



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 881-2461

RECEIVED
JUL 23 2010

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

April 6, 2010

Deanna Christensen, Coastal Program Analyst
89 South California St., Suite 200
Ventura, CA 93001

Re: Proposed Water Line Extension (CDP Application 4-09-057)

Dear Ms. Christensen:

It has come to my attention that the proposed water line extension associated with the above referenced application may be recommended for denial by the California Coastal Commission Staff. Below is the Los Angeles County Fire Department's position as it pertains to the proposed water line extension from Costa Del Sol to the subject property located north of Sweetwater Mesa Road.

As you are aware, the Santa Monica Mountains are subject to wildland fires and are classified as the Very High Fire Hazard Severity Zone. Pursuant to Section 508.1 of the 2008 Los Angeles County Fire Code the applicant must provide "an approved water supply capable of supplying the required fire flow for fire protection..." Section 508.3 further explains that "fire flow requirements for buildings or portions of buildings and facilities shall be determined by the fire code official." Regulation #8 of the Los Angeles County Fire Department establishes the required fire flow for development projects. In accordance with Regulation #8, the proposed development requires a minimum of 2,000 gallons per minute of water flow for the duration of two hours. Due to the required fire flow, the proposed extension of the municipal water line is required to meet these standards.

Private water tanks and sprinklers have previously been approved by our department in instances where a municipal water supply was unavailable or infeasible to extend to a subject property. However, this proposed development is located within a reasonable distance to the existing water main located in Costa Del Sol and our department will require the proposed water main extension in association with the proposed development. The alternate of using a water tank and sprinklers will not be accepted due to the size of the proposed residences, their location and the fact that a finding of practical difficulty or unreasonable hardship is unfounded.

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

AGOURA HILLS	BRADBURY	CUDAHY	HAWTHORNE	LA HABRA	LYNWOOD	PICO RIVERA	SIGNAL HILL
ARTESIA	CALABASAS	DIAMOND BAR	HIDDEN HILLS	LA MIRADA	MALIBU		
AZUSA	CARSON	DUARTE	HUNTINGTON PARK	LA PUENTE	MAYWOOD		
BALDWIN PARK	CERRITOS	EL MONTE	INDUSTRY	LAKEWOOD	NORWALK		
BELL	CLAREMONT	GARDENA	INGLEWOOD	LANCASTER	PALMDALE		
BELL GARDENS	COMMERCE	GLENDORA	IRVINDALE	LAWDALE	PALOS VERDES ESTATE		
BELLFLOWER	COVINA	HAWAIIAN GARDENS	LA CANADA FLINTRIDGE	LOMITA	PARAMOUNT		

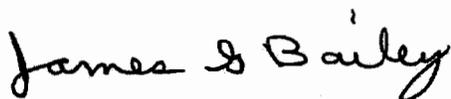
Exhibit 22
CDP 4-10-040 through 4-10-045
L.A. County Fire Department Correspondence

Ms. Christensen
April 6, 2010
Page 2

The proposed water line extension will provide a reliable water source which in turn will help reduce and minimize risks to life and property due to fire hazard and would maximize water supply to an area that needs it. Pursuant to my review of the proposed water line extension, I appreciate the opportunity to clarify that the position of the Los Angeles County Fire Department is that the water main and fire hydrant locations, approved by this department on December 7, 2009, is a prerequisite for the construction of the homes on the subject parcels.

If you have any further questions regarding this matter, please contact me at (323) 890-4132.

Sincerely,



JAMES G. BAILEY, HEAD FIRE PREVENTION ENGINEER
FIRE PREVENTION ENGINEERING
FIRE PREVENTION DIVISION

Cc: Schmitz & Associates, Inc.
Stefanie Edmondson, Principal Planner City of Malibu



COUNTY OF LOS ANGELES

FIRE DEPARTMENT
1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 890-2461

File
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JAN 30 2008
CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

(213) 890-4125

December 26, 2007

Deanna Christensen, Coastal Program Analyst
89 South California St., Suite 200
Ventura, CA 93001

Dear Ms. Christensen:

PROPOSED WATER LINE EXTENSION (CDP APPLICATION 4-07-068)

On August 29, 2007, I met with Don Schmitz who represents the applicant for the above-referenced Coastal Development Permit application. I reviewed the plans for the proposed water line extension, which proposes to extend water service from Costa Del Sol to the subject property located north of Sweetwater Mesa Road in the unincorporated Santa Monica mountains.

As you may be aware, the Santa Monica Mountains are classified as the Very High Fire Hazard Severity Zone. In these types of locations, it is far superior from a fire safety standpoint to have public mains and hydrants as opposed to relying on water wells and/or tanks. Public mains provide a much more reliable and consistent source of water with sufficient flow rates to adequately protect the residents and structures in the area.

The proposed water line extension would certainly help to reduce and minimize risks to life and property due to fire hazard and would maximize water supply to an area that needs it. Pursuant to my review of the proposed water line extension, I would like to express my strong support for the water line extension and respectfully request Staff to recommend approval of the application.

If you have any further questions regarding this matter, please contact me at (323) 890-4132.

Sincerely,

James G. Bailey

JAMES G. BAILEY, HEAD FIRE PREVENTION ENGINEER
FIRE PREVENTION ENGINEERING
FIRE PREVENTION DIVISION

JGB:ij

Cc: Don Schmitz

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

- AGOURA HILLS, ARTESIA, AZUSA, BALDWIN PARK, BELL, BELL GARDENS, BELLFLOWER, BRADBURY, CALABASAS, CARSON, CERRITOS, CLAREMONT, COMMERCE, COVINA, CUDAHY, DIAMOND BAR, DUARTE, EL MONTE, GARDENA, GLENDORA, HAWAIIAN GARDENS, HAWTHORNE, HIDDEN HILLS, HUNTINGTON PARK, INDUSTRY, INGLEWOOD, IRVINDALE, LA CANADA FLINTRIDGE, LA HABRA, LA MIRADA, LA PUENTE, LAKEWOOD, LANCASTER, LAWNSDALE, LOMITA, LYNWOOD, MALIBU, MAYWOOD, NORWALK, PALMDALE, PALOS VERDES ESTATES, PARAMOUNT, PICO RIVERA, POMONA, RANCHO PALOS VERDES, ROLLING HILLS, ROLLING HILLS ESTATES, ROSEMEAD, SAN DIMAS, SANTA CLARITA, SIGNAL HILL, SOUTH EL MONTE, SOUTH GATE, TEMPLE CITY, WALNUT, WEST HOLLYWOOD, WESTLAKE VILLAGE, WHITTIER

exhibit 22

Ex Parte Disclosure

Name of project: Application 4-10-040 (Applicant: Lunch Properties, LLLP)
Application 4-10-041 (Applicant: Vera Properties, LLLP)
Application 4-10-042 (Applicant: Mulryan Properties, LLLP)
Application 4-10-043 (Applicant: Morleigh Properties, LLLP)
Application 4-10-044 (Applicant: Ronan Properties, LLLP)
Application 4-10-045 (Applicants: Mulryan/Morleigh Properties, LLLP)

Date and time of receipt of communication: Oct 8th 2010 4pm
Location/Type of communication: K&S Ranch, Pescadero
Persons in attendance: Don Schmitz, Schmitz & Associates
Person receiving communication: Steve Blank

Detailed description of the communication:

Mr. Schmitz started briefing me about 5 separate projects in the Santa Monica mountains. I realized that these were the properties that I previously had taken exparte on as the "Edge" project.

Mr. Schmitz said that the Coastal Commission Staff was claiming that these 5 parcels were owned by a single "unity of interest." He said that the applicant had voluminous documentation demonstrating that there is no unity of interest. Further, that the properties are and have always been under separate legal ownership, and any communications to the contrary were in error.

I explained to Mr. Schmitz that I had been briefed in May 2009 by the applicant Dave Evans and his agent Jared Ficker and they had explicitly described these homes as a single development with 5 houses on them. And at that briefing Mr. Evans and his agent Jared Ficker shared his vision of why he and his wife bought the property and their vision of why they wanted to develop all five houses as an integrated development.

I told him that once I was aware that the application was coming in front of the commission, I had filed an exparte in March 2010 summarizing that conversation.

Mr. Schmitz was unaware of the exparte. Subsequent to this meeting I sent him a copy.

Date: October 14th , 2010

Signature of Commissioner:



RECEIVED
OCT 25 2010

Exhibit 23
CDP 4-10-040 through 4-10-045
Commissioner Ex Parte Communications

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**

Name or description of project, LCP, etc.: Proposed Project at Sweetwater
Mesa (Malibu, Los Angeles County)

Date and time of receipt of communication: 6/21/10, 4:45 pm

Location of communication: Board of Supervisor's Offices, Santa
Cruz, California

Type of communication: In person meeting

Person(s) initiating communication: The Edge
Ted Harris
Winston Hickox

Person(s) receiving communication: Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

They gave some history of the project and some of the motivations like being the most sustainable, environmentally friendly project possible. They want this to touch the land as lightly as possible. They extolled the virtues of Wallace Cunningham as an architect and his organic designs which will blend with the land and use the topography. They said that they had briefed John Laird who, after learning that there are five legal lots, showed some excitement for the project. They also said that Mark Massara is supportive and suggested that they avoid the clearing zone by planting native vegetation in zones a and b that is not flammable. They said that if this project is not built, the land will be sold and someone will build something that is not as responsible to the environment, especially the ESHA and the viewsheds. They showed the plans and how the proposed houses would blend into the hillsides. They plan to use locally harvested aggregates on the property to avoid trucking in material and to ensure that the color palate of the road and buildings match the local materials. They explained that 40,000 cubic yards of earth will be moved, for a total of 70,000 cubic yards of grading. They said that the remaining issues are: 1. The Santa Monica Mountains Conservancy is opposed, 2. The visual impacts of the road, and 3. there are some who feel that the installation of the required water line from the north would be growth inducing. Edge said that he hopes to have a fair hearing at the Commission. They expect that the Commission will hear this item in August or October.

Date: 6/21/10

Signature of Commissioner: Mark W. Stone

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

RECEIVED

JUN 3 2010

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

Name or description of project, LCP, etc.:

Sweet Water Mesa

Date and time of receipt of communication:

5/19/10 4 PM

Location of communication:

Type of communication (letter, facsimile, etc.):

phone call

Person(s) initiating communication:

Penny Allen

Person(s) receiving communication:

Mary Schallenburger

Detailed substantive description of content of communication: (Attach a copy of the complete text of any written material received.)

Penny said that there has been some confusion about the Sierra Club's position regarding "the Edge" project and ~~the~~ the Sierra Club wants to be very clear that they are opposed to the project.

5/17/10 Date

Mary Schallenburger Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

Date and time of communication:

March 27, 2009 - Noon

(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date and time of receipt should be indicated.)

Location of communication:

Bonnie's office, Eureka, CA

(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Person(s) initiating communication:

Don Schmidt of Schmitz & Associates, Inc.

Person(s) receiving communication:

Commissioner Bonnie Neely

Name or description of project:

June Agenda Item: Sweetwater Mesa Project, (Malibu) for Hearing on June 10th or 11th, 2009 - Five, Single-Family Residences on Five, Individually-Owned Legal Parcels, Access Driveway and Waterline Extension

Detailed substantive description of content of communication:

During my meeting with Don Schmidt on the above referenced project we discussed the project scope, location and site plan, specifically:

1. The proposed water line extension Approval in Concept from Las Virgenes Municipal Water District for all five parcels, letters from the County of Los Angeles Dept. of Regional Planning confirming that the waterline is exempt from local review and letters from the County of Los Angeles Fire Dept. expressing support for the water line extension.
2. The geology of the site and the testing completed. Additionally, we discussed the County of Los Angeles' Geotechnical and Materials Engineering Divisions review, and Approval in Concept for each of the residences and access driveway.
3. The originally proposed designs for the residences and reductions to the plans. We also spoke about how reductions in the proposed plans reduce potential impacts to native habitat.
4. Reductions in project grading and the concept of reducing the amount of truck trips of export generated by the grading by utilizing contour grading, and habitat restoration on-site in areas that have been historically disturbed on the properties. We discussed the use of onsite aggregate to blend with the surrounding environment to minimize visual impacts, and to reduce the use of imported concrete.

Date: March 28, 2009


Signature of Commissioner

Coastal Commission Fax: 415 904-5400

California Coastal Commission
Sweetwater Mesa Hearing on September 9 or 10, 2009

RECEIVED
JUL 23 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Subject: CDPs 4-07-147

Applicant: Morleigh Properties LLLP

Agent: Schmitz & Associates, Inc.

Project Site/Property Address: APN: 4453-005-091

Project Description: Single-Family Residence, Legal Parcel, Access Driveway and Waterline Extension

Applications/Approvals:

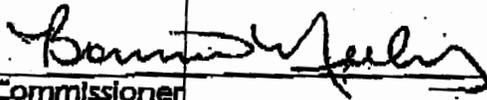
1. Commissioner Bonnie Neely, had ex parte communication with Don Schmitz, agent for the above-referenced project. During our July 9, 2009 meeting, we discussed the project scope, location and site plan, specifically:

1. The proposed water line extension Approval in Concept from Las Virgenes Municipal Water District for all five parcels, letters from the County of Los Angeles Dept. of Regional Planning confirming that the waterline is exempt from local review and letters from the County of Los Angeles Fire Dept. expressing support for the water line extension.

2. The geology of the site and the testing completed. Additionally, we discussed the County of Los Angeles' Geotechnical and Materials Engineering Divisions review, and Approval in Concept for each of the residences and access driveway.

3. The originally proposed designs for the residences and reductions to the plans. We also spoke about how reductions in the proposed plans reduce potential impacts to native habitat.

4. Reductions in project grading and the concept of reducing the amount of truck trips of export generated by the grading by utilizing contour grading, and habitat restoration on-site in areas that have been historically disturbed on the properties. We discussed the use of onsite aggregate to blend with the surrounding environment to minimize visual impacts, and to reduce the use of imported concrete.


Commissioner

Date: July 13, 2009

California Coastal Commission
Sweetwater Mesa Hearing on September 9 or 10, 2009

RECEIVED
JUL 23 2009

Subject CDP 4-07-068

Applicant: Vera Properties LLLP

Agent: Schmitz & Associates, Inc.

Project Site/Property Address: APN: 4453-005-018

Project Description: Single-Family Residence on Legal Parcel, Access Driveway and Waterline Extension

Applications/Approvals:

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

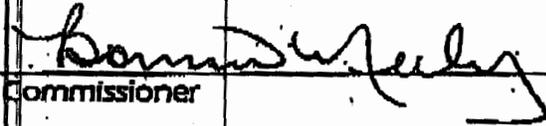
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2. The geology of the site and the testing completed. Additionally, we discussed the County of Los Angeles' Geotechnical and Materials Engineering Divisions review, and Approval in Concept for each of the residences and access driveway.

3. The originally proposed designs for the residences and reductions to the plans. We also spoke about how reductions in the proposed plans reduce potential impacts to native habitat.

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Commissioner

Date July 13, 2009

California Coastal Commission
Sweetwater Mesa Hearing on September 9 or 10, 2009

RECEIVED
JUL 23 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Subject: CDP 4-07-067

Applicant: Lunch Properties LLLP

Agent: Schmitz & Associates, Inc.

Project Site/Property Address: APN: 4453-005-037

Project Description: Single-Family Residence, Legal Parcel, Access Driveway and Waterline Extension

Applications/Approvals:

1. Commissioner Bonnie Neely, had ex parte communication with Don Schmitz, agent for the above-referenced project. During our July 9, 2009 meeting, we discussed the project scope, location and site plan, specifically:

1. The proposed water line extension Approval in Concept from Las Virgenes Municipal Water District for all five parcels, letters from the County of Los Angeles Dept. of Regional Planning confirming that the waterline is exempt from local review and letters from the County of Los Angeles Fire Dept. expressing support for the water line extension.

2. The geology of the site and the testing completed. Additionally, we discussed the County of Los Angeles' Geotechnical and Materials Engineering Divisions review, and Approval In Concept for each of the residences and access driveway.

3. The originally proposed designs for the residences and reductions to the plans. We also spoke about how reductions in the proposed plans reduce potential impacts to native habitat.

4. Reductions in project grading and the concept of reducing the amount of truck trips of export generated by the grading by utilizing contour grading, and habitat restoration on-site in areas that have been historically disturbed on the properties. We discussed the use of onsite aggregate to blend with the surrounding environment to minimize visual impacts, and to reduce the use of imported concrete.

