Special Concern and are proposed for federal listing²³, and the steelhead trout is federally endangered. The health of the streams is dependent on the ecological functions provided by the associated riparian woodlands. These functions include the provision of large woody debris for habitat, shading that controls water temperature, and input of leaves that provide the foundation of the stream-based trophic structure.

The importance of the connectivity between riparian areas and adjacent habitats is illustrated by the Pacific pond turtle and the coast range newt, both of which are sensitive and both of which require this connectivity for their survival. The life history of the Pacific pond turtle demonstrates the importance of riparian areas and their associated watersheds for this species. These turtles require the stream habitat during the wet season. However, recent radio tracking work²⁴ has found that although the Pacific pond turtle spends the wet season in streams, it also requires upland habitat for refuge during the dry season. Thus, in coastal southern California, the Pacific pond turtle requires both streams and intact adjacent upland habitats such as coastal sage

²² Walter, Hartmut. Bird use of Mediterranean habitats in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

²³ USFWS. 1989. Endangered and threatened wildlife and plants; animal notice of review. Fed. Reg. 54:554-579. USFWS. 1993. Endangered and threatened wildlife and plants; notice of 1-year petition finding on the western pond turtle. Fed. Reg. 58:42717-42718.

²⁴ Rathbun, G.B., N.J. Scott and T.G. Murphy. 2002. Terrestrial habitat use by Pacific pond turtle in a Mediterranean climate. *Southwestern Naturalist*. (in Press).

scrub, woodlands or chaparral as part of their normal life cycle. The turtles spend about four months of the year in upland refuge sites located an average distance of 50 m (but up to 280 m) from the edge of the creek bed. Similarly, nesting sites where the females lay eggs are also located in upland habitats an average of 30 m (but up to 170 m) from the creek. Occasionally, these turtles move up to 2 miles across upland habitat²⁵. Like many species, the pond turtle requires both stream habitats and the upland habitats of the watershed to complete its normal annual cycle of behavior. Similarly, the coast range newt has been observed to travel hundreds of meters into upland habitat and spend about ten months of the year far from the riparian streambed²⁶. They return to the stream to breed in the wet season, and they are therefore another species that requires both riparian habitat and adjacent uplands for their survival.

Riparian habitats in California have suffered serious losses and such habitats in southern California are currently very rare and seriously threatened. In 1989, Faber estimated that 95-97% of riparian habitat in southern California was already lost²⁷. Writing at the same time as Faber, Bowler asserted that, "[t]here is no question that riparian habitat in southern California is endangered."²⁸ In the intervening 13 years, there have been continuing losses of the small amount of riparian woodlands that remain. Today these habitats are, along with native grasslands and wetlands, among the most threatened in California.

In addition to direct habitat loss, streams and riparian areas have been degraded by the effects of development. For example, the coast range newt, a California Species of Special Concern has suffered a variety of impacts from human-related disturbances²⁹. Human-caused increased fire frequency has resulted in increased sedimentation rates, which exacerbates the cannibalistic predation of adult newts on the larval stages.³⁰ In addition impacts from non-native species of crayfish and mosquito fish have also been documented. When these non-native predators are introduced, native prey organisms are exposed to new mortality pressures for which they are not adapted. Coast range newts that breed in the Santa Monica Mountain streams do not appear to have adaptations that permit co-occurrence with introduced mosquito fish and crayfish³¹. These introduced predators have eliminated the newts from streams where they previously occurred by both direct predation and suppression of breeding.

²⁵ Testimony by R. Dagit, Resource Conservation District of the Santa Monica Mountains at the CCC Habitat Workshop on June 13, 2002.

²⁶ Dr. Lee Kats, Pepperdine University, personal communication to Dr. J. Allen, CCC.

²⁷ Faber, P.A., E. Keller, A. Sands and B.M. Massey. 1989. The ecology of riparian habitats of the southern California coastal region: a community profile. U.S. Fish and Wildlife Service Biological Report 85(7.27) 152pp.

²⁸ Bowler, P.A. 1989. Riparian woodland: An endangered habitat in southern California. Pp 80-97 in Schoenherr, A.A. (ed.) Endangered plant communities of southern California. Botanists Special Publication No. 3.

²⁹ Gamradt, S.C., L.B. Kats and C.B. Anzalone. 1997. Aggression by non-native crayfish deters breeding in California newts. Conservation Biology 11(3):793-796.

³⁰ Kerby, L.J., and L.B. Kats. 1998. Modified interactions between salamander life stages caused by wildfire-induced sedimentation. Ecology 79(2):740-745.

³¹ Gamradt, S.C. and L.B. Kats. 1996. Effect of introduced crayfish and mosquitofish on California newts. Conservation Biology 10(4):1155-1162.

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

Coastal Sage Scrub and Chaparral

Coastal sage scrub and chaparral are often lumped together as “shrublands” because of their roughly similar appearance and occurrence in similar and often adjacent physical habitats. In earlier literature, these vegetation associations were often called soft chaparral and hard chaparral, respectively. “Soft” and “hard” refers to differences in their foliage associated with different adaptations to summer drought. Coastal sage scrub is dominated by soft-leaved, generally low-growing aromatic shrubs that die back and drop their leaves in response to drought. Chaparral is dominated by taller, deeper-rooted evergreen shrubs with hard, waxy leaves that minimize water loss during drought.

The two vegetation types are often found interspersed with each other. Under some circumstances, coastal sage scrub may even be successional to chaparral, meaning that after disturbance, a site may first be covered by coastal sage scrub, which is then replaced with chaparral over long periods of time.³² The existing mosaic of coastal sage scrub and chaparral is the result of a dynamic process that is a function of fire history, recent climatic conditions, soil differences, slope, aspect and moisture regime, and the two habitats should not be thought of as completely separate and unrelated entities but as different phases of the same process³³. The spatial pattern of these vegetation stands at any given time thus depends on both local site conditions and on history (e.g., fire), and is influenced by both natural and human factors.