Bonnie Neely
Commissioner

Date July 13, 2009

California Coastal Commission
Sweetwater Mesa Hearing on September 9 or 10, 2009

RECEIVED
JUL 23 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Subject: CDPs 4-07-146

Applicant: Mulryan Properties LLLP

Agent: Schmitz & Associates, Inc.

Project Site/Property Address: APN: 4453-005-092

Project Description: Single-Family Residence, Legal Parcels, Access Driveway and Waterline Extension

Applications/Approvals:

Commissioner Bonnie Neely, had ex parte communication with Don Schmitz, agent for the above-referenced project. During our July 9, 2009 meeting, we discussed the project scope, location and site plan, specifically:

1. The proposed water line extension Approval in Concept from Las Virgenes Municipal Water District for all five parcels, letters from the County of Los Angeles Dept. of Regional Planning confirming that the waterline is exempt from local review and letters from the County of Los Angeles Fire Dept. expressing support for the water line extension.
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Bonnie Neely
Commissioner

Date July 13, 2009

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JUL 23 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS

RECEIVED
JUL 21 2009
CALIFORNIA
COASTAL COMMISSION

Date and time of communication: JULY 7 7PM

Location of communication: EMBASSY SUITS
(If communication was sent by mail or facsimile, indicate the means of transmission.)

Identity of person(s) initiating communication: DON SCHMITZ

Identity of person(s) receiving communication: K. ACHADJIAN

Name or description of projects: SWEET WATER MEJA / VERA PROPERTIES / LUNCH PROP.
MORRIGH PROP. / MURRYAN PROP. / RONAN PROP.

Description of content of communication:
(If communication included written material, attach a copy of the complete text of the written material.)

DISCUSS PROJECT SCOPE / LOCATION / SITE PLAN. ALL FIVE PARCELS RECEIVING
WATER-LINE EXTENSION FROM LOS ANGELES COUNTY MUNICIPAL WATER
DISTRICT. LETTER FROM THE COUNTY OF L.A. FIRE DEPT. SUPPORTING THE
WATER LINE EXTENSION. Geology of the site being completed and
approval in concept by L.A. Geo. Div. Division.
reduction to the plans from its original design. reduction in project grading.
habitat restoration on site / ^{EFFORTS TO} MINIMIZE VISUAL IMPACTS.

July 20-09
Date

[Signature]
Signature of Commissioner

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

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**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

RECEIVED
MAY 6 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Date and time of communication: March 27, 2009 - Noon
(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

Location of communication: Bonnie's office, Eureka, CA
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Person(s) initiating communication: Don Schmidt of Schmitz & Associates, Inc.

Person(s) receiving communication: Commissioner Bonnie Neely

Name or description of project: June Agenda Item: Sweetwater Mesa Project, (Malibu) for Hearing on June 10th or 11th, 2009 - Five, Single-Family Residences on Five, Individually-Owned Legal Parcels, Access Driveway and Waterline Extension

Detailed substantive description of content of communication:

During my meeting with Don Schmidt on the above referenced project we discussed the project scope, location and site plan, specifically:

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Date: March 28, 2009


Signature of Commissioner

Coastal Commission Fax: 415 904-5400

California Coastal Commission
Sweetwater Mesa Hearing on June 10 or 11, 2009

Subject: CDPs 4-07-068, 4-07-067, 4-07-147, 4-07-146, 4-08-043, 4-07-148

Applicant: Vera Properties LLLP, Lunch Properties LLLP, Morleigh Properties LLLP, Mulryan Properties LLLP, Ronan Properties LLLP

Agent: Schmitz & Associates, Inc.

Project Site/Property Address: APNs: 4453-005-018, 4453-005-037, 4453-005-038, 4453-005-091, 4453-005-092

Project Description: Five, Single-Family Residences on Five, Individually-Owned Legal Parcels, Access Driveway and Waterline Extension

Applications/Approvals:

I, Commissioner Patrick Kruer, had ex parte communication with Don Schmitz, agent for the above-referenced project on April 21, 2009. During our meeting, we discussed the project scope, location and site plan, specifically:

1. The proposed water line extension Approval in Concept from Las Virgenes Municipal Water District for all five parcels, letters from the County of Los Angeles Dept. of Regional Planning confirming that the waterline is exempt from local review and letters from the County of Los Angeles Fire Dept. expressing support for the water line extension.
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Commissioner

Date

4.28.09

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FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

MAY 13 2009

CALIFORNIA COASTAL COMMISSION

Name or description of project, LPC, etc.: Sweetwater Mesa LA County

Date and time of receipt of communication: May 4, 2009

Location of communication: Carlsbad, Calif.

Type of communication (letter, facsimile, etc.): meeting

Person(s) initiating communication: Jared Ecker, Dave Evans, Ted Harris

receiving " Pat Krueger, Ben Hueso, Rick Garsler

Detailed substantive description of content of communication: (Attach a copy of the complete text of any written material received.)

The applicant and agents discussed five proposed homes than MR. Evans and his partners want to build. most of the time the discussion was on the architecture elements proposed by the architect Wallace Cunningham MR Evans explained his design approach to the property. He emphasized the environmental sensitive elements of the project and reviewed the visual simulations for the proposed houses. We discussed the driveway & road access. Also, they emphasis on working with staff to try to resolve their issues and concerns.

Date 5/10/09

Signature of Commissioner [Signature]

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

FW: Meeting request

RECEIVED
MAR 3 2009
Page 1 of 2
r. uuZ

Hampton, Nancy

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

From: Neely, Bonnie
Sent: Thursday, February 19, 2009 9:04 PM
To: Hampton, Nancy
Subject: FW: Meeting request
Importance: High

Could you do an exparte on this for me. Thanks.

—Original Message—

From: Don Schmitz [mailto:DonS@schmitzandassociates.net]
Sent: Thursday, February 19, 2009 5:23 PM
To: Neely, Bonnie
Cc: Don Schmitz
Subject: FW: Meeting request
Importance: High

Good afternoon Bonnie;

As you may be aware, CDP #'s 4-07-067, 4-07-068, 4-07-146, 4-07-147, 4-07-148, and 4-08-043, are currently scheduled to be considered at the Coastal Commission's June hearing. The applications consist of a total of five single-family residences with an access road and a lot line adjustment proposed for properties located in unincorporated Los Angeles County.

During the course of the Coastal Staff's review of the applications, we have provided Staff with the numerous technical reports and exhibits in support of the applications, and the requisite Approvals in Concept from Los Angeles County. Staff is now happy with the submittal packets and have deemed them complete.

In light of the lengthy history of these properties and the proposed projects, I would appreciate the opportunity to meet with you to provide you with an overview of the same, and to answer any questions you might have. I will be contacting you shortly to arrange a meeting at your convenience.

Thank you for your time and attention to this matter.

Sincerely,

Donald W. Schmitz II, AICP
President
Schmitz & Associates, Inc.

Headquarters Office
29350 Pacific Coast Hwy, Suite 12
Malibu, CA 90265
310-589-0773
310-589-0353 fax

Concjo Office
5234 Chesebro Road, Suite 200
Agoura Hills, CA 91301
818-338-3636
818-338-3423 fax

RECEIVED
FEB 24 2009
CALIFORNIA
COASTAL COMMISSION

2/20/2009

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

RECEIVED
MAR 3 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Date and time of communication:

February 19, 2009 – 5:23 p.m.

(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

Location of communication:

via e-mail

(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Person(s) initiating communication:

Don Schmitz, Schmitz and Associates

Person(s) receiving communication:

Bonnie Neely

Name or description of project:

CDP#s 4-07-067, 4-07-068, and 4-07-147, 4-07-148, and 4-08-043, LA County, scheduled for June 2009 Agenda.

Detailed substantive description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

See attached e-mail.

Date: February 20th, 2009



Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Coastal Commission Fax: 415 904-5400

March 25, 2009

RECEIVED
APR 1 2009

Mr. Khatchik Achadjian
45 Fremont Street, Ste 2000
San Francisco, CA 94105

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Achadjian,

Pursuant to our meeting on March 12, 2009, please see enclosed.

Best Regards,
Schmitz & Associates, Inc.

Donald Schmitz II, AICP
President



HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265
TEL: 310.589.0773 FAX: 310.589.0353

SCHMITZ & ASSOCIATES, INC.
REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301 *ox.23*
TEL: 818.338.3636 FAX: 818.338.3423

California Coastal Commission
Sweetwater Mesa Hearing on June 10 or 11, 2009

RECEIVED
APR 1 2009

Subject: CDPs 4-07-068, 4-07-067, 4-07-147, 4-07-146, 4-08-043, 4-07-148
CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Applicant: Vera Properties LLLP, Lunch Properties LLLP, Morleigh Properties LLLP, Mulryan Properties LLLP, Ronan Properties LLLP

Agent: Schmitz & Associates, Inc.

Project Site/Property Address: APNs: 4453-005-018, 4453-005-037, 4453-005-038, 4453-005-091, 4453-005-092

Project Description: Five, Single-Family Residences on Five, Individually-Owned Legal Parcels, Access Driveway and Waterline Extension

Applications/Approvals:

I, Commissioner Khatchik Achadjian, had ex parte communication with Don Schmitz, agent for the above-referenced project. During our meeting, we discussed the project scope, location and site plan, specifically:

1. The proposed water line extension Approval in Concept from Las Virgenes Municipal Water District for all five parcels, letters from the County of Los Angeles Dept. of Regional Planning confirming that the waterline is exempt from local review and letters from the County of Los Angeles Fire Dept. expressing support for the water line extension.
2. The geology of the site and the testing completed. Additionally, we discussed the County of Los Angeles' Geotechnical and Materials Engineering Divisions review, and Approval in Concept for each of the residences and access driveway.
3. The originally proposed designs for the residences and reductions to the plans. We also spoke about how reductions in the proposed plans reduce potential impacts to native habitat.
4. Reductions in project grading and the concept of reducing the amount of truck trips of export generated by the grading by utilizing contour grading, and habitat restoration on-site in areas that have been historically disturbed on the properties. We discussed the use of onsite aggregate to blend with the surrounding environment to minimize visual impacts, and to reduce the use of imported concrete.

Commissioner

Date

ex. 23

March 25, 2009

RECEIVED
APR 1 2009

Mr. Dave Potter
45 Fremont Street, Ste 2000
San Francisco, CA 94105

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Potter,

Pursuant to our meeting on March 12, 2009, please see enclosed.

Best Regards,
Schmitz & Associates, Inc.

Donald Schmitz II, AICP
President



HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265
TEL: 310.589.0773 FAX: 310.589.0353

SCHMITZ & ASSOCIATES, INC.
REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301 *ex. 23*
TEL: 818.338.3636 FAX: 818.338.3423

California Coastal Commission
Sweetwater Mesa Hearing on June 10 or 11, 2009

RECEIVED
APR 1 2009

Subject: CDPs 4-07-068, 4-07-067, 4-07-147, 4-07-146, 4-08-043, 4-07-148 CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Applicant: Vera Properties LLLP, Lunch Properties LLLP, Morleigh Properties LLLP, Muiryan
Properties LLLP, Ronan Properties LLLP

Agent: Schmitz & Associates, Inc.

Project Site/Property Address: APNs: 4453-005-018, 4453-005-037, 4453-005-038, 4453-005-
091, 4453-005-092

Project Description: Five, Single-Family Residences on Five, Individually-Owned Legal Parcels,
Access Driveway and Waterline Extension

Applications/Approvals:

I, Commissioner Dave Potter, had ex parte communication with Don Schmitz, agent for the
above-referenced project. During our meeting, we discussed the project scope, location
and site plan, specifically:

1. The proposed water line extension Approval in Concept from Las Virgenes
Municipal Water District for all five parcels, letters from the County of Los Angeles Dept. of
Regional Planning confirming that the waterline is exempt from local review and letters
from the County of Los Angeles Fire Dept. expressing support for the water line extension.
2. The geology of the site and the testing completed. Additionally, we discussed the
County of Los Angeles' Geotechnical and Materials Engineering Divisions review, and
Approval in Concept for each of the residences and access driveway.
3. The originally proposed designs for the residences and reductions to the plans. We
also spoke about how reductions in the proposed plans reduce potential impacts to native
habitat.
4. Reductions in project grading and the concept of reducing the amount of truck trips
of export generated by the grading by utilizing contour grading, and habitat restoration
on-site in areas that have been historically disturbed on the properties. We discussed the
use of onsite aggregate to blend with the surrounding environment to minimize visual
impacts, and to reduce the use of imported concrete.

Commissioner

Date

ex. 23

March 25, 2009

Mr. Steve Blank
45 Fremont Street, Ste 2000
San Francisco, CA 94105

RECEIVED
APR 1 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Blank,

Pursuant to our meeting on March 13, 2009, please see enclosed.

Best Regards,
Schmitz & Associates, Inc.



Donald Schmitz II, AICP
President



PROVIDERS OF LAND USE PLANNING

HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265
TEL: 310.589.0773 FAX: 310.589.0353

SCHMITZ & ASSOCIATES, INC.
REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301 *ex. 23*
TEL: 818.338.3636 FAX: 818.338.3423

California Coastal Commission
Sweetwater Mesa Hearing on June 10 or 11, 2009

Subject: CDPs 4-07-068, 4-07-067, 4-07-147, 4-07-146, 4-08-043, 4-07-148

Applicant: Vera Properties LLLP, Lunch Properties LLLP, Morleigh Properties LLLP, Mulryan Properties LLLP, Ronan Properties LLLP

Agent: Schmitz & Associates, Inc.

Project Site/Property Address: APNs: 4453-005-018, 4453-005-037, 4453-005-038, 4453-005-091, 4453-005-092

Project Description: Five, Single-Family Residences on Five, Individually-Owned Legal Parcels, Access Driveway and Waterline Extension

Applications/Approvals:

I, Commissioner Steve Blank, had ex parte communication with Don Schmitz, agent for the above-referenced project. During our meeting, we discussed the project scope, location and site plan, specifically:

1. The proposed water line extension Approval in Concept from Las Virgenes Municipal Water District for all five parcels, letters from the County of Los Angeles Dept. of Regional Planning confirming that the waterline is exempt from local review and letters from the County of Los Angeles Fire Dept. expressing support for the water line extension.
2. The geology of the site and the testing completed. Additionally, we discussed the County of Los Angeles' Geotechnical and Materials Engineering Divisions review, and Approval in Concept for each of the residences and access driveway.
3. The originally proposed designs for the residences and reductions to the plans. We also spoke about how reductions in the proposed plans reduce potential impacts to native habitat.
4. Reductions in project grading and the concept of reducing the amount of truck trips of export generated by the grading by utilizing contour grading, and habitat restoration on-site in areas that have been historically disturbed on the properties. We discussed the use of onsite aggregate to blend with the surrounding environment to minimize visual impacts, and to reduce the use of imported concrete.

RECEIVED
APR 1 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Commissioner

Date

RECEIVED
MAY 19 2009

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Name or description of project, LCP, etc.: ^{GDP #} 4-07-067, 4-07-068, 4-07-146, 4-07-147

Date and time of receipt of communication: 5/5/09 10AM ^{4-07-148, 4-08-043}

Location of communication: 10877 Wilshire Blvd

Type of communication (letter, facsimile, etc.): Discussion

Person(s) initiating communication: David Fickel

Person(s) receiving communication: Steven Kram

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

We discussed the five homes being proposed by Dave Evans and his ~~partner's~~ partner, Evan's explained his design approach to the property. We emphasized the environmental sensitive elements of the project and reviewed the visual simulations for the proposed houses. We outlined our emphasis on working with C.C. staff to try to resolve issues/pain points, and we were hopeful this item would be on June agenda.

5/11/09
Date Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

11/09/2009

11:33

S. C. CO. BOARD OF SUPERVISORS → 914153573839

NO.313 0002

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**

RECEIVED
NOV 12 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Name or description of project, LCP, etc.: Sweetwater Mesa (Malibu)

Date and time of receipt of communication: 11/9/09, 11:00 am

Location of communication: Board of Supervisor's Office, Santa Cruz, California

Type of communication: Telephone meeting

Person(s) initiating communication: Rusty Arias
Ted Harris

Person(s) receiving communication: Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

I received a briefing on the Sweetwater Mesa project. I was told that The Edge, his wife and partners have six CDPs pending for legally entitled lots on the edge of Malibu. This will probably come to the Commission in January. They said that the homes will be built it is just a question of when. They have hired an architect to make sure that the homes will all be similar and subordinate to the land. They know that it is a sensitive site and are trying to minimize impacts. They said that Mark Massara is supportive and they have briefed Peter Douglas.

Date: 11/9/09 Signature of Commissioner: *Mark Stone*

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If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

Ex Parte Communication

Date: October 26, 2009

Commissioner: Mr. Steven Kram *IN PERSON*

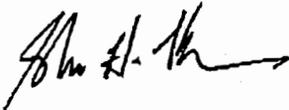
Representative: Jared Ficker, California Strategies
Ted Harris, California Strategies

Project: Sweetwater Mesa, Malibu, CA

CDP#: 4-07-148

Discussion:

Jared Ficker and Ted Harris of California Strategies briefed Commissioner Kram on the modifications to the proposed homes in the Sweetwater Mesa project for improved visuals. They also discussed their current work with the Santa Monica Mountains Conservancy and provided an update on the scheduling of the project.



RECEIVED
NOV 12 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

12/16/2009

14:37

S. C. CO. BOARD OF SUPERVISORS → 914153573839

NO. 330

RECEIVED
DEC 17 2009
BR

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Name or description of project, LCP, etc.: Sweetwater Mesa (Malibu)

Date and time of receipt of communication: 12/16/09, 11:00 am

Location of communication: Board of Supervisor's Office, Santa Cruz, California

Type of communication: In-person meeting

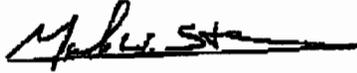
Person(s) initiating communication: Rusty Areias
Ted Harris

Person(s) receiving communication: Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

I received a brief history of the project by the two representatives of the applicant. I was told that there are certificates of compliance on these five parcels so the question is not whether something will be built, but rather what is built. They feel that these projects are the best possible thing that would ever be proposed on these sites. Wallace Cunningham is the architect. There are multiple owners, one being The Edga. They are proposing minimal grading and designs that will blend in. The houses will be 7,000 to 8,000 square feet each, plus basements. They showed me some materials from their website.

Date: 12/16/09

Signature of Commissioner: 

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If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**

Name or description of project, LCP, etc.: SWEETWATER MESA

Date and time of receipt of communication: 4/12/10

Location of communication: PHONE CALL

Type of communication (letter, facsimile, etc.): " "

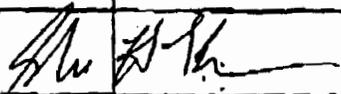
Person(s) initiating communication: DAVID EVANS

Person(s) receiving communication: STEVEN KRAM

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

General discussion on Project. Believed geology is fine
(probably over engineered) and trying to answer
everyone's questions on everything. Common ownership
ISSUE is a non issue - completely OK. W. Salinas
everyone to see his design and see how great it is.

4/13/10



Date

Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

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If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project:	Edge project, Malibu
Time/Date of communication:	1pm, Feb. 26th. 2010
Location of communication:	site of development
Person(s) initiating communication:	Jefferson Wagner, Richard Bloom, Jared Ficker
Person(s) receiving communication:	Sara Wan
Type of communication:	meting

Jefferson drove us to the site. We looked at the plans and the locations of the homes, the road and discussed the location of the water line.

Major points covered:

Water line: Jared stated that it was more expensive to put in the water line than to put in wells and would cause less damage to ESHA but they preferred to put in the line. Richard asked if the two properties between the current end of the water line had the right to hook up to the line and was told they did. This led to a short discussion about cumulative impacts and whether the water line would facilitate the development of those properties.

Jared contended that since the properties are in separate ownership they cannot be required to be clustered because they could come in one by one and that the owners did not want to do so. I said that regardless of how they came to us, they would be required to minimize their impacts on ESHA and therefore needed to be located near the road and clustered to minimize brush clearing. That we do that to all development as it comes in.

Jared stated that these homes were going to use native plantings and be painted a neutral color and that was an advantage. I indicated that now-a-days we require that of all development in this area

Jefferson discussed the geology of the site and showed us some graphics that showed areas of known slides and areas requiring excavation and re-compaction.

We discussed the steepness of the road and that there was an on-going third party geology review.

Date: 3/1/2010



Commissioner's Signature

RECEIVED
MAR 11 2010

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS
Addendum**

Name or description of the project:	Edge project, Malibu
Time/Date of communication:	1pm, Feb. 26th. 2010
Location of communication:	site of development
Person(s) initiating communication:	Jefferson Wagner, Richard Bloom, Jared Ficker
Person(s) receiving communication:	Sara Wan
Type of communication:	meeting

Additional issues discussed

Jefferson handed out a paper that says

Three sites can be clustered away from ridge lines - Mulryan has excellent geology for building site on South east corner- Vera is over a prominent ridge- could be moved off ridge to north west where bedrock is only down one foot and the Lunch location could stay where proposed

Claim that 1.15 acres will be used for development is incorrect- each site requires 4.5 acres cleared for fire and including road total of 30.5 acres will be cleared

Lot line adjustment is not needed for Mulryan

Jefferson also pointed out that at the CCC hearing for the road to do the geology the applicant's agent, Schmitz, stated he had approval for the road from the City but that was not correct. He did not have permission. I stated I seemed to remember that he did make that claim and had we known that wasn't true the decision to approve the road might have been different.

Date: 3/1/2010



Commissioner's Signature

**FORM FOR DISCLOSURE OF
EX PARTE COMMUNICATIONS**

RECEIVED
MAY 11 2010

CALIFORNIA
COAST COMMISSION
SOUTH CENTRAL COAST DISTRICT

Name or description of project, LPC, etc.: Sweetwater Mesa Projects
Date and time of receipt of communication: 4/13/10 5PM
Location of communication: Hampton Inn Channel Island, Oxnard
Type of communication (letter, facsimile, etc.): Meeting
Person(s) initiating communication: Ted Harris, Calif. Strategies and David Evans project proponent

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

David Evans gave some background on how he came to the decision to buy this land and build houses on it. He and his wife found this property, fell in love with it, but it was too expensive so they got some friends to go in with them on the project, which includes 5 houses for the 5 families. He described his search for the right architect and landscape architect. He showed me several architectural designs of the houses and emphasized that the landscaping would be all native. He explained that there are 6 parcels on the property (156 acres) but that only 5 are buildable. It will require a lot line adjustment to avoid building on an old landslide area. He said they plan to restore ESHA where it is currently badly degraded and will restore the current jeep trails on the property. He said the total grading would be about 40,000 cubic yards and that each driveway is about 30ft, totaling about 1 mile of road that would need to be constructed. He explained that they had just had a 3rd party geologist review and that the results were that the road would not have to be so highly engineered as previously thought. He also showed computer simulations which showed very little visual impact of the houses from the coast.

4/19/10
Date

Mary Shallenburger
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

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Ex Parte Disclosure

Name of project: The Edge
Date and time of receipt of communication: May 4th 2009 3pm
Location/Type of communication: Café Borrone Menlo Park,
Persons in attendance: Jared Ficker- California Strategies,
Dave 'The Edge' Evans
Person receiving communication: Steve Blank

Detailed description of the communication:

I received a briefing on the 5-house development that the Applicant is proposing to build in the Santa Monica mountains.

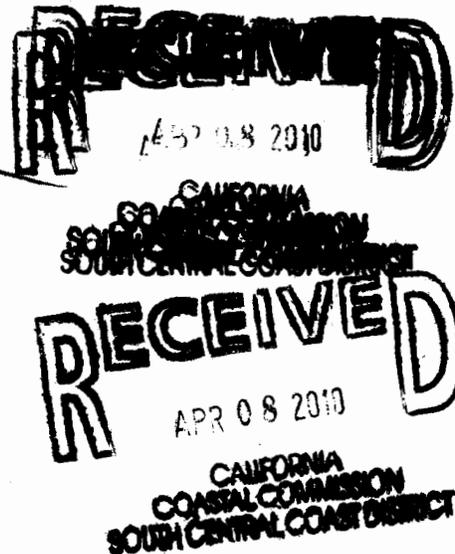
Mr. Evans shared his vision of why he and his wife bought the property and their vision of why they wanted to develop all five houses as an integrated development.

Mr. Evans presented their plan view of each of the five homes in the development. He pointed out that by controlling the architecture and design of all five houses he was able to make each of the five houses unobtrusive and designed to blend into the hillside. He said they hoped to get LEED Gold status for the 5-homes.

The applicants agent then detailed the ongoing dispute with a neighbor who has opposed the project. The agent and Mr. Evans discussed his opposition to there project and access road.

Date: Wednesday, March 10, 2010

Signature of Commissioner:



**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

RECEIVED
APR 21 REC'D

Name or description of the project: Edge, Malibu
Time/Date of communication: April 16, 2010
Location of communication: 22350 Carbon Mesa Rd.
Person(s) initiating communication: Edge, Jared Ficker
Person(s) receiving communication: Sara Wan
Type of communication: meeting

**CALIFORNIA
COASTAL COMMISSION**

Jared wanted me to meet Edge. I said I really didn't want to talk about the project until I had read the staff report. He discussed the history of the project. He and his wife bought a home in Las Coast area while they looked for a place to buy. Couldn't find a place so they looked for some land. Just loved the location it was so pristine- previous owner Sweeney had wanted to build 5 homes but he preferred to build homes that were environmentally friendly- organic- I commented that environmentally friendly really meant not the style of the home but the way the land was treated.

Discussed some of the issues that needed to be dealt with and I reminded him that the Coastal Act was the standard and he needed to make the project consistent with the act views- ridgeline issues- need to down from the top- he said that 2 of them have been redesigned I said needed to deal with all 5

ESHA- need to minimize impact on ESHA- if have 5 separate homes need to cluster to have overlapping fire clearance- they said they will restore 2 acres so that there will be a net increase in ESHA

landform alteration- need to minimize this

said that it looks like this will be on in July or August

discussed the geology issue- said there had been a third party review

I said one of the principle problems was the road, amount of grading and steepness

They asked for my suggestions and I said that they needed to make changes so they could come in with a position of support for the staff recommendation.

Date: 4/10/2010



Commissioner's Signature

Received at
Coastal Commission
Hearing
Nov 18, 2010

SANTA MONICA MOUNTAINS TASK FORCE, ANGELES CHAPTER, SIERRA CLUB
November 18, 2010

To the California Coastal Commission:

I am Mary Ann Webster, Chair of the Santa Monica Mountains Task Force of the Sierra Club, speaking to you today in opposition to the proposed Sweetwater Mesa development "the most prominent landform along the coast between Santa Monica and the Ventura County line". This project proposes to place five mansion-sized homes squarely on this prominent ridgeline, which can be seen from public beaches and piers all around Santa Monica Bay from Malibu to Palos Verdes. If constructed, these ridge top mansions would be in violation of the ridgeline protection policies in Los Angeles County's draft Santa Monica Mountains LCP adopted by the Board of Supervisors over two years ago.

The major grading required for the access road to the site with grades up to 19% in unstable terrain will require major "alteration of natural landforms" in what clearly qualifies as a "scenic coastal area" under Section 30251 of the Coastal Act..

The project, which claims to be "sustainable", will not only require major grading for a new access road; it will also require that water to serve the site would be pumped up to a tank at the 2200' elevation on Saddle Peak. That will require a significant expenditure of energy and fossil fuels.

By bringing roads and water lines into what the Santa Monica Mountains Conservancy has identified as a large block of 2920 acres of undeveloped core habitat and chaparral and coastal sage ESHA, the project threatens to induce major growth in this biologically sensitive area in violation of Section 30240 of the Coastal Act.

Sweetwater Mesa has been before you for two years and has not yet been able to demonstrate it can meet the requirements of Section 30253 in that it does not "minimize risk to life and property in areas of high geologic , flood, and fire hazard". Several of the building sites and roads are on large, mapped landslides; the site has burned over several times in the past several decades; and the extreme fire hazard can only be mitigated by removal of large areas of coastal sage and chaparral ESHA. Peer review of the applicant's geology report has been underway for a year and is still not complete. Conformity to the requirements of Section 30253 has not yet been successfully demonstrated.

The Angeles Chapter of the Sierra Club voted virtually unanimously to go on record in opposition to Sweetwater Mesa.

Mary Ann Webster, Chair, Santa Monica Mountains Task Force, Angeles Chapter, Sierra Club

Exhibit 24
CDP 4-10-040 through 4-10-045
Correspondence Received



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner

RECEIVED
NOV 24 2010

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

18 November 2010

California Coastal Commission
ATTN: Mr. John Ainsworth
89 South California Street 200
Ventura CA 93001-2899

SUBJECT: PROJECT REQUIREMENTS UNDER THE DRAFT SANTA MONICA MOUNTAINS LOCAL COASTAL PROGRAM

For many years, your staff and staff from the County of Los Angeles have worked together to create a local coastal program (LCP) for the unincorporated Santa Monica Mountains. I believe it is fair to say we agree that there are resource protection policies and provisions that must be part of any LCP. The County would like to provide your staff with an example of the resource protections that are contained within the County's Draft Santa Monica Mountains Local Coastal Program (Draft LCP). To illustrate these policies and provisions, County staff evaluated five approved plot plans to determine whether they are consistent with the Draft LCP, and to ascertain what approvals would be required for the projects under the Draft LCP.

BACKGROUND

The five separate site plan applications for development in the Santa Monica Mountains segment of the Coastal Zone received Approvals in Concept from Regional Planning in 2007. These projects qualified for site plan reviews. The projects did not require a public hearing, and did not require evaluation by the Environmental Review Board. The project requests were for single-family residences, access roads, and accessory structures in some cases (i.e., guest house, detached garage, and/or pool) on each of five separate parcels. The five parcels associated with the applications are each owned by different entities, and are located in the Sweetwater Mesa area of unincorporated Los Angeles County.

PROJECT CONSISTENCY EVALUATION

The Sweetwater Mesa projects are inconsistent with principles and policies of the Draft LCP. As these projects are related through a single access road and a proposed water line, these projects will be collectively referred to as one development. The development is inconsistent with the policies of the Draft LCP in the areas of:

- Habitat protection
- Grading

- Significant Ridgeline protection
- Scenic resource protection
- Preservation of natural topography
- Access
- Safety

Specifically, the development is inconsistent with the following Draft LCP principles, goals and policies:

Principles

Resource protection has priority over development. (The guiding principle for managing the natural environment.) The development significantly impacts natural vegetation, landforms, and scenic resources.

Goals

Hillside areas that retain their natural topographic character and locally-indigenous plant communities, and hillside development which protects public health and safety, minimizes erosion and development-induced runoff, and protects the undeveloped landscapes visible from key public lands, trails, and scenic highways. (Hillside Management Goal.) The development significantly impacts natural vegetation, landforms, and scenic resources, and sites structures in the most dangerous portion of a ridgeline on geologically-unstable soil along a mile-long access road.

An environment that retains the area's scenic beauty, including specific natural features and broad vistas. (Scenic Resources Goal.) The development occurs on a Significant Ridgeline, and disrupts the quality of vistas from scenic routes and public viewing areas.

The potential risk of death, injuries, property damage, and social and economic dislocation resulting from earthquakes, landflows, floods, fires, and other hazards must be minimized. Development should avoid environmental hazards rather than attempt to overcome them. (The guiding principle for protecting public health and safety.) The development sites structures in the most dangerous portion of a ridgeline on geologically-unstable soil along a mile-long access road.

A built environment designed to avoid or minimize the potential for loss of life, physical injury, environmental disruption, property damage, economic loss, and social disruption due to wildland fires. (Fire Hazards Goal.) The development sites structures on the top of a ridgeline, which is the most hazardous location during a wildland fire.

Land uses that reflect and are compatible with existing environmental resources and community character. (Development and Environmental Resources Goal.) The development does not retain the area's natural setting and scenic features and is sited on a Significant Ridgeline.

Policies

Conservation and Open Space Element

- CO-18: The development does not preserve large unbroken blocks of undisturbed natural open space and wildlife habitat area. Development is not clustered, but extends over one mile in length.
- CO-34: Grading is not minimized, partly because the development is not clustered.
- CO-35: New development is not sited and designed to protect Significant Ridgelines or vegetation. The development may also impact a rock outcrop on parcel 4453-005-038, which could contain sensitive flora. That the development is not clustered means fuel modification will impact a much larger area; preliminary fuel modification calculations indicate that none of the fuel modification zones for the proposed structures will overlap.
- CO-37: The very large amounts of grading required indicate the development does not conform to the natural landform.
- CO-39: The development may include the use of manufactured slopes greater than 10 vertical feet, but this cannot be determined from the materials submitted for the plot plan.
- CO-40: The single-family residence and guest house on parcel 4453-005-018 are not clustered, and structures across the development are not clustered.
- CO-49: The quality of vistas along identified scenic routes – Pacific Coast Highway, Corral Canyon Road, and Las Flores Canyon Road – will be disrupted.
- CO-50: The quality of vistas of a Significant Ridgeline will be disrupted.
- CO-52: The ridgeline is not being preserved in its natural state.
- CO-53: Development occurs on and within the protected zone of a Significant Ridgeline, preventing unobstructed views of a natural skyline.
- CO-60: The height of structures above natural grade is not consistent with the standards for Significant Ridgelines.
- CO-77: It is unclear whether the regional trail system is protected. Part of the Coastal Slope Trail runs through the southernmost parcel, but no trail dedication was required for the plot plan approval. The development negatively impacts views from the Trail.