In lower elevation areas with high fire frequency, chaparral and coastal sage scrub may be in a state of flux, leading one researcher to describe the mix as a “coastal sage-chaparral subclimax.”³⁴ Several other researchers have noted the replacement of chaparral by coastal sage scrub, or coastal sage scrub by chaparral depending on fire history.³⁵ In transitional and other settings, the mosaic of chaparral and coastal sage

³² Cooper, W.S. 1922. The broad-sclerophyll vegetation of California. Carnegie Institution of Washington Publication 319. 124 pp.

³³ Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. (See attached comment document in Appendix).

³⁴ Hanes, T.L. 1965. Ecological studies on two closely related chaparral shrubs in southern California. Ecological Monographs 41:27-52.

³⁵ Gray, K.L. 1983. Competition for light and dynamic boundary between chaparral and coastal sage scrub. Madrono 30(1):43-49. Zedler, P.H., C.R. Gautier and G.S. McMaster. 1983. Vegetation change in response to extreme events: The effect of a short interval between fires in California chaparral and coastal sage scrub. Ecology 64(4): 809-818.

scrub enriches the seasonal plant resource base and provides additional habitat variability and seasonality for the many species that inhabit the area.

Relationships Among Coastal Sage Scrub, Chaparral and Riparian Communities

Although the constituent communities of the Santa Monica Mountains Mediterranean ecosystem can be defined and distinguished based on species composition, growth habits, and the physical habitats they characteristically occupy, they are not independent entities ecologically. Many species of plants, such as black sage, and laurel sumac, occur in more than one plant community and many animals rely on the predictable mix of communities found in undisturbed Mediterranean ecosystems to sustain them through the seasons and during different portions of their life histories.

Strong evidence for the interconnectedness between chaparral, coastal scrub and other habitats is provided by "opportunistic foragers" (animals that follow the growth and flowering cycles across these habitats). Coastal scrub and chaparral flowering and growth cycles differ in a complimentary and sequential way that many animals have evolved to exploit. Whereas coastal sage scrub is shallow-rooted and responds quickly to seasonal rains, chaparral plants are typically deep-rooted having most of their flowering and growth later in the rainy season after the deeper soil layers have been saturated³⁶. New growth of chaparral evergreen shrubs takes place about four months later than coastal sage scrub plants and it continues later into the summer³⁷. For example, in coastal sage scrub, California sagebrush flowers and grows from August to February and coyote bush flowers from August to November³⁸. In contrast, chamise chaparral and bigpod ceanothus flower from April to June, buck brush ceanothus flowers from February to April, and hoaryleaf ceanothus flowers from March to April.

Many groups of animals exploit these seasonal differences in growth and blooming period. The opportunistic foraging insect community (e.g., honeybees, butterflies and moths) tends to follow these cycles of flowering and new growth, moving from coastal sage scrub in the early rainy season to chaparral in the spring³⁹. The insects in turn are followed by insectivorous birds such as the blue-gray gnatcatcher⁴⁰, bushtit, cactus wren, Bewick's wren and California towhee. At night bats take over the role of daytime insectivores. At least 12 species of bats (all of which are considered sensitive) occur in

³⁶ DeSimone, S. 2000. California's coastal sage scrub. *Fremontia* 23(4):3-8. Mooney, H.A. 1988. Southern coastal scrub. Chap. 13 in Barbour, M.G. and J. Majors; Eds. 1988. *Terrestrial vegetation of California*, 2nd Edition. Calif. Native Plant Soc. Spec. Publ. #9.

³⁷ Schoenherr, A. A. 1992. *A natural history of California*. University of California Press, Berkeley. 772p.

³⁸ Dale, N. 2000. Flowering plants of the Santa Monica Mountains. California Native Plant Society, 1722 J Street, Suite 17, Sacramento, CA 95814.

³⁹ Ballmer, G. R. 1995. What's bugging coastal sage scrub. *Fremontia* 23(4):17-26.

⁴⁰ Root, R. B. 1967. The niche exploitation pattern of the blue-gray gnatcatcher. *Ecol. Monog.* 37:317-350.

the Santa Monica Mountains⁴¹. Five species of hummingbirds also follow the flowering cycle⁴².

Many species of 'opportunistic foragers', which utilize several different community types, perform important ecological roles during their seasonal movements. The scrub jay is a good example of such a species. The scrub jay is an omnivore and forages in coastal sage scrub, chaparral, and oak woodlands for insects, berries and notably acorns. Its foraging behavior includes the habit of burying acorns, usually at sites away from the parent tree canopy. Buried acorns have a much better chance of successful germination (about two-fold) than exposed acorns because they are protected from desiccation and predators. One scrub jay will bury approximately 5000 acorns in a year. The scrub jay therefore performs the function of greatly increasing recruitment and regeneration of oak woodland, a valuable and sensitive habitat type⁴³.

Like the scrub jay, most of the species of birds that inhabit the Mediterranean ecosystem in the Santa Monica Mountains require more than one community type in order to flourish. Many species include several community types in their daily activities. Other species tend to move from one community to another seasonally. The importance of maintaining the integrity of the multi-community ecosystem is clear in the following observations of Dr. Hartmut Walter of the University of California at Los Angeles:

"Bird diversity is directly related to the habitat mosaic and topographic diversity of the Santa Monicas. Most bird species in this bio-landscape require more than one habitat for survival and reproduction." "A significant proportion of the avifauna breeds in the wooded canyons of the Santa Monicas. Most of the canyon breeders forage every day in the brush- and grass-covered slopes, ridges and mesas. They would not breed in the canyons in the absence of the surrounding shrublands. Hawks, owls, falcons, orioles, flycatchers, woodpeckers, warblers, hummingbirds, etc. belong to this group. Conversely, some of the characteristic chaparral birds such as thrashers, quails, and wrentits need the canyons for access to shelter, protection from fire, and water. The regular and massive movement of birds between riparian corridors and adjacent shrublands has been demonstrated by qualitative and quantitative observations by several UCLA students⁴⁴."