Safety and Noise Element

- SN-1: The ridgeline is extremely susceptible to seismic and non-seismic geologic hazards, including liquefaction and landslides.
- SN-2: Brushing (fuel modification) will occur on slopes greater than 50 percent.
- SN-3: Grading is occurring on areas with slope over 25 percent, which are geologically unstable areas.
- SN-13: Development sites are not located off the ridgeline, and contain an access road over one mile in length.

Land Use Element

- LU-1: The development does not retain the area's natural setting or scenic features.
- LU-3: The development does not maintain long-range vistas of open ridgelines.

- LU-4: Development occurs on a Significant Ridgeline.
- LU-26: Structures exceed height standards for Significant Ridgelines.
- LU-28: Development not sited to protect life and property, scenic features, views, or to minimize overall vegetation clearance.

Public Facilities Element

- PF-25: The length of the access road is not limited, which is extremely dangerous for firefighters as well as residents.
- PF-26: Structures are not grouped or clustered.

APPROVALS REQUIRED

The Draft LCP provides for three types of coastal development permits (CDPs):

1. Administrative – Ministerial review
2. Minor – Requires environmental assessment and public hearing before the Hearing Officer
3. Major – Requires environmental assessment and public hearing before the Regional Planning Commission

Figure 1 (attached) illustrates the different approvals required for various aspects of the proposed developments. Under the Draft LCP, all five projects require approval of a Major CDP due to:

- Grading amounts over 5,000 cubic yards (22.44.606)
- New pipeline as the source of water for each residence (22.40.840).

A Major CDP will be processed in the same manner as a conditional use permit, requiring an environmental assessment and a public hearing before the Regional Planning Commission, and with conditions imposed upon the use of the property to minimize adverse impacts to coastal resources. While some aspects of the projects require only an Administrative or Minor CDP, the Draft LCP requires that a project be subject to the highest level of review required for any one aspect of the project. (22.44.526 B.2.b)

If the Draft LCP were certified in its current form, each of the five projects as proposed would also require an approved variance for at least two (and sometimes three or four) of the following reasons:

- Siting within the protected zone of a Significant Ridgeline (22.40.850)
- Exceeding the 20-foot height limit on a Significant Ridgeline (22.44.605 B)
- Exceeding the 300-foot maximum access road length (22.44.805 A.2.b)
- Possibly for exceeding the 10-foot maximum height for retaining walls outside yard setbacks (22.44.611).

Four of the five projects require review by the Environmental Review Board due to their access roads exceeding 300 feet in length. (22.44.805 A.2.b) All projects require a Hazards Evaluation from the Fire Department and Public Works, since they are located within a Very High Fire

Hazard Severity Zone and an Earthquake-Induced Landslides area. The Hazards Evaluation may result in mitigation measures for the projects.

Redesign of the projects (e.g., siting outside the Significant Ridgeline protected zone, reducing grading to less than 5,000 yd³, limiting access roads to less than 300 feet, securing an onsite source of potable water) would eliminate the need for several of these requirements.

ADDITIONAL REQUIREMENTS

In addition to the information required under the conditional use permit provisions (attached), the Draft LCP requires that all requests for development, regardless of the CDP required, include the following information (22.44.515):

- Complete title history of the subject property
- A site plan showing dedications, easements, deed restrictions, and information concerning land and water resources in the vicinity of the site
- Square footage of natural vegetation to be planted, removed, or subjected to fuel modification, to include the building site and road/driveway areas
- Location and amount of required fuel modification
- The area and dimensions of the buildings proposed for the requested use
- The dimensions and state of improvement of all driveways and easements providing access to the proposed site
- The amount of cut and fill material necessary for the project, with totals listed separately
- A biological inventory of all flora and fauna found or likely to occur on site
- For Minor and Major CDPs, a completed initial study questionnaire
- Pre-approval from County Departments of Fire, Health Services, and Public Works
- For development relying on an onsite wastewater treatment system, a septic plot plan prepared by a registered sanitarian that includes a percolation test report
- A grading plan for all grading, whether onsite or offsite, including grading for any necessary road construction or improvements
- A visual analysis for development located in a designated Scenic Resource Area (e.g., Significant Ridgeline)
- Proof of water availability and legal access

The Draft LCP also requires the use of Best Management Practices on slopes greater than 15 percent to control erosion and runoff. (22.44.614, 22.44.615)

CONCLUSION

Under the Draft LCP, all five projects would be subject to discretionary review that would allow public input, and the draft development standards associated with the required heightened level of review would minimize impacts to coastal resources. It is possible that, given the public input and review requirements, the applicant would choose to redesign the projects to avoid impacts and negate the need to obtain Major CDPs.

I would be happy to discuss the details of this evaluation with you. Please feel free to contact me Monday through Thursday from 7:00 a.m. to 5:30 p.m. at 213-974-6422.

Sincerely,

A handwritten signature in black ink that reads "Gina M. Natoli". The signature is written in a cursive style with a large initial "G".

Gina M. Natoli, MURP, AICP
Supervising Regional Planner

GMN:GMN

Attachments – Figure 1
Section 22.56.2310 Application – Information required

Figure 1.
SWEETWATER MESA PROJECT REQUIREMENTS Under The
DRAFT SANTA MONICA MOUNTAINS LOCAL COASTAL PROGRAM

APN	4453-005-091	4453-005-092	4453-005-037	4453-005-018	4453-005-038	TOTALS
Plot Plan Evaluated	RPP200700731	RPP200700727	RPP200700725	RPP200700726	RPP200700729	
Approval in Concept	Oct. 11, 2007	Oct. 11, 2007	July 3, 2007	June 26, 2007	Sep. 20, 2007	
Parcel Size (acres)	43.85	40	21	18.4	27	150.25
Use Requested	SFR, pool	SFR, pool	SFR, pool	SFR, pool	SFR, pool	
Number of Structures	One	One	One	One	One	
Use for Each Structure	SFR, pool	SFR, pool	SFR, guest house, pool	SFR, det. garage, guest house, pool	SFR, pool	
Building Site (sq. ft.)	9,950	9,200	9,800	9,500	9,800	48,893
Disturbed Area w/Access (acres)	2.53	1.17	4.00	0.59	1.54	9.83
Grading Amount (cu.yd.)						76,680
Cut (cu.yd.)	27,400	4,750	9,300	8,250	11,090	60,790
Fill (cu.yd.)	3,750	500	5,380	140	6,120	15,890
Export ¹ (cu.yd.)	20,900		0	0	0	20,900
Significant Ridgeline	Possibly	Yes	Yes	Yes	Yes	
Building Mass (sq. ft.)	11,711	11,797	11,699	12,546	17,087	
Building Height (ft)	28	28	28	24	28	
Access Road Length (ft)	1,800	890	2,720	295	880	6,585
Retaining Walls Max. Height (ft)	20	9.5	14.7	6	12	
On Slope > 15%	Yes	Yes	Yes	Yes	Yes	
On Slope > 25%	Yes	Yes	No	Yes	Yes	
On Slope > 50%	No	No	No	No	No	
Water Service						
Access Across Vacant Parcels	Yes	Yes	Yes	Yes	Yes	
Concurrent Filings	Lot Line Adjustment	Lot Line Adjustment				
ERB Review	Yes ²	Yes ²	Yes ²	No	Yes ²	
Hazards Area Evaluation	VHFHSZ, ELS	VHFHSZ, ELS	VHFHSZ, ELS	VHFHSZ, ELS	VHFHSZ, ELS	

SFR - Single-family residence
 Building Site - Does not include access road or one Fire Dept.-required turnaround
 ERB - Environmental Review Board
 VHFHSZ - Very High Fire Hazard Severity Zone
 ELS - Earthquake-Induced Landslides

1 - Export over 1,000 cu.yd. requires approved haul route (22.44.606 D)
 2 - For access road longer than 300 feet (22.44.805 A.2.b)
 3 - Must utilize BMP's on slopes over 15 %

- Requires Administrative CDP: ministerial review
- Requires Minor CDP: CEQA review, Hearing Officer public hearing (22.40.830)
- Requires Major CDP: CEQA review, RPC public hearing
- Requires Variance: CEQA review, RPC public hearing

required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subsection. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate or use for purposes of this subsection.

7. Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

B. Categorical Exclusions. (Reserved)

C. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owners; "bulk" means total interior cubic volume as measured from the exterior surface of the structure; and "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

D. A determination on whether a development is exempt shall be made by the director at the time an application for development within the coastal zone is submitted. Any dispute arising from the director's determination shall be resolved pursuant to the procedure described in Section 22.56.2370. (Ord. 89-0147 § 1 (part), 1989.)

~~22.56.2300 Application — Filing. Any person desiring a coastal development permit required by or provided for in this Title 22 may file an application with the director, except that no application shall be filed or accepted if final action has been taken within one year prior thereto by either the hearing officer, Commission or board of supervisors on an application requesting the same or substantially the same permit. (Ord. 89-0147 § 1 (part), 1989.)~~

22.56.2310 Application — Information required. An application for a coastal development permit shall contain the following information, accuracy of which is the responsibility of the applicant:

- A. Names and addresses of the applicant and of all persons owning any or all of the property proposed to be used.
- B. Evidence that the applicant meets the following criteria:
 1. Is the owner of the premises involved; or
 2. Has written permission of the owner or owners to make such application; or
 3. Is or will be the plaintiff in an action in eminent domain to acquire the premises involved, or any portion thereof; or
 4. In the case of a public agency, is negotiating to acquire a portion of the premises involved.

C. Location of subject property by address and/or vicinity.

D. Legal description of the property involved.

E. Nature of the requested use, indicating the business, occupation or purpose for which such building, structure or improvement is to be erected, constructed, altered, enlarged, moved, occupied or used.

F. Indication of the nature, condition and development of adjacent uses, buildings and structures.

G. A site plan drawn to a scale satisfactory to and in the number of copies prescribed by the director indicating the following:

1. The area and dimensions of the proposed site for the requested use.
2. The location and dimensions of all existing and proposed structures, yards, walls, fences, parking and loading facilities, landscaping and other development features.
3. The dimensions and state of improvement of the adjoining streets and highways providing access to the proposed site of the requested use.
4. Existing and/or proposed public access to and along the shoreline for projects proposed between the first through public road and the sea.

H. Architectural drawings showing the following:

1. Elevations of all sides of building(s).
2. Roof plan of proposed building(s).
3. Indication of colors and materials for all exterior surfaces.

I. Indication of other permits and approvals secured or to be secured in compliance with the provisions of Title 22 and other applicable ordinances and laws, including the California Environmental Quality Act.

J. Maps in the number prescribed, and drawn to a scale specified by the director, showing the location of all property included in the request, the location of all highways, streets, alleys and the location and dimensions of all lots or parcels of land within a distance of 700 feet from the exterior boundaries of such proposed use. One copy of said map shall indicate the uses established on every lot and parcel of land shown within said 700-foot radius.

K. A list, certified to be correct by affidavit or by a statement under penalty of perjury pursuant to Section 2015.5 of the Code of Civil Procedure, of the names and addresses of all persons who are shown on the latest available assessment roll of the county of Los Angeles as owners of the subject property and as owning property within a distance of 500 feet from the exterior boundaries of the parcel of land on which the development is proposed. In addition, the list shall include the names and addresses of persons residing within 100 feet of said parcel; if the names of the residents are not known, they shall be listed as "occupants". One copy of the map described in subsection (J) of this section shall indicate where such ownerships and residents are located.

L. Proof satisfactory to the director that water for fire protection will be available in quantities and pressures required by the Water Ordinance, set out at Division 1 of Title 20 of this code, or by a variance granted pursuant to said Division 1. The director may accept as such proof a certificate from the person who is to supply water that water can be supplied as required by said Division 1 of Title 20, also stating the amount and pressure, which certificate also shall be signed by the forester and fire warden, or a certificate from the department of public works that such water will be available.

M. The director may waive the filing of one or more of the above items if he finds that the nature of the development is unrelated to the required item and may require additional information. (Ord. 89-0147 § 1 (part), 1989.)

~~22.56.2320 Application — Burden of proof. In addition to the information required in the application by Section 22.56.2310, the applicant shall substantiate to the satisfaction of the county the following facts:~~

~~A. That the proposed development is in conformity with the certified local coastal program; and, where applicable,~~



CENTER for BIOLOGICAL DIVERSITY

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

August 17, 2010

California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

via certified mail, return receipt requested

Re: Sweetwater Mesa Development—CDP Application Nos.:
4-09-056: Lunch Properties LLLP
4-09-057: Vera Properties LLLP
4-09-058: Mulryan Properties LLLP
4-09-059: Morleigh Properties LLLP
4-09-060: Ronan Properties LLLP
4-09-061: Mulryan Properties LLLP and Morleigh Properties LLLP

Dear Commission Members:

The Center for Biological Diversity, a national non-profit environmental organization dedicated to the protection of endangered species and their habitats, submits these preliminary comments regarding the Sweetwater Mesa coastal development, a residential project proposed for a remote and rugged environment in the Santa Monica Mountains Coastal Zone. The development, despite its energy- and water-efficient home designs, would require extensive infrastructure that would cause significant, lasting, and largely unmitigatable impacts to the local environment and the greater Coastal Zone. Rather than be lauded and rewarded for its “green” design, the project should be rejected for its fundamentally inappropriate choice of location.

This is not a development that would “tread lightly” on the land. On the contrary, it would violate numerous provisions of the California Coastal Act and directly conflict with the county’s proposed Local Coastal Program (“LCP”), which charts out a course for future development in the Santa Monica Mountains Coastal Zone that specifically avoids rugged terrain, preserves large blocks of undisturbed habitat, and prioritizes resource protection over development. First, the proposed development is far from existing development and public services, in violation of section 30250(a) of the Coastal Act. (*See* CAL. PUB. RESOURCES CODE § 30250(a).) Furthermore, it would: lead to degradation and inappropriate use of an environmentally sensitive habitat area (*see id.* § 30240); negatively impact the public viewshed by altering Sweetwater Mesa (*see id.* § 30251); result in excessive risk to life and property from geologic and fire hazards (*see id.* § 30253(a)); and contribute to geological instability in the area (*see id.* § 30253(b)). Finally, because it is highly inconsistent with the proposed LCP, the development would prematurely determine land use in this part of the Santa Monica Mountains, potentially prejudicing the LCP process. (*Id.* § 30604(a).)

Arizona • California • Nevada • New Mexico • Alaska • Oregon • Minnesota • New York • Vermont • Washington, DC

Adam Keats, Urban Wildlands Program Director • 351 California St., Suite 600 • San Francisco, CA 94104
Phone: 415-436-9682 x304 • Fax: 415-436-9683 • akeats@biologicaldiversity.org

ex. 24

Remoteness from Existing Development and Adequate Public Services

The proposed development is far from existing development and public services and will therefore require the creation of significant new infrastructure that is grossly disproportionate to the five new single-family residences it will serve.

The Staff Report describes the area as “undeveloped, rugged hillside terrain blanketed by relatively undisturbed contiguous native chaparral habitat.” (California Coastal Commission Staff Report: Appeal of Executive Director Determination, Apr. 21, 2008, at 3 [hereinafter Staff Report].) No public roads or utilities service this area, so the applicants plan to build a 6,100-foot-long, 20-foot-wide access road from the south over steep, landslide-riddled slopes to reach the homes perched along the ridgeline above. Over a third of the technologically challenging road would achieve a very steep 18.95% grade. (See Cotton, Shires and Associates, Inc., Summary of Findings – Civil and Geotechnical Engineering and Engineering Geologic Peer Review Services, Sweetwater Mesa Development Project, Malibu, California, Mar. 8, 2010, at 23 [hereinafter Peer Review].) Likewise, instead of depending upon deep and potentially unreliable wells for their water, the applicants propose to extend a public water main 7,800 feet from the north “across undeveloped, rugged hillside terrain,” including “nine other vacant properties.” A ten-foot-wide, 900-foot-long maintenance road for the line will involve grading, the construction of retaining walls, “steep west-facing cut slopes (1.1 to 1/2:1), and removal of relatively undisturbed native chaparral vegetation.” (Staff Report at 7.)

This result is clearly at odds with section 30250(a) of the Coastal Act, which requires new development to “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.” (CAL. PUB. RESOURCES CODE § 30250(a).)¹

Adverse impacts to Environmentally Sensitive Habitat Areas (ESHAs)

The proposed development would adversely impact environmentally sensitive habitat both directly, through disturbance and displacement, and indirectly, by cutting in two (and consequently degrading the habitat value and connectivity of) approximately 2,900 acres of relatively undisturbed, roadless coastal chaparral.

The California Coastal Act defines an environmentally sensitive (habitat) area (“ESHA”) 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.” (CAL. PUB. RESOURCES CODE § 30107.5.) Consistent with this definition, the Commission has previously determined that “large contiguous areas of relatively pristine native habitat in the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.” (John Dixon, California Coastal Commission Ecologist / Wetland

¹ The importance of this requirement is highlighted by the legislature’s declaration that “broader policies which ... serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.” (CAL. PUB. RESOURCES CODE § 30007.5.)

Coordinator, Memorandum to Ventura Staff, Designation of ESHA in the Santa Monica Mountains, Mar. 25, 2003, at 24 [hereinafter Memo]).²

In order to safeguard this important habitat, the Act extends protections to ESHAs “against any significant disruption of habitat values” and requires adjacent development to “be sited and designed to prevent impacts which would significantly degrade” ESHAs. (CAL. PUB. RESOURCES CODE § 30240.) Only resource-dependent uses are allowed within ESHAs (*id.* § 30240(a)), and a rural residential zoning designation does not serve to broaden the definition of resource dependency or expand “the types of permissible development to include residential use” (*McAllister v. Cal. Coastal Comm’n* (2009) 169 Cal.App.4th 912, 935). Development on ESHAs is only permitted in extremely rare instances when denial would result in a taking, and then “application of the resource protection policies” is limited only “to the extent necessary to allow a property owner a constitutionally reasonable economic use” of his or her land. (*Id.* at 939.)

In their preliminary analysis of the area that would experience direct impacts from the proposed development, Coastal Commission staff determined that it consisted of “relatively undisturbed chaparral vegetation that is part of a very large, unfragmented block of habitat” which “would likely meet the definition of” ESHA. (Staff Report at 7.) Even though this area is not mapped as an ESHA in the 1986 Malibu Land Use Plan (LUP), that document specifically provides for the designation of new ESHA’s “identified through the biotic review process or other means” as meeting the Coastal Act’s definition (Malibu Local Coastal Program Land Use Plan, Dec. 1986, § 4.2.1, ¶ 57 [hereinafter LUP]),³ and the Coastal Act itself does not set time limits within which ESHAs must be designated (*see Douda v. Cal. Coastal Comm’n* (2008) 159 Cal.App.4th 1181, 1197). Consequently, in recent cases involving coastal development permit applications in the Santa Monica Mountains, courts have accepted new development-specific ESHA designations by the Commission. (*See id.* at 1190; *LT-WR, L.L.C. v. Cal. Coastal Comm’n* (2007) 152 Cal.App.4th 770, 789–790.)

Because the Sweetwater Mesa development—including its associated access road and water line extension—would not be a resource-dependent ESHA use, it would not be allowed under the Coastal Act or the 1986 LUP.

Degradation of the Public Viewshed

Sweetwater Mesa is a designated “Significant Ridgeline,” visible for many miles around. (*See* LUP, Figure 8.) It is “the most prominent landform along the coast between Topanga Canyon

² “In a past action, the Coastal Commission found 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 character, physical complexity, and resultant biological diversity. The undeveloped native habitats within the Santa Monica Mountains ... 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.” (Memo at 23–24.)

³ The proposed Santa Monica Mountains LCP contains a similar provision. (*See* Proposed Santa Monica Mountains Local Coastal Program Local Implementation Program, Sept. 2007, § 22.44.514, at 32–34 [hereinafter LCP-LIP] [procedure for designating unmapped ESHAs].)

Boulevard ... and the Ventura County line other than the main spine of [the] Santa Monica Mountains.” (Santa Monica Mountains Conservancy Comment Letter, Nov. 23, 2009, at 5 [hereinafter SMMC Letter].)

Section 30251 of the Coastal Act requires that “[t]he scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. (CAL. PUB. RESOURCES CODE § 30251.) In fulfillment of this directive, “[p]ermitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.” (*Id.*) The proposed LCP achieves the required viewshed protection in part by requiring that development be kept at least 50 feet vertically and horizontally below the crest of designated Significant Ridgelines. (Proposed Santa Monica Mountains Local Coastal Program Coastal Zone Plan, Sept. 2007, ¶ CO-53, at 29 [hereinafter LCP-CZP]; LCP-LIP, § 22.44.815(C)(2), at 107.)

No matter how well “blended” the color-palette of the applicants’ steep and lengthy access road, it would nonetheless create a visible scar on the landscape, representing a significant alteration of Sweetwater Mesa’s natural form. The road and the four homes slated to be built on the ridgeline itself would be highly visible from a broad swath of the Coastal Zone. Therefore, far from protecting the scenic and visual qualities of the property, the proposed development’s siting and required infrastructure would negatively impact and degrade the public viewshed, in violation of the Coastal Act.

Failure to Minimize Risks to Life and Property

Based on safety concerns alone, Sweetwater Mesa is an exceedingly poor location for development due to the geologic hazards associated with steep, landslide-prone slopes and the fire hazards that stem from development along ridgelines in remote and rugged areas.

In the Santa Monica Mountains Coastal Zone, land “is subject to considerable natural hazards that can affect people and property.” (LCP-CZP at 2.) The steep slopes that dominate the landscape contribute to “widespread slope instability” and place the entire region “within the Very High Fire Hazard Severity Zone, the most dangerous classification for fire safety purposes.” (LCP-CZP at 2.)

The Coastal Act places special burdens on new development, which is required to “[m]inimize risks to life and property in areas of high geologic, flood, and fire hazard,” “[a]ssure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.” (CAL. PUB. RESOURCES CODE § 30253(a)–(b).) In order to achieve minimization of geologic risk factors, the proposed LCP concentrates on “avoiding [development of] areas susceptible to seismic and non-seismic geologic hazards, even when engineering solutions are available.” (LCP-CZP, ¶ SN-1, at 51.)⁴ Similarly, its fire hazard-related siting criteria would keep new development “adjacent to existing development

⁴ For example, “[e]xtending water services and facilities into... remote areas” that are “characterized by deep canyons, steep hillsides” and “high elevations may be possible, but would be extremely costly and result in significant environmental impacts.” (LCP-CZP at 93.)

perimeters, ... close to public roads,” and “off ridgelines and other dangerous topographic features,” while avoiding “over-long driveways.” (LCP-CZP at 54.)

Development near ridgelines poses increased fire risks because “the heat of wildfires actually pulls the fire uphill, consuming ridgeline structures while sparing homes in the valley bottoms.” (LCP-CZP at 53.) Fuel modification—involving the removal of fire-prone, woody chaparral plants with deep roots—near residences and roads is no panacea. It directly degrades habitat quality while contributing to slope instability and erosion, further degrading habitat and increasing the geologic hazards to life and property.⁵

In addition to the general geologic hazards associated with rugged terrain, the Sweetwater Mesa properties at issue here have significant site-specific geologic problems. According to the Peer Review Engineering Geologic Map, four large landslides and numerous smaller ones would impact the development. (Peer Review, plate 1.) In fact, the Vera, Mulryan, and Morleigh properties are almost entirely underlain by landslides, the Lunch and Morleigh proposed residence sites are located on landslides, and the other three residences would be pinned between landslide headscarps and the even steeper slopes that plunge into the canyon to the east of Sweetwater Mesa. (*See id.*) Additionally, with a few brief exceptions, the planned access road is almost entirely positioned on landslides or within their rapidly receding headscarp zones. (*See id.*) With more than one-third of the road inclined at a very steep 18.95% grade, the civil, geotechnical, and geologic engineering peer review described construction as potentially “difficult,” with little room for error. (*Id.* at 23.) The review also noted that “such a steep inclination ... would put an additional strain on the engines and braking systems of the vehicles that traveled the road frequently” and would introduce significant safety concerns. (*Id.*)

In view of the complexity and severity of the geologic hazards in this area, it is disturbing that the peer review found the geological characterization of the site generally lacking in “sufficient accuracy, detail, ... [and] aerial coverage for design level analyses.”⁶ Furthermore, “various aspects” of the geotechnical engineering “investigation, analysis and design ... were not in conformance with typical investigations for a project of this magnitude and complexity.”⁷ (*Id.* at 6.) These shortcomings are especially problematic considering that proper construction of the proposed access road appears to require a major feat of engineering. For example, the peer review states that “[d]ue to the large size of some of the access road piles (up to 8-foot diameter),

⁵ The proposed LCP acknowledges this and prohibits “[l]and alterations and vegetation removal, including brushing” within “areas designated ESHA” (LCP-LIP, § 22.44.805(A)(3)(b), at 98–100) and more generally promotes siting and design choices that minimize fire hazards without relying on vegetation clearance (LCP-CZP at 54).

⁶ For example: the geological characterization of landslides was “very general in nature” and movement directions were poorly constrained (Peer Review at 3–4); subsurface exploration was only undertaken near the heads of landslides and done quickly, poorly, and incompletely (*id.* at 5); and geologic cross sections suffered from lack of “more refined geologic and geomorphic landslide mapping and subsurface exploration,” sometimes inappropriately incorporated field data, and were not aligned parallel to estimated landslide movement directions as they should have been (*id.* at 5–6).

⁷ For example: no undisturbed samples appear to have been taken for laboratory testing to “quantify geotechnical design criteria parameters and landslide loading scenarios;” borehole logs generally failed to identify the type and method of testing; and there was no “comprehensive discussion regarding the methodology of the laboratory testing, or an explanation regarding the laboratory test results.” (Peer Review at 6.)

there are probably only three or four construction companies on the west coast that could construct these structures.... [and] it is unlikely that any west coast contractors have experience building the Interconnected Pile option.” (*Id.* at 25.)⁸ Even if a project is technologically possible in an area that is “susceptible to” significant geologic hazards, it should be avoided. (See LCP-CZP, ¶ SN-1, at 51.)

Far from minimizing risk, by building homes and a long chain of private driveways in steep, geologically unstable, and fire-prone terrain, the applicants would be inviting—and even increasing—risk. The hazards inherent in the landscape ensure that the Sweetwater Mesa development is not a simple or safe proposition.

Conflict with Proposed Local Coastal Program

The Sweetwater development conflicts with the proposed Santa Monica Mountains LCP and would prematurely determine land use in this area, potentially prejudicing the LCP process.

The applicants’ PR-focused website heavily promotes the idea that keeping these homes from being built now will inevitably result in the construction of less “sustainable,” less “appropriate” homes on these lands in the future.⁹ However, if the Commission denies these development permits and certifies the proposed Santa Monica Mountains Local Coastal Program (LCP), the even stricter specific requirements, policies, and goals it contains could, for example, lead the county to purchase and permanently protect these properties as open space. Future residential development at this site is simply not a foregone conclusion.

On the other hand, approval of the Sweetwater Mesa development would “prematurely determine land use” in this part of the Santa Monica Mountains” (*City of San Diego v. Cal. Coastal Comm’n* (1981) 119 Cal.App.3d 228, 237) and “prejudice the ability of the local government to prepare [and have certified] a local coastal program that is in conformity with” the Coastal Act (CAL. PUB. RESOURCES CODE § 30604(a)). Development, like this—that involves a major incursion into the heart of “a very large, unfragmented block of habitat” (Staff Report at 7), effectively severing it in two, the construction of significant new infrastructure, and

⁸ Additionally, the peer review found that “the design loads calculated for static and pseudo-static stabilization” for each section of the road analyzed were “inadequate” (*id.* at 11, 12, 13, 14, 15, 16); “averaging the design loads [as the consultants did]... could lead to parts of the road foundation which are overstressed and, consequently, lead to a progressive ‘unzipping’ failure of the road foundation” (*id.* at 11, 12, 13); landslide “mitigation structures (piles) don’t extend to the margins of the landslides” for some road segments (*id.* at 13, 14, 16); “[a]ll three staging areas [for the Los Angeles County Fire Department] are located within the boundaries” of landslides and the proposed pads “could potentially have an adverse effect on global slope stability” which the consultant failed to recognize (*id.* at 20); the consultant failed to “evaluate the potential for the ‘non-structural fill’ to be susceptible to debris flows during periods of prolonged, and or, intense rainfall” (*id.*); piles “designed to resist tensile forces primarily in one direction” will only be effective if the reinforcement cage is installed in the correct orientation relative to the principle landslide movement but “[i]t appears that different landslides or parts of landslides could be moving in different directions” (*id.* at 21–22); and “the slope stability analyses did not take into account the possible future presence of groundwater (pore pressure) for any of the landslides” (*id.* at 24).

⁹ . (See *e.g.*, Leaves in the Wind, Background, <http://www.leavesinthewind.com/BACKGROUND/tabid/58/Default.aspx> (last visited July 20, 2010) [hereinafter Website Background] [“As the land had established entitlements, the real issue was not whether homes should be built there, but how to achieve the very best result thus preventing inappropriate designs from being built on any of these legal home sites in the future.... These truly sustainable homes prevent inappropriate designs from being built on any of these legal home sites in the future.”].)

building multiple structures on a designated Significant Ridgeline—defeats the protective purpose of the Coastal Act and subverts the specific goals and policies of the proposed LCP awaiting Commission certification. For example, the proposed LCP explicitly:

- gives “resource protection ... priority over development,” (LCP-CZP at 13);
- places “primary emphasis on preserving large, unbroken blocks of undisturbed natural open space and wildlife habitat areas” to “[p]reserve, protect, and enhance habitat linkages” (*id.*, ¶¶ CO-17–18, at 21);¹⁰
- encourages the permanent preservation of “steep lands” as open space (*id.*, ¶ CO-19, at 21);¹¹
- prohibits “development on designated Significant Ridgelines,” (*id.*, ¶ CO-53, at 29);
- emphasizes “avoiding [development of] areas susceptible to seismic and non-seismic geologic hazards, even when engineering solutions are available” (*id.*, ¶ SN-1, at 51); and
- requires “that development sites and structures be located off ridgelines and other dangerous topographic features ..., be adjacent to existing development perimeters, be located close to public roads, and avoid over-long driveways,” (*id.*, ¶ SN-15, at 54).

The proposed LCP maintains these protective policies even though it acknowledges that “[m]uch of the Coastal Zone’s remaining undeveloped land consists of steep slopes, which are generally covered with a variety of native undisturbed vegetation ... [so] future development likely will require extensive grading to provide a building site and fuel modification to minimize risks associated with fire, resulting in the removal of substantial habitat areas.” (*Id.* at 13.) To address these problems, the LCP provides “detailed guidance for locating new development so that it conforms to the constraints of the mountain topography, does not detract from the area’s character, and protects natural resources,” (*Id.* at 13) and encourages the purchase of private land that should be permanently protected from development. (*See id.*, ¶ CO-18, at CO-21.)

Effectively, the LCP “seeks to balance the natural and man-made environments through directing development into the most appropriate locations under conditions that protect the area’s natural environment.” (*Id.* at 63.) By contrast, the Sweetwater Mesa development tips the scales out of equilibrium with its inappropriate location on a designated Significant Ridgeline in a rugged fire, landslide, and earthquake-prone landscape that is part of a large, contiguous block of undeveloped habitat (likely ESHA) and remote from existing development and public services (requiring construction of significant new infrastructure¹² with considerable direct and indirect

¹⁰ “[A]ll feasible strategies shall be explored to protect these areas from disturbance [including] purchasing open space lands, retiring development rights, clustering development to increase the amount of preserved open space, and reducing grading and the need for vegetation clearance.” (*Id.*, ¶ 18, at 21.)

¹¹ For example, “[w]hen open space is being dedicated, prioritize acquisitions to those lands that contain unique ecological features; protect undeveloped streams, watersheds, woodlands, and grasslands; [and] prevent vegetation clearance or grading of steep areas.” (*Id.*, ¶ CO-47, at 26.)

¹² Including a steep, long, and difficult to build access road and an almost certainly growth-inducing public water line extension that passes over steep, undisturbed slopes through numerous undeveloped but privately held properties even though “[p]ublic facilities should support existing and approved land uses, and are not intended to induce further development.” (LCP-CZP at 92.)

impacts on the environment). As such, the Sweetwater Mesa development is antithetical to the proposed LCP and “would prematurely determine [future] land use” in this part of the Santa Monica Mountains, “constitute[ing] a significant issue in the LCP process.” (*City of San Diego v. Cal. Coastal Comm’n*, 119 Cal.App.3d at 237; *see also* CAL. PUB. RESOURCES CODE § 30604(a).) This is unnecessary and unacceptable.