Thus, the Mediterranean ecosystem of the Santa Monica Mountains is a mosaic of vegetation types linked together ecologically. The high biodiversity of the area results

⁴¹ Letter from Dr. Marti Witter, NPS, dated Sept. 13, 2001, in letters received and included in the September 2002 staff report for the Malibu LCP.

⁴² National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

⁴³ Borchert, M. I., F. W. Davis, J. Michaelsen and L. D. Oyler. 1989. Interactions of factors affecting seedling recruitment of blue oak (*Quercus douglasii*) in California. Ecology 70:389-404. Bossema, I. 1979. Jays and oaks: An eco-ethological study of a symbiosis. Behavior 70:1-118. Schoenherr, A. A. 1992. A natural history of California. University of California Press, Berkeley. 772p.

⁴⁴ Walter, Hartmut. Bird use of Mediterranean habitats in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

from both the diversity and the interconnected nature of this mosaic. Most raptor species, for example, require large areas and will often require different habitats for perching, nesting and foraging. Fourteen species of raptors (13 of which are considered sensitive) are reported from the Santa Monica Mountains. These species utilize a variety of habitats including rock outcrops, oak woodlands, riparian areas, grasslands, chaparral, coastal sage scrub, estuaries and freshwater lakes⁴⁵.

When the community mosaic is disrupted and fragmented by development, many chaparral-associated native bird species are impacted. In a study of landscape-level fragmentation in the Santa Monica Mountains, Stralberg⁴⁶ found that the ash-throated flycatcher, Bewick's wren, wrentit, blue-gray gnatcatcher, California thrasher, orange-crowned warbler, rufous-crowned sparrow, spotted towhee, and California towhee all decreased in numbers as a result of urbanization. Soule⁴⁷ observed similar effects of fragmentation on chaparral and coastal sage scrub birds in the San Diego area.

In summary, all of the vegetation types in this ecosystem are strongly linked by animal movement and foraging. Whereas classification and mapping of vegetation types may suggest a snapshot view of the system, the seasonal movements and foraging of animals across these habitats illustrates the dynamic nature and vital connections that are crucial to the survival of this ecosystem.

Coastal Sage Scrub

"Coastal sage scrub" is a generic vegetation type that is inclusive of several subtypes⁴⁸. In the Santa Monica Mountains, coastal sage scrub is mostly of the type termed "Venturan Coastal Sage Scrub." In general, coastal sage scrub is comprised of dominant species that are semi-woody and low-growing, with shallow, dense roots that enable them to respond quickly to rainfall. Under the moist conditions of winter and spring, they grow quickly, flower, and produce light, wind-dispersed seeds, making them good colonizers following disturbance. These species cope with summer drought by dying back, dropping their leaves or producing a smaller summer leaf in order to reduce water loss. Stands of coastal sage scrub are much more open than chaparral and contain a greater admixture of herbaceous species. Coastal sage scrub is generally restricted to drier sites, such as low foothills, south-facing slopes, and shallow soils at higher elevations.

⁴⁵ National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701. and Letter from Dr. Marti Witter, NPS, Dated Sept. 13, 2001, in letters received and included in the September 2002 staff report for the Malibu LCP.

⁴⁶ Stralberg, D. 2000. Landscape-level urbanization effects on chaparral birds: A Santa Monica Mountains case study. p 125-136 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62.

⁴⁷ Soule, M. E, D. T. Bolger, A. C. Alberts, J. Wright, M. Sorice and S. Hill. 1988. Reconstructed dynamics of rapid extinctions of chaparral-requiring birds in urban habitat islands. *Conserv. Biol.* 2: 75-92.

⁴⁸ Kirkpatrick, J.B. and C.F. Hutchinson. 1977. The community composition of Californian coastal sage scrub. *Vegetatio* 35:21-33; Holland, 1986. op.cit.; Sawyer and Keeler-Wolf, 1995, op.cit.

The species composition and structure of individual stands of coastal sage scrub depend on moisture conditions that derive from slope, aspect, elevation and soil type. Drier sites are dominated by more drought-resistant species (e.g., California sagebrush, coast buckwheat, and *Opuntia* cactus). Where more moisture is available (e.g., north-facing slopes), larger evergreen species such as toyon, laurel sumac, lemonade berry, and sugar bush are common. As a result, there is more cover for wildlife, and movement of large animals from chaparral into coastal sage scrub is facilitated in these areas. Characteristic wildlife in this community includes Anna's hummingbirds, rufous-sided towhees, California quail, greater roadrunners, Bewick's wrens, coyotes, and coast horned lizards⁴⁹, but most of these species move between coastal sage scrub and chaparral during their daily activities or on a seasonal basis.

Of the many important ecosystem roles performed by the coastal sage scrub community, five are particularly important in the Santa Monica Mountains. Coastal sage scrub provides critical linkages between riparian corridors, provides essential habitat for species that require several habitat types during the course of their life histories, provides essential habitat for local endemics, supports rare species that are in danger of extinction, and reduces erosion, thereby protecting the water quality of coastal streams.

Riparian woodlands are primary contributors to the high biodiversity of the Santa Monica Mountains. The ecological integrity of those riparian habitats not only requires wildlife dispersal along the streams, but also depends on the ability of animals to move from one riparian area to another. Such movement requires that the riparian corridors be connected by suitable habitat. In the Santa Monica Mountains, coastal sage scrub and chaparral provide that function. Significant development in coastal sage scrub would reduce the riparian corridors to linear islands of habitat with severe edge effects⁵⁰, reduced diversity, and lower productivity.

Most wildlife species and many species of plants utilize several types of habitat. Many species of animals endemic to Mediterranean habitats move among several plant communities during their daily activities and many are reliant on different communities either seasonally or during different stages of their life cycle. Without an intact mosaic of coastal sage scrub, chaparral, and riparian community types, many species will not thrive. Specific examples of the importance of interconnected communities, or habitats, were provided in the discussion above. This is an essential ecosystem role of coastal sage scrub.

A characteristic of the coastal sage scrub vegetation type is a high degree of endemism. This is consonant with Westman's observation that 44 percent of the species he sampled in coastal sage scrub occurred at only one of his 67 sites, which were

⁴⁹ National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000.

⁵⁰ Environmental impacts are particularly severe at the interface between development and natural habitats. The greater the amount of this "edge" relative to the area of natural habitat, the worse the impact.

distributed from the San Francisco Bay area to Mexico⁵¹. Species with restricted distributions are by nature more susceptible to loss or degradation of their habitat. Westman said of this unique and local aspect of coastal sage scrub species in California:

"While there are about 50 widespread sage scrub species, more than half of the 375 species encountered in the present study of the sage scrub flora are rare in occurrence within the habitat range. In view of the reduction of the area of coastal sage scrub in California to 10-15% of its former extent and the limited extent of preserves, measures to conserve the diversity of the flora are needed."⁵²

Coastal sage scrub in southern California provides habitat for about 100 rare species⁵³, many of which are also endemic to limited geographic regions⁵⁴. In the Santa Monica Mountains, rare animals that inhabit coastal sage scrub⁵⁵ include the Santa Monica shieldback katydid, silvery legless lizard, coastal cactus wren, Bell's sparrow, San Diego desert woodrat, southern California rufous-crowned sparrow, coastal western whiptail, and San Diego horned lizard. Some of these species are also found in chaparral⁵⁶. Rare plants found in coastal sage scrub in the Santa Monica Mountains include Santa Susana tarplant, Coulter's saltbush, Blockman's dudleya, Braunton's milkvetch, Parry's spineflower, and Plummer's mariposa lily⁵⁷. A total of 32 sensitive species of reptiles, birds and mammals have been identified in this community by the National Park Service.⁵⁸

One of the most important ecological functions of coastal sage scrub in the Santa Monica Mountains is to protect water quality in coastal streams by reducing erosion in the watershed. Although shallow rooted, the shrubs that define coastal sage scrub have dense root masses that hold the surface soils much more effectively than the exotic annual grasses and forbs that tend to dominate in disturbed areas. The native shrubs of this community are resistant not only to drought, as discussed above, but well adapted to fire. Most of the semi-woody shrubs have some ability to crown sprout after

⁵¹ Westman, W.E. 1981. Diversity relations and succession in Californian coastal sage scrub. *Ecology* 62:170-184.

⁵² Ibid.

⁵³ Atwood, J. L. 1993. California gnatcatchers and coastal sage scrub: The biological basis for endangered species listing. pp.149-166 *In: Interface Between Ecology and Land Development in California*. Ed. J. E. Keeley, So. Calif. Acad. of Sci., Los Angeles. California Department of Fish and Game (CDFG). 1993. The Southern California Coastal Sage Scrub (CSS) Natural Communities Conservation Plan (NCCP). CDFG and Calif. Resources Agency, 1416 9th St., Sacramento, CA 95814.

⁵⁴ Westman, W.E. 1981. op. cit.

⁵⁵ Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.

⁵⁶ O'Leary J.F., S.A. DeSimone, D.D. Murphy, P.F. Brussard, M.S. Gilpin, and R.F. Noss. 1994. Bibliographies on coastal sage scrub and related malacophyllous shrublands of other Mediterranean-type climates. *California Wildlife Conservation Bulletin* 10:1-51.

⁵⁷ Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.

⁵⁸ NPS, 2000, op cit.

fire. Several CSS species (e.g., *Eriogonum cinereum*) in the Santa Monica Mountains and adjacent areas resprout vigorously and other species growing near the coast demonstrate this characteristic more strongly than do individuals of the same species growing at inland sites in Riverside County.⁵⁹ These shrub species also tend to recolonize rapidly from seed following fire. As a result they provide persistent cover that reduces erosion.

In addition to performing extremely important roles in the Mediterranean ecosystem, the coastal sage scrub community type has been drastically reduced in area by habitat loss to development. In the early 1980's it was estimated that 85 to 90 percent of the original extent of coastal sage scrub in California had already been destroyed.⁶⁰ Losses since that time have been significant and particularly severe in the coastal zone.

Therefore, because of its increasing rarity, its important role in the functioning of the Santa Monica Mountains Mediterranean ecosystem, and its extreme vulnerability to development, coastal sage scrub within the Santa Monica Mountains meets the definition of ESHA under the Coastal Act.

Chaparral

Another shrub community in the Santa Monica Mountain Mediterranean ecosystem is chaparral. Like "coastal sage scrub," this is a generic category of vegetation. Chaparral species have deep roots (10s of ft) and hard waxy leaves, adaptations to drought that increase water supply and decrease water loss at the leaf surface. Some chaparral species cope more effectively with drought conditions than do desert plants⁶¹. Chaparral plants vary from about one to four meters tall and form dense, intertwining stands with nearly 100 percent ground cover. As a result, there are few herbaceous species present in mature stands. Chaparral is well adapted to fire. Many species regenerate mainly by crown sprouting; others rely on seeds which are stimulated to germinate by the heat and ash from fires. Over 100 evergreen shrubs may be found in chaparral⁶². On average, chaparral is found in wetter habitats than coastal sage scrub, being more common at higher elevations and on north facing slopes.

The broad category "northern mixed chaparral" is the major type of chaparral shown in the National Park Service map of the Santa Monica Mountains. However, northern mixed chaparral can be variously dominated by chamise, scrub oak or one of several species of manzanita or by ceanothus. In addition, it commonly contains woody vines and large shrubs such as mountain mahogany, toyon, hollyleaf redberry, and sugarbush⁶³. The rare red shank chaparral plant community also occurs in the Santa Monica Mountains. Although included within the category "northern mixed chaparral" in

⁵⁹ Dr. John O'Leary, SDSU, personal communication to Dr. John Dixon, CCC, July 2, 2002

⁶⁰ Westman, W.E. 1981. op. cit.