Cumulative Analysis of Permit Applications

As detailed above, individually and in combination the Sweetwater Mesa development projects would likely have significant negative impacts on both the immediate environment and habitat quality and connectivity in the greater Santa Monica Mountains region. As a result, it is imperative that these six coastal development permit applications are considered together. (*See* CAL. PUB. RESOURCES CODE § 30250(a) [requiring new development to be located “where it will not have significant adverse effects, either individually or *cumulatively*, on coastal resources” (italics added for emphasis)].)

The applicants manage to sidestep the requirement to submit a single permit application for “functionally related developments” because they are, nominally at least, discrete entities. (CAL. CODE REGULATIONS tit. 14, § 13053.4(a).) But while the Sweetwater Mesa development involves six separate coastal development permit applications, its impacts and consistency with the Coastal Act are properly analyzed in combination. Consequently, the Commission has taken the necessary step of consolidating staff reports and the public hearing schedule related to these applications,¹³ in line with Coastal Commission regulations. (*See* CAL. CODE REGULATIONS tit. 14, § 13058.) Furthermore, Coastal Commission staff explicitly recognized the interconnectedness of these applications in a discussion of the applicants’ refusal to consider “lot reconfiguration to facilitate clustering ... because of the separate ownership of the parcels.” (Staff Report at 11.) Staff reasoned that:

“[t]his statement is somewhat ironic given that one of the applications at issue is for a reconfiguration of two adjacent parcels, so at least two of the owners are already actively working together to reconfigure their parcels. Further, various other elements of the proposed projects (such as the proposed water line extension and the access road), not to mention the coordinated timing of the applications, and the fact that they all have the same agent, suggest that the separate owners have been unified and collaborative in their project planning.”

(*Id.*) We share this skepticism regarding the extent of the applicants’ independence. Indeed, the applicants’ own website lays out a close connection, stating that “The Edge” and his wife bought the Sweetwater Mesa properties “with pre-existing entitlements for five homes ... [a]fter initially disregarding it as too much for their needs ... with a view to bringing a number of friends together as partners in the project.” (*See* Website Background.)

¹³ (*See, e.g.* California Coastal Commission, Future Agenda Items, Updated June 22, 2010, <http://www.coastal.ca.gov/meetings/coming.html> (last visited July 20, 2010) [listing the applications together as: “Coastal Development Permit Applications 4-09-056, 057, 058, 059, 060, & 0061 (Lunch, Vera, Mulryan, Morleigh, & Ronan LLLPs) for a lot line adjustment between 2 parcels; 5 new single family residences ranging from 7,317 sq. ft. to 12,004 sq. ft. in size on five adjoining parcels; a 6,010 linear ft., 20 ft. wide access road; 1,441 linear ft. of retaining walls; a new 7,800 linear ft. waterline with 900 linear ft., 10 ft. wide maintenance road; and approximately 76,150 cu. yds. of grading.”].)

While the website plays up the energy and water efficiency, green building materials, and “organic” design of each of the five residences, it only briefly and indirectly mentions major potential environmental impacts of the development as a whole, including plans to extend a growth inducing public water main over a mile and a half through nine other owners’ currently undeveloped properties. (*See id.*) It also gives short shrift to habitat damage and fragmentation, slope stability, fire safety, and fuel efficiency issues associated with building and using a 20-foot-wide, 6,100-foot-long paved access road with over one-half mile at 18.95% grade in this steep, rugged, and landslide-rich environment. Plans to incorporate natural materials and dyes from the site in order to “blend” the road “into the landscape” and reduce the need to import/export fill¹⁴ fail to address these other substantive road impacts and problems. As the Santa Monica Mountains Conservancy noted, “[t]hese are not LEED certified driveways [b]eautiful LEED certified homes do not balance out a continuous chain of ... driveways into a core habitat of the Coastal Zone portion of the Santa Monica Mountains.” (SMMC Letter at 3–4.) Nor do they “balance out” the potential of a significant water line extension to induce new growth, further fragmenting and dividing habitat, in the currently undeveloped areas it would pass through.

When examined together, the significant potential impacts of the six coastal development permit applications at issue here are clearly inconsistent with the requirements and goals of the California Coastal Act and the proposed Santa Monica Mountains LCP. We therefore appreciate that the Commission is vigorously reviewing these proposals and look forward to further participating in this process. Thank you for your consideration of these preliminary comments.

Sincerely,



Adam Keats
Urban Wildlands Program Director

Nell Green Nylen
Law Clerk

¹⁴ (Leaves in the Wind, Blended Design, <http://www.leavesinthewind.com/PROJECT/BlendedDriveway/tabid/79/Default.aspx> (last visited July 20, 2010); Leaves in the Wind, Project Design, <http://www.leavesinthewind.com/PROJECT/tabid/59/Default.aspx> (last visited July 20, 2010).)

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November 23, 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission
89 South California Street, Suite 200
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Sweetwater Mesa-Malibu Five Estate Project Application Nos.**4-07-067 Lunch Properties****4-07-068 Vera Properties****4-07-146 Mulryan****4-07-147 Morleigh Properties****4-07-148 Mulryan and Morleigh Properties****4-08-043 Ronan Properties**

Dear Commission Members:

As the principal State planning agency for the Santa Monica Mountains zone, the Santa Monica Mountains Conservancy (Conservancy) offers the following comments on the six above-referenced, fully-integrated Coastal Development Permit applications in Malibu. The six parcels involved are an integral part of a public viewshed with statewide significance that is within reach of over ten million Los Angeles metropolitan area residents and thousands of tourists. Our staff has worked with the applicants' representatives and they have been most forthcoming with information.

Unfortunately, it is impossible to construct the five homes strung over a mile of ridgeline and 7,800 feet of water main without resulting in unavoidable significant adverse visual and ecological impacts. The only combination of homes that could be constructed without such unavoidable significant adverse impacts is Application 4-07-067 (Lunch) as proposed and Application 4-07-068 (Vera) if the house is removed from the ridgeline. These homes would need to be on wells.

The applicant's representative will show a Vera Property constraints analysis showing that the alternative location is on landslide material and would be more visible from the northwest. We disagree with this visibility conclusion and contend that the adjacent proposed access road is far more geologically constrained than this alternative, off-ridge house site.

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The remaining three applications rely on a section of road that is wholly inconsistent with many key sections of the Coastal Act addressed below. A place exists to put a house on APN 4453-005-092 (Application 4-07-146) below this extreme section of road. However, the applicant's representatives have told our staff that landslide conditions would make such a house too costly to secure to bedrock. Under that conclusion (which we disagree with) APN 4453-005-092 is an unbuildable parcel. That misfortune of the applicant should not be balanced on the back of the public's Coastal Zone resource by rewarding him with a buildable replacement lot. The economic cost of meeting Coastal Act provisions is not a Coastal Act issue. Cost is also not a valid reason for failure to meet the hazard, visual, and habitat policies of the Act. In addition LEED certified construction is good, but it is not required under the Coastal Act nor is it a substitute for meeting Coastal Act policies.

Need for Independent Analysis of Road Feasibility as Proposed

For the following reasons we urge the Commission to require an independent investigation on the construction feasibility of the entire one-mile-long section of road that is proposed to connect the five subject houses from the Malibu City line. The Commission staff has not received adequate information on the feasibility of the access road proposed to reach the Ronan (Application 4-08-03), Morleigh (Application 4-07-147), and Mulryan (Application 4-07-146) properties as it is depicted on the detailed plan set submitted to the Commission staff.

Our staff has consulted with a grading expert and has reason to believe that the grading impacts that would result from the road are far more extensive than represented. For example, the excavation behind the retaining walls for the proposed 500-foot-long and 50-foot-high cut slopes does not appear to be represented in the earth work calculations. In addition, where the steep road section begins a 19 percent and 1,000-foot-high climb, the plans show a large section of fill designed to reduce the grade. This fill is placed on the same ancient landslide material that according to the applicant's representatives is not suitable for a house. In such case, the area beneath the fill must be excavated and re-compacted before fill is placed on top. This additional excavation is on a slope and would result in a significantly larger grading footprint than represented on the submitted grading plans. We believe that even a brief consultation with Los Angeles County geologists would confirm this fact.

The scores of piles represented as necessary to support this extreme section of road would also take several years to install. The applicant's figures that this road can be put in with just 43,260 cubic yards of cut seem to be underestimated.

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Our understanding is that a road with a 19 percent grade over a stretch of 1,000-feet must have several 50-foot-long grade breaks with a nine percent grade. A 20 percent road requires such grade breaks every 150 feet. The proposed road has none.

Across the Board Inconsistencies with the Coastal Act

The Coastal Act is the standard of review for the subject projects. None of the five projects is consistent with the Coastal Act. Each of the five projects is inconsistent with Section 30240 because each would result in permanent and significant disruption of Environmentally Sensitive Habitat Area (ESHA).

Each project requires an average of 1800-feet of permanent twenty-foot-wide road through ESHA, resulting in a per project average of 36,000 square feet of direct permanent ESHA impact area without including retaining wall excavation, cut and fill slopes, and drainage dissipaters. In addition approximately 5,000 feet of total driveway length will require ten feet of brush clearance on each side. That clearance alone creates another 100,000 square feet of permanent ESHA impact, equivalent to ten 10,000 square-foot building sites. These driveways are not LEED-certified.

Each project also is inconsistent with Section 30250 because each does not locate development in close proximity to either existing development or adequate public services. Instead, individually and cumulatively, the projects would result in adverse impacts to coastal resources. The request for a 7,800-foot-long water line best illustrates this inconsistency.

All five projects are not consistent with Section 30251 because the scenic and visual qualities of the property are considered a resource of public importance. All five projects would cause major alterations to natural landforms and would result in a significant diminution of public viewsheds. All but the highest house (Ronan Application 4-08-03) requires a minimum of 751 feet of new 20-foot-wide roadway construction on each subject parcel. The average amount of common roadway on the four other parcels is 1,818 feet. Driveways of that length are completely antithetical to the resource preservation purposes of the Coastal Act.

All five projects are located deep into a wildland fire zone and do not minimize risk to life and property in an area of high fire hazard, which is inconsistent with Section 30253. It is hard to imagine a project or set of projects that could be more inconsistent with this Section. If the Mulryan 4-07-146, Morleigh 4-07-147, and Ronan 4-08-043 applications are

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approved, the value of this Section of the Coastal Act would be greatly eviscerated. If these three applications are approved without an independent analysis of the feasibility of their access road, it would be further eviscerated.

Takings Issues

In its assessment of the five subject home applications and the sixth Lot Line Adjustment application (04-07-148), we urge the Commission to consider the following linkages between the six projects. They all have the same consultants and spokesperson. They all have shared easements and provide symbiotic components to each other—such as offsite hammerhead road turnarounds, drainage dissipaters, and utilities. Nobody is fooled by the separation of the projects. Only archaic protections for LLLPs prevent full disclosure of the actual property ownership or else this project would be addressed under the California Environmental Quality Act (CEQA) as a single project.

The applicant derives numerous advantages from this CEQA immunity and suffers no pitfalls. Beautiful LEED certified homes do not balance out a continuous chain of average 1,800-foot-long driveways into a core habitat of the Coastal Zone portion of the Santa Monica Mountains .

The Conservancy asserts that because each of the projects is inconsistent with the Coastal Act, each project can only be approved under the takings clause. Because of the severity of the potential ecological and visual impacts, we assert that a thorough analysis of the takings value of each project must be conducted prior to the upcoming public hearing to determine, based on the cost and ownership of each parcel, the basis for reasonable investment-backed expectations.

Such an analysis must address what the applicants paid for the properties. It is our understanding that the only property that has changed ownership since the current applicants took title is the Lunch Properties LLLP, which was formerly owned by Morleigh Properties LLLP. What was the nature of this exchange?

This letter puts forth feasible alternatives for reasonable economic use of the Vera and Mulryan properties. Houses are routinely built on areas with similar safety factors, although they are less desirable to the applicant(s). There is no takings issue with a denial of applications 04-07-068 and 4-07-146.

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A place exists to put a house on Mulryan (APN 4453-005-092 Application 4-07-146) below the most difficult section of road without a lot line adjustment. We assert that a house with 50-foot deep caissons can easily be located in this broad "meadow" outside of ESHA. If the applicant is correct that this proposal is impossible, then we urge the Commission not to approve Application 04-07-148, which is a lot line adjustment that shifts the Mulryan house over 800 feet north and 350 feet higher.

It is not a good public policy decision to reward those who buy an unbuildable lot with a site worth a lot of money. Why would the Commission approve a lot line adjustment that facilitates one-half-mile of additional roadway to two lots deep into a significant viewshed and core habitat area? There is no automatic entitlement to a lot line adjustment and therefore no takings issue with a denial of applications 04-07-148 and 4-07-146.

Again we urge the Commission to require an independent analysis of the proposed road feasibility north of the Lunch LLLP site. If that analysis shows the road as infeasible as proposed, then the onus is on the applicants to show that applications 4-08-043 (Ronan) and 4-07-147 (Morleigh) are viable and no takings issue has to be addressed.

Project Setting

The subject Sweetwater Mesa ridgeline, located just east of Malibu Creek State Park, is the most prominent landform along the coast between Topanga Canyon Boulevard (SR 27) and the Ventura County line, other than the main spine of Santa Monica Mountains itself. This north-south trending ridgeline is flanked by the 11,000-acre Malibu Creek State Park core habitat to the west and is part of a 2,900-acre roadless habitat block (see attached figure). Many square miles of both roadless and trail-less Coastal Zone wilderness surround the five proposed ridgeline compounds and their greater-than-one-mile-long access road.

The following spatial examples of the extent of this roadless area (shown on the attached figure) illustrate the remoteness of the five subject parcels. For example, the shortest line from Malibu Canyon Road, through the property, to the most westerly homes in Carbon Canyon is 2.3 miles as the crow flies. The roadless area is so wide at one point that a 3.75-mile-long line can be drawn through the property from Malibu Canyon Road to Rambla Pacifico Street. This line spans three distinct Santa Monica Bay watersheds. The attached oblique aerial photograph of the subject ridgeline shows these spatial relationships.

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Major Transformation of Core Santa Monica Mountains Natural Area

The combination of a greater than one mile long road (with up to 70-foot-high and 500 foot-long fill slopes), five houses averaging 9,460-square-feet, and a 7,800-foot-long water line (with accompanying access road) represents a dramatic change for this easternmost extension of the Malibu Creek core habitat area. Add 2.7 acres of paved road surface, several acres of fill slopes with concrete V-ditch systems (like a mass graded subdivision has), and over 11.5 acres of permanent brush clearance and the subject 156 acres have gone through a huge transformation.

Policy 68 of the Malibu LUP states, "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."

Policy 91 of the Malibu LUP states, "All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible."

Visibility of Each Project from Public Areas

All of the houses and driveway segments will be plainly visible from public areas. The applicant has made a valiant effort to blend the houses into the landscape but there is no way to make a 9,000-square-foot house with lots of windows invisible. During some times of day the houses would not be distinguishable but other times of day the sun angle would make them obvious. Plus the naked eye picks up details that photographic simulations do not.

A minimum of three houses will be clearly visible from Pacific Coast Highway, Malibu Lagoon State Park, Malibu Legacy Park, Malibu Bluffs Park, and Malibu Canyon Road. Several of the houses and driveway segments also will be visible from the proposed Coastal Slope Trail. This alignment courses through the southern end of the 156-acre property. The viewshed impacts from this trail will be visible both from the Malibu Canyon side and from the Las Flores Canyon Road, Carbon and Coal Canyon trail sections.

Four of the five houses are located on the primary ridgeline. The southernmost house (Vera LLLP) can indisputably be moved off of the ridgeline and closer to the access road.

California Coastal Commission

Application Nos. 4-07-067, 4-07-068, 4-07-146, 4-07-147, 4-07-148, 4-08-043

November 23, 2009

Page 7

This change would significantly reduce grading, impacts to ESHA and visual impacts. There is no justification under the Coastal Act not to relocate this house off of one of the most prominent ridgelines in the Santa Monica Mountains.

Less Obvious Impacts to be Analyzed

Any homes on the subject 156-acre site will be set against a dark sky in a light-element-free landscape spanning many square miles. Currently the site is comprised of unimpeded core habitat for animals and an unmarred daytime and nighttime viewshed. Because of the site's statewide significance, a nighttime viewshed analysis for each home compound is critical to understand permanent potential impacts. That impact analysis also must extend to the potential adverse impact on core habitat carrying capacity for insects, mammals, and reptiles.