⁶¹ Dr. Stephen Davis, Pepperdine University. Presentation at the CCC workshop on the significance of native habitats in the Santa Monica Mountains. June 13, 2002.

⁶² Keely, J.E. and S.C. Keeley. Chaparral. Pages 166-207 in M.G. Barbour and W.D. Billings, eds. North American Terrestrial Vegetation. New York, Cambridge University Press.

⁶³ Ibid.

the vegetation map, several types of ceanothus chaparral are reported in the Santa Monica Mountains. Ceanothus chaparral occurs on stable slopes and ridges, and may be dominated by bigpod ceanothus, buck brush ceanothus, hoaryleaf ceanothus, or greenbark ceanothus. In addition to ceanothus, other species that are usually present in varying amounts are chamise, black sage, holly-leaf redberry, sugarbush, and coast golden bush⁶⁴.

Several sensitive plant species that occur in the chaparral of the Santa Monica Mountains area are: Santa Susana tarplant, Lyon's pentachaeta, marcescent dudleya, Santa Monica Mountains dudleya, Branton's milk vetch and salt spring checkerbloom⁶⁵. Several occurring or potentially occurring sensitive animal species in chaparral from the area are: Santa Monica shieldback katydid, western spadefoot toad, silvery legless lizard, San Bernardino ring-neck snake, San Diego mountain kingsnake, coast patch-nosed snake, sharp-shinned hawk, southern California rufous-crowned sparrow, Bell's sparrow, yellow warbler, pallid bat, long-legged myotis bat, western mastiff bat, and San Diego desert woodrat.⁶⁶

Coastal sage scrub and chaparral are the predominant generic community types of the Santa Monica Mountains and provide the living matrix within which rarer habitats like riparian woodlands exist. These two shrub communities share many important ecosystem roles. Like coastal sage scrub, chaparral within the Santa Monica Mountains provides critical linkages among riparian corridors, provides essential habitat for species that require several habitat types during the course of their life histories, provides essential habitat for sensitive species, and stabilizes steep slopes and reduces erosion, thereby protecting the water quality of coastal streams.

Many species of animals in Mediterranean habitats characteristically move among several plant communities during their daily activities, and many are reliant on different communities either seasonally or during different stages of their life cycle. The importance of an intact mosaic of coastal sage scrub, chaparral, and riparian community types is perhaps most critical for birds. However, the same principles apply to other taxonomic groups. For example, whereas coastal sage scrub supports a higher diversity of native ant species than chaparral, chaparral habitat is necessary for the coast horned lizard, an ant specialist⁶⁷. Additional examples of the importance of an interconnected communities, or habitats, were provided in the discussion of coastal sage scrub above. This is an extremely important ecosystem role of chaparral in the Santa Monica Mountains.

Chaparral is also remarkably adapted to control erosion, especially on steep slopes. The root systems of chaparral plants are very deep, extending far below the surface and

⁶⁴ Ibid.

⁶⁵ Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.

⁶⁶ Ibid.

⁶⁷ A.V. Suarez. Ants and lizards in coastal sage scrub and chaparral. A presentation at the CCC workshop on the significance of native habitats in the Santa Monica Mountains. June 13, 2002.

penetrating the bedrock below⁶⁸, so chaparral literally holds the hillsides together and prevents slippage.⁶⁹ In addition, the direct soil erosion from precipitation is also greatly reduced by 1) water interception on the leaves and above ground foliage and plant structures, and 2) slowing the runoff of water across the soil surface and providing greater soil infiltration. Chaparral plants are extremely resistant to drought, which enables them to persist on steep slopes even during long periods of adverse conditions. Many other species die under such conditions, leaving the slopes unprotected when rains return. Since chaparral plants recover rapidly from fire, they quickly re-exert their ground stabilizing influence following burns. The effectiveness of chaparral for erosion control after fire increases rapidly with time⁷⁰. Thus, the erosion from a 2-inch rain-day event drops from 5 yd³/acre of soil one year after a fire to 1 yd³/acre after 4 years.⁷¹ The following table illustrates the strong protective effect of chaparral in preventing erosion.

Soil erosion as a function of 24-hour precipitation and chaparral age.

Years Since Fire	Erosion (yd ³ /acre) at Maximum 24-hr Precipitation of:		
	2 inches	5 inches	11 inches
1	5	20	180
4	1	12	140
17	0	1	28
50+	0	0	3

Therefore, because of its important roles in the functioning of the Santa Monica Mountains Mediterranean ecosystem, and its extreme vulnerability to development, chaparral within the Santa Monica Mountains meets the definition of ESHA under the Coastal Act.

Oak Woodland and Savanna

Coast live oak woodland occurs mostly on north slopes, shaded ravines and canyon bottoms. Besides the coast live oak, this plant community includes hollyleaf cherry, California bay laurel, coffeeberry, and poison oak. Coast live oak woodland is more

⁶⁸ Helmers, H., J.S. Horton, G. Juhren and J. O'Keefe. 1955. Root systems of some chaparral plants in southern California. *Ecology* 36(4):667-678. Kummerow, J. and W. Jow. 1977. Root systems of chaparral shrubs. *Oecologia* 29:163-177.

⁶⁹ Radtke, K. 1983. *Living more safely in the chaparral-urban interface*. General Technical Report PSW-67. U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station, Berkeley, California. 51 pp.

⁷⁰ Kittredge, J. 1973. *Forest influences — the effects of woody vegetation on climate, water, and soil*. Dover Publications, New York. 394 pp. Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. (Table 1). The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. Vicars, M. (ed.) 1999. *FireSmart: protecting your community from wildfire*. Partners in Protection, Edmonton, Alberta.

⁷¹ Ibid.

tolerant of salt-laden fog than other oaks and is generally found nearer the coast⁷². Coast live oak also occurs as a riparian corridor species within the Santa Monica Mountains.

Valley oaks are endemic to California and reach their southern most extent in the Santa Monica Mountains. Valley oaks were once widely distributed throughout California's perennial grasslands in central and coastal valleys. Individuals of this species may survive 400-600 years. Over the past 150 years, valley oak savanna habitat has been drastically reduced and altered due to agricultural and residential development. The understory is now dominated by annual grasses and recruitment of seedlings is generally poor. This is a very threatened habitat.

The important ecosystem functions of oak woodlands and savanna are widely recognized⁷³. These habitats support a high diversity of birds⁷⁴, and provide refuge for many species of sensitive bats⁷⁵. Typical wildlife in this habitat includes acorn woodpeckers, scrub jays, plain titmice, northern flickers, cooper's hawks, western screech owls, mule deer, gray foxes, ground squirrels, jackrabbits and several species of sensitive bats.

Therefore, because of their important ecosystem functions and vulnerability to development, oak woodlands and savanna within the Santa Monica Mountains met the definition of ESHA under the Coastal Act.

Grasslands

Grasslands consist of low herbaceous vegetation that is dominated by grass species but may also harbor native or non-native forbs.

California Perennial Grassland

Native grassland within the Santa Monica Mountains consists of perennial native needlegrasses: purple needlegrass, (*Nassella pulchra*), foothills needlegrass, (*Nassella lepida*) and nodding needlegrass (*Nassella cernua*). These grasses may occur in the same general area but they do not typically mix, tending to segregate based on slope

⁷² NPS 2000. op. cit.

⁷³ Block, W.M., M.L. Morrison, and J. Verner. 1990. Wildlife and oak-woodland interdependency. *Fremontia* 18(3):72-76. Pavlik, B.M., P.C. Muick, S. Johnson, and M. Popper. 1991. *Oaks of California*. Cachuma Press and California Oak Foundation, Los Olivos, California. 184 pp.

⁷⁴ Cody, M.L. 1977. Birds. Pp. 223-231 in Thrower, N.J.W., and D.E. Bradbury (eds.). *Chile-California Mediterranean scrub atlas*. US/IBP Synthesis Series 2. Dowden, Hutchinson & Ross, Stroudsburg, Pennsylvania. National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

⁷⁵ Miner, K.L., and D.C. Stokes. 2000. Status, conservation issues, and research needs for bats in the south coast bioregion. Paper presented at *Planning for biodiversity: bringing research and management together*, February 29, California State University, Pomona, California.

and substrate factors⁷⁶. Mixed with these native needlegrasses are many non-native annual species that are characteristic of California annual grassland⁷⁷. Native perennial grasslands are now exceedingly rare⁷⁸. In California, native grasslands once covered nearly 20 percent of the land area, but today are reduced to less than 0.1 percent⁷⁹. The California Natural Diversity Database (CNDDB) lists purple needlegrass habitat as a community needing priority monitoring and restoration. The CNDDB considers grasslands with 10 percent or more cover by purple needlegrass to be significant, and recommends that these be protected as remnants of original California prairie. Patches of this sensitive habitat occur throughout the Santa Monica Mountains where they are intermingled with coastal sage scrub, chaparral and oak woodlands.

Many of the raptors that inhabit the Santa Monica Mountains make use of grasslands for foraging because they provide essential habitat for small mammals and other prey. Grasslands adjacent to woodlands are particularly attractive to these birds of prey since they simultaneously offer perching and foraging habitat. Particularly noteworthy in this regard are the white-tailed kite, northern harrier, sharp-shinned hawk, Cooper's hawk, red-shouldered hawk, red-tailed hawk, golden eagle, American kestrel, merlin, and prairie falcon⁸⁰.

Therefore, because of their extreme rarity, important ecosystem functions, and vulnerability to development, California native perennial grasslands within the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

California Annual Grassland

The term "California annual grassland" has been proposed to recognize the fact that non-native annual grasses should now be considered naturalized and a permanent feature of the California landscape and should be acknowledged as providing important ecological functions. These habitats support large populations of small mammals and provide essential foraging habitat for many species of birds of prey. California annual grassland generally consists of dominant invasive annual grasses that are primarily of Mediterranean origin. The dominant species in this community include common wild oats (*Avena fatua*), slender oat (*Avena barbata*), red brome (*Bromus madritensis* ssp. *Rubens*), ripgut brome, (*Bromus diandrus*), and herbs such as black mustard (*Brassica nigra*), wild radish (*Raphanus sativus*) and sweet fennel (*Foeniculum vulgare*). Annual grasslands are located in patches throughout the Santa Monica Mountains in previously disturbed areas, cattle pastures, valley bottoms and along roadsides. While many of

⁷⁶ Sawyer, J. O. and T. Keeler-Wolf. 1995. A manual of California vegetation. California Native Plant Society, 1722 J St., Suite 17, Sacramento, CA 95814.

⁷⁷ Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.

⁷⁸ Noss, R.F., E.T. LaRoe III and J.M. Scott. 1995. Endangered ecosystems of the United States: a preliminary assessment of loss and degradation. Biological Report 28. National Biological Service, U.S. Dept. of Interior.

⁷⁹ NPS 2000. op. cit.

⁸⁰ NPS 2000. op. cit.

these patches are dominated by invasive non-native species, it would be premature to say that they are never sensitive or do not harbor valuable annual native species. A large number of native forbs also may be present in these habitats⁸¹, and many native wildflowers occur primarily in annual grasslands. In addition, annual grasslands are primary foraging areas for many sensitive raptor species in the area.

Inspection of California annual grasslands should be done prior to any impacts to determine if any rare native species are present or if any rare wildlife rely on the habitat and to determine if the site meets the Coastal Act ESHA criteria.