The proposed greater-than-one-mile-long road essentially severs the subject 2,900 acre roadless area with a twenty-foot-wide path of pavement, guard rail structures, massive long retaining walls, numerous cut and fill slopes, concrete V-ditch systems, and energy dissipaters.

It is imperative that there be immutable conditions that no portion of the greater-than-one-mile-long road be lit in any manner.

Even with just a 150-foot-radius brush clearance zone around the center of each housing compound (not around the edge of the habitable structures as usually calculated at 200 feet) and just 10 feet of brush clearance on each side of the road, the project will produce a minimum of 11.5 acres of permanent fuel modification zone.

As proposed, any single proposed house with its associated section of roadway would result in an unavoidable significant adverse impact to a viewshed of statewide significance. When you add the minimum 2.25 acres of additional fuel modification zone per home on a ridgeline, the degree of those significant visual impacts substantially expands.

The applicants may say that the fuel modification zones will be greatly irrigated. Irrigation would help mitigate the visual impact but would result in extensive permanent use of water supplies. If the 7,800-foot-long waterline from Costa del Sol is denied by the Commission, requiring the five homes to use wells and trucked-in water, it is likely that extensive fuel modification irrigation will make those wells go dry and prevent implementation of the permanent irrigation mitigation measures. In addition, the ground water pumping could

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have adverse ecological impacts. Irrigation of fuel modification zones creates additional impacts in the semi-arid Santa Monica Mountains. Most importantly irrigation spreads the reach of Argentine ants and does alter the natural composition of native plant species in an area. On balance, fuel modification zone irrigation is a potential mitigation measure that unfortunately results in unavoidable additional adverse impacts.

The net result is that the houses should be clustered in the southern third of the 156 acres to share fuel modification zones and be closer to better potential groundwater sources and potential arrangements with Water Works District No. 29.

No one is forcing the applicant to build at the highest elevation sites. The water issues associated with this choice should not result in otherwise avoidable visual and ecological impacts to the Public Trust.

Growth-Inducing, Visual, and Ecological Impacts of 7,800-Foot-Long Water Main

The applicant's proposal to run an eight-inch water main to the site from the north with an accompanying dirt access road is fraught with additional growth-inducing, visual and ecological impacts. The applicant is using the same legal maneuver to run the water line to the farthest house. We urge the Commission to deny Application No. 4-07-068, which includes the whole 7,800-foot waterline extension.

The waterline would serve all five houses and clearly many other existing and potential new houses between Piuma Road and the site. The potential future impacts of the line far exceed the obvious impacts of the current proposal. Our concern is not so much that the waterline access road itself with all its retaining walls would facilitate growth. It is that the water will be brought into the proximity of an area with limited development. Many acres of ESHA would be disturbed by the pipeline.

Short of doing a pro forma for each potential undeveloped private parcel benefiting from the water line extension, it is speculation whether the new water availability would increase development. However, many of the houses in the subject neighborhood have failing wells and require supplemental trucked-in water in the summer. That fact says a lot about whether or not a new water main could facilitate new residential development. The applicants downplay the catalyst of extending a new water main.

California Coastal Commission

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November 23, 2009

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In addition, where houses already exist on private parcels, proximity to a new water main increases the likelihood of more agricultural, equestrian, non-native landscaping-type uses along with economic justification for expanded structure sizes and guest houses.

It is a circular argument to assert that wells are not feasible because piped water reduces impacts and improves fire fighting. That argument is a rationale to plumb the Santa Monica Mountains National Recreation Area.

Need for Conservation Easements on Every Lot

The statewide visual and ecological significance of the site warrants permanent protection of all areas not approved for development. The only way to guarantee such permanent protection is with conservation easements to public park agencies. The Mountains Recreation and Conservation Authority (MRCA) or the National Park Service are the most appropriate agencies.

The conservation easements must prohibit all disturbance other than fire department required fuel modification within 200 feet of habitable structures. Drip irrigation of native plants species approved by the easement holder should be the only other allowed use. It is critical that no non-native plants, lighting, pathways, or fencing of any type be allowed in the easements.

We urge the Commission to require a direct dedication of these easements and that the legal descriptions for the easements be drawn within 15 feet of any approved development.

We also urge the Commission to require limited conservation easements over all of the subject access roads and driveways to prevent any future road or driveway lighting. Such lighting, even if minimal, would greatly alter the impact footprints of the projects.

Impact of Road Through MRCA Fee Simple Parkland

We urge the Commission and staff to require all possible mitigation measures to reduce the visual and ecological impacts of the required road through MRCA parkland.

Need for Coastal Slope Trail Dedication

The attached Coastal Slope Trail alignment through the subject property is critical for a functional trail of regional significance. The proposed trail alignment goes through two of

California Coastal Commission

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Page 10

the subject lots APNs 4453-005-092 and 018 (Applications 4-07-068 and 4-07-146). One of those applications is associated with the discretionary waterline and the other one with the discretionary lot line adjustment.

We urge the Commission not to approve any projects involving APNs 4453-005-092 and 018 without adequate trail easements on both of the subject parcels. Fortunately the proposed trail is located as far away from those two proposed houses as possible.

Adequate trail easements should be broad enough to guarantee optimal trail alignment and the ability to make adjustments if there are land failures. Said easements must be a minimum of 100-foot-wide running along the parcel boundaries.

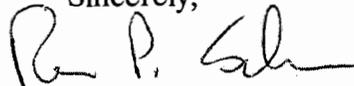
The trail easements must come as direct dedications to the MRCA or the National Park Service.

The applicant has proposed to the MRCA that the Coastal Slope Trail alignment only cross the access road once. The current alignment has it crossing three times as the trail switchbacks up slope. A ten percent grade is the maximum multi-agency standard for new trails. That grade reduces erosion and maintenance costs and the overall user experience is better and much safer for equestrians. We believe the applicant's suggested alignment will work, but cannot confirm that yet.

The applicant's suggestion for a single road-trail interface requires a retaining wall ramp leading up to the raised roadbed. The other side the trail exits onto a cut slope. The grade of the applicant's proposed trail is not known at this time. Clearly a compromise solution must be achieved to not require any section of trail to exceed ten percent grade. We applaud the applicant's effort to create a functional and scenic trail alignment.

Please address any questions to Paul Edelman of our staff at the above address and by phone at (310) 589-3200 ext. 128.

Sincerely,



RONALD P. SCHAFER
Chairperson

**Timm & Julie Woolley
3021 Rambla Pacifico
Malibu, CA 90265**

June 30, 2009

Coastal Commission
South Central Coast District Office
John Ainsworth, Deputy Director
Steve Hudson, District Manager

RECEIVED
JUL 06 2009

WILLIAMS
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

89 South California Street, Suite 200
Ventura, CA 93001-2801

Dear Sirs,

We wish to strongly protest three proposed structures that are outlined by story poles along the ridgeline just west of Carbon Canyon in Malibu. (Photos enclosed.) Structures built there would definitely have an impact on our view of the spectacular Santa Monica Mountain range, but more importantly, would be an eyesore in the middle of such a scenic and unspoiled (for millions of years!) natural wilderness.

In addition, we were under the impression that it was technically illegal to build structures along a ridgeline.

Neighbors have informed us that the issue of ridgeline protection has been addressed by the California Coastal Commission in the past:

www.coastal.ca.gov/lu/vus.pdf

We rely on your good judgment -- and authority -- to deny construction that would adversely impact a natural treasure like the Santa Monica Mountains, and to promote only *appropriate* construction.

Thank you,

*Julie Woolley
& Tim Woolley*

Ron and Sally Munro
3085 Rambla Pacifico Road
Malibu, CA 90265

RECEIVED
JUN 25 2009

June 23, 2009

Coastal Commission
South Central Coast District Office
John (Jack) Ainsworth, Deputy Director
Steve Hudson, District Manager

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

89 South California Street, Suite 200
Ventura, CA 93001-2801

Dear Commissioners,

We were outraged to see story poles for three structures placed on the ridgeline west of Carbon Canyon in Malibu. Our Rambla Pacifico neighborhood is on the west facing slopes east of Carbon Canyon and we would definitely object to the impact of structures perched on that ridge line. A Google satellite map showing the approximate location of the story poles relative to our home is enclosed. The photos show that the impact will affect views from both the east and west sides of the ridge.

It is our understanding that ridgeline protection is one of the mandates under the purview of the California Coastal Commission. We trust you will be able to work with the builders to relocate the structures further down the slope to avoid the disruption of this scenic view.

Internet research of ridgeline protection and the California Coastal Commission shows that this issue is important to many and has been addressed by your agency in the past. For example, from www.coastal.ca.gov/lu/views.pdf.

CDP Appeal: A-3-SLO-99-014 and A-3-SLO-99-032 (Morro Bay Limited, a.k.a. Sea-West Ranch). This project involved lot reconfiguration and the development of 8 large residential structures on 746 acres of agricultural land on the rural relatively undeveloped Harmony coast in San Luis Obispo County. (See description relative to the Schneider appeal below.) The Commission approved the project, requiring resiting and redesign to protect scenic resources, including views from state waters (from shoreline to 3 miles offshore). The adopted summary findings supporting the Commission's action included the following: *All future development will need to comply with siting and design criteria to protect views from public viewing areas, including state waters. Specifically, development must be designed to blend in with and be subordinate to the natural landscape, including limiting height and vertical features above ridgelines; using earthtones and non-reflective materials; and limiting exterior lighting (see Condition 3i for more detail).*

Our architect took care to nestle our hillside home into the site when we built in 1972, a wise plan both for aesthetics and fire protection. We expect the same sensibility from others. Please use your authority to promote appropriate construction and protect the view from the surrounding area.

Sincerely,

Sally and Ron Munro

SURFER

SURFERS

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JEFF DIVINE
PHOTO EDITOR

April 20, 2009

In reference to the proposed property development at Sweetwater mesa;

My name is Jeff Divine. I am a fourth generation Californian raised in La Jolla and I have been involved with the ocean- nature aspect of our coastline for over 40 years as a Surf photographer and photo editor for Surfer magazine and The Surfer's Journal. In this capacity, I have been involved in numerous projects to help protect the integrity of our Pacific coast through The Surfrider Foundation, The Ocean Institute and The Surfing Heritage Foundation .

Having reviewed the Sweetwater Mesa project and knowing the work of the designer Wallace Cunningham, I can not imagine another project for this area that would conform so closely to the natural land forms and coastal environment in a natural beautiful way. Cunningham's project here lends itself to nature ,he being from the organic school of architecture, rather than using the common boxy approach to structures seen all along the California coast. The large parcel allows each project to breathe ,not violating view corridors and would be further enhanced with proposed plantings of native California oak trees.

Thank you for taking my comments into consideration.

Please feel free to call in necessary.

Thank you,

Jeff



Jeff Divine
Photo Editor
The Surfer's Journal
191 Avenida La Pata
San Clemente, Calif 92673
Phone # 949 361 0331
jeff@surfersjournal.com

RECEIVED
APR 22 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

ex. 24

George Toberman

From: "George Toberman" <georgetoberman@verizon.net>
To: "George Toberman" <georgetoberman@verizon.net>
Sent: Sunday, March 22, 2009 12:16 PM

RECEIVED
MAR 25 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

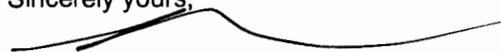
California Coastal Commission

March 21, 2009

Re: U2-Edge

As a resident of Serra Retreat, Malibu, I support an individual's right to build a home on their property. There are regulations as to how large and how high a structure can be depending on the size of the lot. There are also guidelines as to how much grading can be done. I'm sure they comply 100%. A single family residence should not need an E.I.R. If you require it for this house then require for all houses. I feel the home will be an asset to our community.

Sincerely yours,


George Toberman

3539 CROSS CREEK LANE
MALIBU, CA. 90265

ex. 24
3/22/2009



Cox, Castle & Nicholson LLP
2049 Century Park East, 28th Floor
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P 310.277.4222 F 310.277.7889

Stanley W. Lamport
310.284.2275
slamport@coxcastle.com

VIA OVERNIGHT COURIER

October 18, 2010

Mr. Jack Ainsworth
California Coastal Commission
South Central Coast District Office
89 S. California Street Suite 200
Ventura, California 93001-2810

RECEIVED
OCT 19 2010

File No. 51037

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: Coastal Development Permit Application No. 4-10-042

Dear Mr. Ainsworth:

This firm represents Mulryan Properties LLLP, the applicant for the coastal development permit ("CDP") listed above. This letter is a follow up to our previous conversations with Coastal Commission staff with respect to the alleged "unity of interest" between our client and the four other property owners with pending applications at Sweetwater Mesa. As we will explain in this letter, there is no "unity of interest" between our client and the neighboring applicants. There is no basis for treating our client and the other applicants as one person. The Commission does not have the authority to compel our client to combine its property with the other applicants' properties; it is an unauthorized taking and exceeds the Coastal Commission's authority under California law.

At the outset, it is important to point out that as we have previously informed Commission staff, all of the five applications are brought by five separate and distinct legal entities and relate to five separate and distinct legal parcels. Contrary to prior speculation, these entities are not under common ownership. We enclose Certificates of Ownership (Exhibit 1), which show that Tim and Gillian Delaney are the sole owners of Mulryan Properties LLLP. Our client has agreed to submit this information without waiving any of its privacy and other rights or such rights of its owners, all of which are reserved to the fullest. We trust, however, that the Certificates fully and finally prove that our client is separately owned.

We emphasize, however, that the Commission has no authority to even consider a "unity of interest" theory in evaluating our client's application.

First, each of the applicants is a separate entity under California law. Indeed, the Coastal Act section 30111 defines a "person" to mean "any individual, organization, partnership, limited liability company, or other business association or corporation..." (Pub. Res. Code, § 30111.) Furthermore, Coastal Act section 30600(a) requires every person, as defined in Public

Resources Code section 21066 to obtain a coastal development permit. Public Resources Code section 21066 defines a "person" to include "any person, firm, association, organization partnership, business trust, corporation, limited liability company [or] company..."

Under either formulation, our client is a legally recognized person under the Coastal Act as are the other four owners. The Commission does not have any authority to treat our client otherwise.

Second, the Commission has no authority to ignore our client's corporate form. "Unity of interest" is a concept associated with the alter ego doctrine under California law. It is a legal question, which only the courts have the authority to adjudicate. There is nothing in the Coastal Act that would allow the Coastal Commission to adjudicate the question. California courts have made clear that the Commission does not have the authority to adjudicate legal questions. (See *LT-WR, L.L.C. v. California Coastal Com* (2007) 152 Cal.App.4th 770, 806.)

Furthermore, even if the Commission could adjudicate the issue (which it cannot), alter ego cannot be established where, as here, the corporate form has been observed. (See e.g. *Automotriz del Golfo de California S.A. de C.V. v. Resnick* (1957) 47 Cal.2d 792, 796; see also *Calvert v. Huckins* (E.D. Cal. 1995) 875 Fed. Supp. 675, 678-679.) There is no evidence that our client's corporate form has not been observed and the Commission has no authority to adjudicate such a claim.

Third, the subject parcels are all separately owned legal parcels. The Commission cannot require the owners to apply for lot line adjustments and thereby force one owner to convey its land to another. The US Supreme Court has been clear that this would violate the owners' substantive due process rights. (*Missouri Pac. Ry. Co. v. State of Nebraska ex rel. Board of Transportation* (1896) 164 U.S. 403, 417.) "The taking by a state of the private property of one person or corporation, without the owner's consent is a violation of the [fourteenth amendment] of the Constitution of the United States." (*Id.*)

Requiring a lot line adjustment would be an illegal taking because there is no nexus between the requirement and an impact the proposed homes will create. (See *Nollan v. California Coastal Commission* (1987) 483 U.S. 825, 836-837.) The configuration of the lots is an existing condition not created by the proposed development of the residences. Exactions and dedications cannot be used to remedy pre-existing conditions the project did not create. (*Rohn v. City of Visalia* (1989) 214 Cal.App.3d 1463, 1475-1477; *Liberty v. California Coastal Commission* (1980) 113 Cal.App.3d 491, 502.)

Fourth, the California Supreme Court has been clear that the Subdivision Map Act prevents agencies from requiring that legal parcels be merged as a requirement to issue a development permit. (See *Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725, 732.) In deciding *Morehart*, the California Supreme Court held that the Subdivision Map Act supersedes local regulation of the creation and reconfiguration of lots. The Court held that, absent authority in the Map Act that would allow a city or county to compel a merger, any such city or county

requirement is null and void. This would even be the case if the parcels were held by the same owner, which they are not. (Gov. Code, § 66451.10 (previously-created contiguous parcels are not deemed merged by virtue of the fact they are held by the same owner).)