Effects of Human Activities and Development on Habitats within the Santa Monica Mountains

The natural habitats of the Santa Monica Mountains are highly threatened by current development pressure, fragmentation and impacts from the surrounding megalopolis. The developed portions of the Santa Monica Mountains represents the extension of this urbanization into natural areas. About 54% of the undeveloped Santa Monica Mountains are in private ownership⁸², and computer simulation studies of the development patterns over the next 25 years predict a serious increase in habitat fragmentation⁸³. Development and associated human activities have many well-documented deleterious effects on natural communities. These environmental impacts may be both direct and indirect and include the effects of increased fire frequency, of fire clearance, of introduction of exotic species, and of night lighting.

Increased Fire Frequency

Since 1925, all the major fires in the Santa Monica Mountains have been caused by human activities⁸⁴. Increased fire frequency alters plant communities by creating conditions that select for some species over others. Strong resprouting plant species such as laurel sumac, are favored while non-sprouters like bigpod ceanothus, are at a disadvantage. Frequent fire recurrence before the non-sprouters can develop and reestablish a seed bank is detrimental, so that with each fire their chances for propagation are further reduced. Resprouters can be sending up new shoots quickly, and so they are favored in an increased fire frequency regime. Also favored are weedy and invasive species. Dr. Steven Davis in his abstract for a Coastal Commission

⁸¹ Holstein, G. 2001. Pre-agricultural grassland in Central California. *Madrono* 48(4):253-264. Stromberg, M.R., P. Kephart and V. Yaden. 2001. Composition, invasibility and diversity of coastal California grasslands. *Madrono* 48(4):236-252.

⁸² National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000.

⁸³ Swenson, J. J., and J. Franklin. 2000. The effects of future urban development on habitat fragmentation in the Santa Monica Mountains. *Landscape Ecol.* 15:713-730.

⁸⁴ NPS, 2000, op. cit.

Workshop stated⁸⁵ *"We have evidence that recent increases in fire frequency has eliminated drought-hardy non-sprouters from chaparral communities near Malibu, facilitating the invasion of exotic grasses and forbs that further exacerbate fire frequency."* Thus, simply increasing fire frequency from about once every 22 years (the historical frequency) to about once every 12 years (the current frequency) can completely change the vegetation community. This has cascading effects throughout the ecosystem.

Fuel Clearance

The removal of vegetation for fire protection in the Santa Monica Mountains is required by law in "Very High Fire Hazard Severity Zones"⁸⁶. Fuel removal is reinforced by insurance carriers⁸⁷. Generally, the Santa Monica Mountains are considered to be a high fire hazard severity zone. In such high fire hazard areas, homeowners must often resort to the California FAIR Plan to obtain insurance. Because of the high risk, all homes in "brush areas" are assessed an insurance surcharge if they have less than the recommended 200-foot fuel modification zone⁸⁸ around the home. The combination of insurance incentives and regulation assures that the 200-foot clearance zone will be applied universally⁸⁹. While it is not required that all of this zone be cleared of vegetation, the common practice is simply to disk this zone, essentially removing or highly modifying all native vegetation. For a new structure not adjacent to existing structures, this results in the removal or modification of a minimum of three acres of vegetation⁹⁰. While the directly impacted area is large, the effects of fuel modification extend beyond the 200-foot clearance area.

Effects of Fuel Clearance on Bird Communities

The impacts of fuel clearance on bird communities was studied by Stralberg who identified three ecological categories of birds in the Santa Monica Mountains: 1) local and long distance migrators (ash-throated flycatcher, Pacific-slope flycatcher, phainopepla, black-headed grosbeak), 2) chaparral-associated species (Bewick's wren, wrentit, blue-gray gnatcatcher, California thrasher, orange-crowned warbler, rufous-crowned sparrow, spotted towhee, California towhee) and 3) urban-associated species

⁸⁵ Davis, Steven. Effects of fire and other factors on patterns of chaparral in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

⁸⁶ 1996 Los Angeles County Fire Code Section 1117.2.1

⁸⁷ Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. Vicars, M. (ed.) 1999. FireSmart: protecting your community from wildfire. Partners in Protection, Edmonton, Alberta.

⁸⁸ Fuel Modification Plan Guidelines. Co. of Los Angeles Fire Department, Fuel Modification Unit, Prevention Bureau, Forestry Division, Brush Clearance Section, January 1998.

⁸⁹ Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024.

⁹⁰ Ibid.

(mourning dove, American crow, Western scrub-jay, Northern mockingbird)⁹¹. It was found in this study that the number of migrators and chaparral-associated species decreased due to habitat fragmentation while the abundance of urban-associated species increased. The impact of fuel clearance is to greatly increase this edge-effect of fragmentation by expanding the amount of cleared area and “edge” many-fold. Similar results of decreases in fragmentation-sensitive bird species are reported from the work of Bolger et al. in southern California chaparral⁹².

Effects of Fuel Clearance on Arthropod Communities

Fuel clearance and habitat modification may also disrupt native arthropod communities, and this can have surprising effects far beyond the cleared area on species seemingly unrelated to the direct impacts. A particularly interesting and well-documented example with ants and lizards illustrates this point. When non-native landscaping with intensive irrigation is introduced, the area becomes favorable for the invasive and non-native Argentine ant. This ant forms “super colonies” that can forage more than 650 feet out into the surrounding native chaparral or coastal sage scrub around the landscaped area⁹³. The Argentine ant competes with native harvester ants and carpenter ants displacing them from the habitat⁹⁴. These native ants are the primary food resource for the native coast horned lizard, a California “Species of Special Concern.” As a result of Argentine ant invasion, the coast horned lizard and its native ant food resources are diminished in areas near landscaped and irrigated developments⁹⁵. In addition to specific effects on the coast horned lizard, there are other Mediterranean habitat ecosystem processes that are impacted by Argentine ant invasion through impacts on long-evolved native ant-plant mutualisms⁹⁶. The composition of the whole arthropod community changes and biodiversity decreases when habitats are subjected to fuel modification. In coastal sage scrub disturbed by fuel modification, fewer arthropod

⁹¹ Stralberg, D. 2000. Landscape-level urbanization effects on chaparral birds: a Santa Monica Mountains case study. Pp. 125–136 in Keeley, J.E., M. Baer-Keeley, and C.J. Fotheringham (eds.). *2nd interface between ecology and land development in California*. U.S. Geological Survey, Sacramento, California.

⁹² Bolger, D. T., T. A. Scott and J. T. Rotenberry. 1997. Breeding bird abundance in an urbanizing landscape in coastal Southern California. *Conserv. Biol.* 11:406-421.

⁹³ Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. *Ecology* 79(6):2041-2056.

⁹⁴ Holway, D.A. 1995. The distribution of the Argentine ant (*Linepithema humile*) in central California: a twenty-year record of invasion. *Conservation Biology* 9:1634-1637. Human, K.G. and D.M. Gordon. 1996. Exploitation and interference competition between the invasive Argentine ant, (*Linepithema humile*), and native ant species. *Oecologia* 105:405-412.

⁹⁵ Fisher, R.N., A.V. Suarez and T.J. Case. 2002. Spatial patterns in the abundance of the coastal horned lizard. *Conservation Biology* 16(1):205-215. Suarez, A.V. J.Q. Richmond and T.J. Case. 2000. Prey selection in horned lizards following the invasion of Argentine ants in southern California. *Ecological Applications* 10(3):711-725.

⁹⁶ Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. *Ecology* 79(6):2041-2056. Bond, W. and P. Slingsby. Collapse of an Ant-Plant Mutualism: The Argentine Ant (*Iridomyrmex humilis*) and Myrmecochorous Proteaceae. *Ecology* 65(4):1031-1037.

predator species are seen and more exotic arthropod species are present than in undisturbed habitats⁹⁷.

Studies in the Mediterranean vegetation of South Africa (equivalent to California shrubland with similar plant species) have shown how the invasive Argentine ant can disrupt the whole ecosystem.⁹⁸ In South Africa the Argentine ant displaces native ants as they do in California. Because the native ants are no longer present to collect and bury seeds, the seeds of the native plants are exposed to predation, and consumed by seed eating insects, birds and mammals. When this habitat burns after Argentine ant invasion the large-seeded plants that were protected by the native ants all but disappear. So the invasion of a non-native ant species drives out native ants, and this can cause a dramatic change in the species composition of the plant community by disrupting long-established seed dispersal mutualisms. In California, some insect eggs are adapted to being buried by native ants in a manner similar to plant seeds⁹⁹.

Artificial Night Lighting

One of the more recently recognized human impacts on ecosystem function is that of artificial night lighting as it effects the behavior and function of many different types of organisms¹⁰⁰. For literally billions of years the only nighttime sources of light were the moon and stars, and living things have adapted to this previously immutable standard and often depend upon it for their survival. A review of lighting impacts suggests that whereas some species are unaffected by artificial night lighting, many others are severely impacted. Overall, most impacts are negative ones or ones whose outcome is unknown. Research to date has found negative impacts to plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals, and a detailed literature review can be found in the report by Longcore and Rich¹⁰¹.

Summary

In a past action, the Coastal Commission found¹⁰² that the Santa Monica Mountains Mediterranean Ecosystem, which includes the undeveloped native habitats of the Santa Monica Mountains, is rare and especially valuable because of its relatively pristine

⁹⁷ Longcore, T.R. 1999. Terrestrial arthropods as indicators of restoration success in coastal sage scrub. Ph.D. Dissertation, University of California, Los Angeles.

⁹⁸ Christian, C. 2001. Consequences of a biological invasion reveal the importance of mutualism for plant communities. *Nature* 413:635-639.

⁹⁹ Hughes, L. and M. Westoby. 1992. *Capitula* on stick insect eggs and elaiosomes on seeds: convergent adaptations for burial by ants. *Functional Ecology* 6:642-648.

¹⁰⁰ Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024.

¹⁰¹ Ibid, and Ecological Consequences of Artificial Night Lighting, Conference, February 23-24, 2002, UCLA Los Angeles, California.

¹⁰² Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

character, physical complexity, and resultant biological diversity. The undeveloped native habitats within the Santa Monica Mountains that are discussed above are ESHA because of their valuable roles in that ecosystem, including providing a critical mosaic of habitats required by many species of birds, mammals and other groups of wildlife, providing the opportunity for unrestricted wildlife movement among habitats, supporting populations of rare species, and preventing the erosion of steep slopes and thereby protecting riparian corridors, streams and, ultimately, shallow marine waters.

The importance the native habitats in the Santa Monica Mountains was emphasized nearly 20 years ago by the California Department of Fish and Game¹⁰³. Commenting on a Draft Land Use Plan for the City of Malibu, the Regional Manager wrote that, "It is essential that large areas of land be reclassified to reflect their true status as ESHAs. One of the major needs of the Malibu LUP is that it should provide protection for entire drainages and not just stream bottoms." These conclusions were supported by the following observations:

"It is a fact that many of the wildlife species of the Santa Monica Mountains, such as mountain lion, deer, and raccoon, have established access routes through the mountains. They often travel to and from riparian zones and development such as high density residential may adversely affect a wildlife corridor.

Most animal species that exist in riparian areas will, as part of their life histories, also be found in other habitat types, including chaparral (sic) or grassland. For example, hawks nest and roost in riparian areas, but are dependent on large open areas for foraging. For the survival of many species, particularly those high on the food chain, survival will depend upon the presence of such areas. Such areas in the Santa Monica Mountains include grassland and coastal sage scrub communities, which have been documented in the SEA studies as supporting a wide diversity of plant and animal life."

This analysis by the Department of Fish and Game is consonant with the findings of the Commission in the case of the Malibu LCP, and with the conclusion that large contiguous areas of relatively pristine native habitat in the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

¹⁰³ Letter from F. A. Worthley, Jr. (CDFG) to N. Lucast (CCC) re Land Use Plan for Malibu dated March 22, 1983.



EXHIBIT 12
CDP 4-07-145 (Marshall & English)
Aerial Photograph of Subject Site