While *Morehart* concerned whether a county could require a merger as a condition of permit approval that was not authorized by the Map Act, the conclusion would be the same here. Under *Morehart*, the Commission cannot require the land owners to reconfigure their parcel as a condition of obtaining a CDP.

Furthermore, the Commission has set precedent in previous CDP proceedings that it has no power to question the ownerships of separate legal entities in order to require them to reconfigure their separately-owned legal lots. In fact, the Commission was faced with precisely this issue approximately ten years ago. In CDP applications filed by World Wide Resources, Inc., Vinetta E. Lough, Roger and Richard Lough (CDP No. 4-93-144, 4-93-145, 4-93-146, 4-93-147, 4-93-148, 4-93-149), the applicants proposed six single family homes on six different lots, in conjunction with four lot line adjustments.

At the hearing in which the Commission approved the six applications, Commissioner Glickfeld raised the "unity of interest" issue and questioned whether the Commission should to deny the CDPs because the same family allegedly owned all the ownership entities. She asked whether the six houses were a single project and whether the six lots could have been reconfigured to cluster the houses to reduce impacts. In response, Chief Counsel Faust advised unequivocally on the record that the Commission did not have authority to order the reconfiguration of the lots or to deny the CDPs on that basis. The pertinent part of the exchange between Ms. Glickfeld and Mr. Faust is as follows:

Commissioner Glickfeld: Do we have the ability, under the Constitution, and under the Coastal Act, to deny the use -- deny the present applications before us, on four of these lots, and approve it on two of these lots with findings what indicates that a lot line adjustment between these lots, or a reconfiguration and clustering of the lots, with would keep the -- which would shorten the road, minimize the impacts of Solstice Canyon? Is that something within our legal ability?

Chief Counsel Faust: Through the Chair. Commissioner Glickfeld, I can go into -- or try to -- as much detail as you want, but the basic answer to your question, Ms. Patterson and I agree, is no, the Commission does not have the authority to order the reconfiguration of the lots, and --

Commissioner Glickfeld: I didn't say to order the reconfiguration of the lots --

Chief Council Faust: -- you don't have the --

Commissioner Glickfeld: -- I asked do we have the ability to deny them --

Chief Council Faust: -- ability to order the reconfiguration. You do not have the ability to deny on that basis.

Commissioner Glickfeld: Even though they conflict with the Coastal Act, and the plan?

Chief Council Faust: There are existing legal lots there. Under the present law, as we understand it, the owners of existing legal lots have the Constitutional right to economic use of their property.

Under the Constitution, you are charged on a lot-by-lot basis with making a determination as to first whether or not what they propose is consistent with Chapter 3 of the Coastal Act. Second, if you believe that it is not consistent with Chapter 3 of the Coastal Act, then you move to a Constitutional question of what economic use of that property is permissible. (May 11, 1994 Transcript, p. 57, 58 [Exhibit 6].)

Mr. Faust not only advised that the Commission did not have the authority to order reconfiguration of the lots or deny approval on that basis, also warned that, under the United States Constitution, the Commission is charged on a lot-by-lot basis with making a determination as to whether not the proposed development is consistent with Chapter 3 of the Coastal Act. (*Id.*) The Commission thereafter approved the CDP applications.

The Commission reaffirmed its decision on September 8, 2010, when it extended the expiration of the CDPs. The written findings in support of the recent CDP extensions reaffirm that the Executive Director has found the projects to be in conformance with Section 13169 of the Coastal Act and that there are no changes circumstances affecting the proposed project's consistency with the Coastal Act. (Exhibit 7 – Coastal Development Permit Extensions.)

By granting the extensions last month, the Commission publicly reaffirmed its position that nothing has changed with respect to the circumstances, policy, or operation of law that would render the previously approved developments inconsistent with the Coastal Act. This includes the question of ownership that was raised during the Coastal Commission hearing. The Commission cannot now conclude arbitrarily that the separate legal ownerships can be disregarded on based on a “unity of interest” theory in light of the fact that it refused to apply such a standard in virtually identical circumstances.

The Constitutional requirements to assess each legal lot on its own apply regardless of the facts of the particular case. However, it is notable that the properties at issue in the World Wide Resources matter are indistinguishable from the properties at issue here. Just as in this case, the applicants in the World Wide Resources project coordinated their CDP

applications and processed them concurrently. Current processing is occurring in this case because Commission staff requested that our client and the other applicants process their applications in that manner.

The World Wide Resources project and the pending Sweetwater Mesa applications arise from remarkably similar circumstances. The attached exhibits demonstrate that both sets of properties are in the Santa Monica Mountains close to each other, the parcels are a similar number, shape and size and share similar topography. The attached exhibits clearly make the point.

Exhibit 1 – Vicinity Map

- The proposed and approved developments are located in close proximity to one another in unincorporated Los Angeles County within the Santa Monica Mountains. Additionally, the two developments are in similar proximity to the coastline.

Exhibits 2a & 2b – Project Descriptions

- Similar to the approved development, the proposed development requests the approval for a Coastal Development Permit for a single family residence on each legal parcel.
- The approved development consisted of six legal properties owned by four separate entities. The proposed development consists of five legal properties owned by five separate legal entities.

Exhibits 3a & 3b – Topographic Maps and Access Roads

- The approved development included a 13,500 foot long access road to each of the six approved residences. The approved road followed the top of a ridge line with often steep topography on either side. The proposed access road, which is only 4,900 linear feet, closely follows the gentler topography to each of the five proposed residences.

Exhibits 4a & 4b – Site Photographs

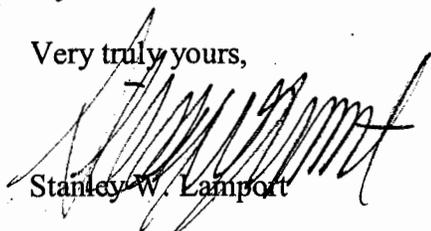
- Site characteristics such as topography and vegetation are substantially similar between the approved development and the proposed development.

California Coastal Commission
October 18, 2010
Page 6

All of this underscores that fact that the Commission has no basis to treat our client and it's neighbors differently than it treated the applicants in the World Wide Resources project.

For all of these reasons, there is no basis for the Commission to inquire as to the ownership of each entity. The Commission has no authority to assert a "unity of interest" or to deny our client's application based on such a theory.

Very truly yours,

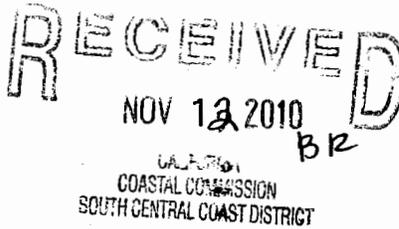


Stanley W. Lampert

SWL/JRR/rs1

510374027936v4

cc: Mr. Steve Hudson
Ms. Deanna Christensen
Hope A. Schmeltzer, Esq.
Jamee J. Patterson, Esq.
Mr. Donald W. Schmitz
Mr. Matthew Jewett



November 9, 2010

Client-Matter: 43885-030

BY OVERNIGHT DELIVERY

Jack Ainsworth
California Coastal Commission
South Central Coast District Office
89 S. California Street Suite 200
Ventura, California 93001-2810

Re: Coastal Permit Application No. 4-10-043; APN: 4453-005-091

Dear Mr. Ainsworth :

This firm represents Morleigh Properties LLLP, the applicant for the coastal development permit ("CDP") referenced above for the parcel whose APN is set forth above for your convenience. This letter responds to issues raised by Coastal Commission staff with representatives of some of the other four property owners with pending applications at Sweetwater Mesa . As I understand it, those issues revolved around an alleged "unity of interest" among our client and the four other owners.

We believe that there is no such "unity of interest" between our client and its neighboring applicants. We believe that there is no basis for treating our client and its neighboring applicants as a single applicant. Indeed, we believe that any such treatment would exceed the Coastal Commission's authority under California law.

My client is Morleigh Properties, LLLP. The enclosed certificates show that the two partners of Morleigh are Chantal O'Sullivan and Lisa Menichino.

I understand that representatives of some of the other four owners have provided information about their ownership entities, showing that in each case the entity is properly formed under applicable law and distinct from those entities which are the owners of the adjacent properties.

Under the Coastal Act section 30111, a "person" means "any individual, organization, partnership, limited liability company, or other business association or corporation..." (Pub. Res. Code, § 30111.) The requirement of the Act is that "every person" who wishes to engage in activity which requires a permit must apply for such a permit. Public

Jack Ainsworth
November 9, 2010
Page 2

Resources Code section 21066 defines a "person" to include "any person, firm, association, organization partnership, business trust, corporation, limited liability company [or] company..."

Since our client is a separate entity/person, distinct from the other four owners, the Commission does not have any authority to conflate our client with its neighboring owners. The Commission cannot simply elect to ignore the legal formalities and determine that it will treat separate entities as one, barring a judicial adjudication that in fact these are one entity notwithstanding their separate formations and ownership. As you may know, under California law it is very difficult to disregard separate legal entities. Where that is done, it is generally because the entities themselves have obscured their separate ownership by failing to treat themselves as separate entities. We are aware of no evidence that our client has in any way acted as if it either was not itself a separate entity or as if it was somehow involved in the entities which own neighboring parcels. If you have such evidence, please provide it to us so we can review and evaluate it.

Since the above-referenced parcel and its neighboring parcels are all separately owned legal parcels, we do not believe that the Commission can require the five separate owners to apply for lot line adjustments and conveyances from one owner to another. We believe that the US Supreme Court has made it clear that this would violate the owners' substantive due process rights. (*Missouri Pac. Ry. Co. v. State of Nebraska ex rel. Board of Transportation* (1896) 164 U.S. 403, 417.) "The taking by a state of the private property of one person or corporation, without the owner's consent is a violation of the [fourteenth amendment] of the Constitution of the United States." (*Id.*)

Moreover, such an action would surely constitute a taking which would violate the requirements for a legal nexus which the court enunciated in *Nollan v. California Coastal Commission* (1987) 483 U.S. 825, 836-837.) The reconfiguration of the 5 existing lots cannot be forced upon adjacent property owners.

We believe that the Commission has always accepted *bona fide* ownership by separate entities of adjacent parcels. Indeed, until now, it has accepted the separate ownership of these very parcels. The Commission cannot and should not now alter its prior actions and arbitrarily determine without any evidentiary determination by a trier of fact that the separate legal ownerships at Sweetwater Mesa can be disregarded.

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STATE OF CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

In sum, we believe that there is no basis for the Commission to assert a "unity of interest" among the five Sweetwater Mesa applicants, nor to deny our client's application based on such a theory.

Very truly yours,



Timi Anyon Hallem
Partner
Manatt, Phelps & Phillips, LLP

cc: Chantal O'Sullivan

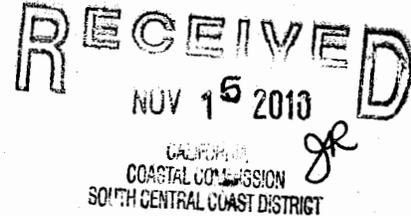
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PAUL J. WEINBERG
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Irvine, California 92612-1099



November 11, 2010



Mr. Jack Ainsworth
California Coastal Commission
South Central Coast District Office
89 South California St., Suite 200
Ventura, CA 93001-2810

Via US Mail and Federal Express

RE: Ronan Properties, LLLP – Coastal Development Permit
Application No. 4-10-044

Dear Mr. Ainsworth:

I am the attorney for the applicant, Ronan Properties, LLLP, the applicant in the above listed application for Coastal Development Permit. As you know, my client is one of five (5) applicants for a CDP in the area at the end of Sweetwater Mesa Road in unincorporated Malibu. I am writing to you because my client has been made aware of further efforts by the Commission to assert a “unity of interest” theory to force all of the applicants to reconfigure their lots to concentrate their homes in one area.

I have now had the chance to review the October 18th, 2010 correspondence of Attorney Stanley Lamport and the November 9, 2010 correspondence of Attorney Timi Hallem on this point. In their correspondence, they raise a number of legal and factual objections to the Commission’s assertion of the “unity of interest” theory between Mr. Lamport’s client, Mulryan Properties, LLLP, and Ms. Hallem’s client, Morleigh Properties, LLLP.

As I understand the Commission’s position and their actions, the Coastal Commission wishes to assert the “unity of interest” theory to determine that, in fact, all five of the parcels are supposedly owned by the same person and/or entity. Therefore, so the reasoning goes, the lots should be reconfigured and any structures should be clustered on the Southernmost area of the properties, leaving the Northern area of the properties undeveloped.

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This attempt to assert this unauthorized power is, on its face, objectionable. In replying to it, Ms. Hallem's letter raises the very same objection that I would on behalf of Ronan Properties, LLLP:

"We believe that there is no such 'unity of interest' between our client and its neighboring applicants. We believe that there is no basis for treating our client and its neighboring applicants as a single applicant. Indeed, we believe that any such treatment would exceed the Coastal Commission's authority under California law."

(Letter of Timi Hallem of November 9, 2010 to Jack Ainsworth Re: Coastal Permit Application No. 4-10-043; APN: 4453-005-091)

Most of Mr. Lamport's letter and a great deal of Ms. Hallem's letter give significant, explicit legal detail and justification for why this doctrine cannot be applied by the Coastal Commission and, in particular, why it factually cannot be applied here. None of Ronan Properties, LLLP's owners own any of the other four adjacent parcels. In point of fact, Dean McKillen, the General Partner of Ronan Properties, LLLP and a fifty percent owner of that entity, is certifying under penalty of perjury, in his enclosed "Certificate of Ownership" that in fact he is the fifty percent owner and the general partner of Ronan Properties, LLLP, the record owner of the above-listed parcel.

Mr. Lamport, in his letter, has been able to, with thorough research, assemble a great deal of factual detail showing that *the Commission attempted to assert this very same doctrine against an applicant attempting to obtain Coastal Commission approval for a subdivision located just a few miles from this one.* As Mr. Lamport's letter put it on page three, paragraph three:

"Furthermore, the Commission has set precedent in previous CDP proceedings that it has no power to question the ownerships of separate legal entities in order to require them to reconfigure their separately-owned legal lots. In fact, the Commission was faced with precisely this issue approximately ten years ago. In CDP applications filed by World Wide Resources, Inc., Vinetta E. Lough, Roger and Richard Lough (CDP No. 4-93-144, 4-93-145, 4-93-146, 4-93-147, 4-93-148, 4-93-149), the applicants proposed six single family homes on six different lots, in conjunction with four lot line adjustments. ...

"Mr. Faust [Ralph Faust, Coastal Commission General Counsel] not only advised that the Commission did not have the authority to order reconfiguration of the lots or deny approval on that basis, [but] also warned that, under the United States Constitution, the Commission is charged on a lot-by-lot basis with making a determination as to whether [or] not the proposed development is consistent with Chapter 3 of the Coastal Act. ... The Commission thereafter approved the CDP applications."

The Commission is therefore faced with a twin conundrum: it is attempting to assert a position that has no basis in the law and, perhaps more obviously, was told by

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its chief attorney ten years ago when it tried to do the very same thing, that it lacked the authority to do.

For the Commission to take such an *ultra vires* act, so far in excess of its authority, would not only subject it to liability for inverse condemnation, but borders on creating the impression that a vendetta is being pursued against this particular set of lot owners with no basis. The clear identity of situations between the World Wide Resources and these applicants was made very clear in the accompanying graphics to Mr. Lamport's letter;

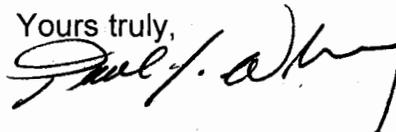
- the aerial photos show just how close the two sets of lots are located in relation to each other, and also;
- that the topography is nearly identical,
- access, view, density and environmental conditions are essentially identical.

Mr. Lamport's letter details, on its pages 3 and 4, the portions of the transcript of the World Wide Resources hearing where Commissioner Glickfeld repeatedly attempted to impose these conditions on the applicants; the statements by its general counsel were unequivocal, and apply with equivalent force here. This Commission cannot, under California law, deprive an applicant of all use of its property without compensation, and, as Ms. Hallem's letter points out:

"Moreover, such an action would surely constitute a taking which would violate the requirements for a legal nexus which the court enunciated in Nollan v. California Coastal Commission (1987) 483 U.S. 825, 836-837.)"

For all of these reasons, Ronan Properties, LLLP objects to the imposition of the "unity of interest" doctrine and joins in Mr. Lamport's and Ms. Hallem's requests, on behalf of their clients, that the Commission reverse its determination that it can apply this doctrine to these applicants.

Yours truly,



PAUL J. WEINBERG

PJW:tc

Cc: Dean McKillen