

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

Tn 8a-f



SIERRA CLUB
FOUNDED 1892
Angeles Chapter

3435 Wilshire Boulevard
Suite 320
Los Angeles, CA 90010-1904

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(213) 387-4287 phone
(213) 387-5383 fax
www.angeles.sierraclub.org

February 4, 2011

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

To: the California Coastal Commission,

Re: Applications 4-10-040, -041, -042, -043, -044, and -045 ("The Edge")

The Executive Committee of the Angeles Chapter, acting at the request of Sierra Club California has voted overwhelmingly to support the staff recommendation of denial of the above applications for five homes 1000' to 1700' above the ocean on the most prominent coastal ridgeline in the Santa Monica Mountains, including a 7400' extension of a steep, mile-long substandard road and an even more growth-inducing 8000' water line brought down from the 2200' elevation on Saddle Peak.

The prominent ridgeline these applications propose to develop is designated a "significant ridgeline" in the LUP and in Los Angeles County's Draft Santa Monica Mountains LCP. It is one of the most impressive interfaces of coast and mountains to be found anywhere in the state. It is basically the coastal slope of Saddle Peak, which rises to an elevation of 2805' within 2.4 miles of the ocean.

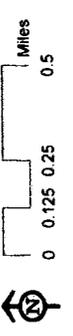
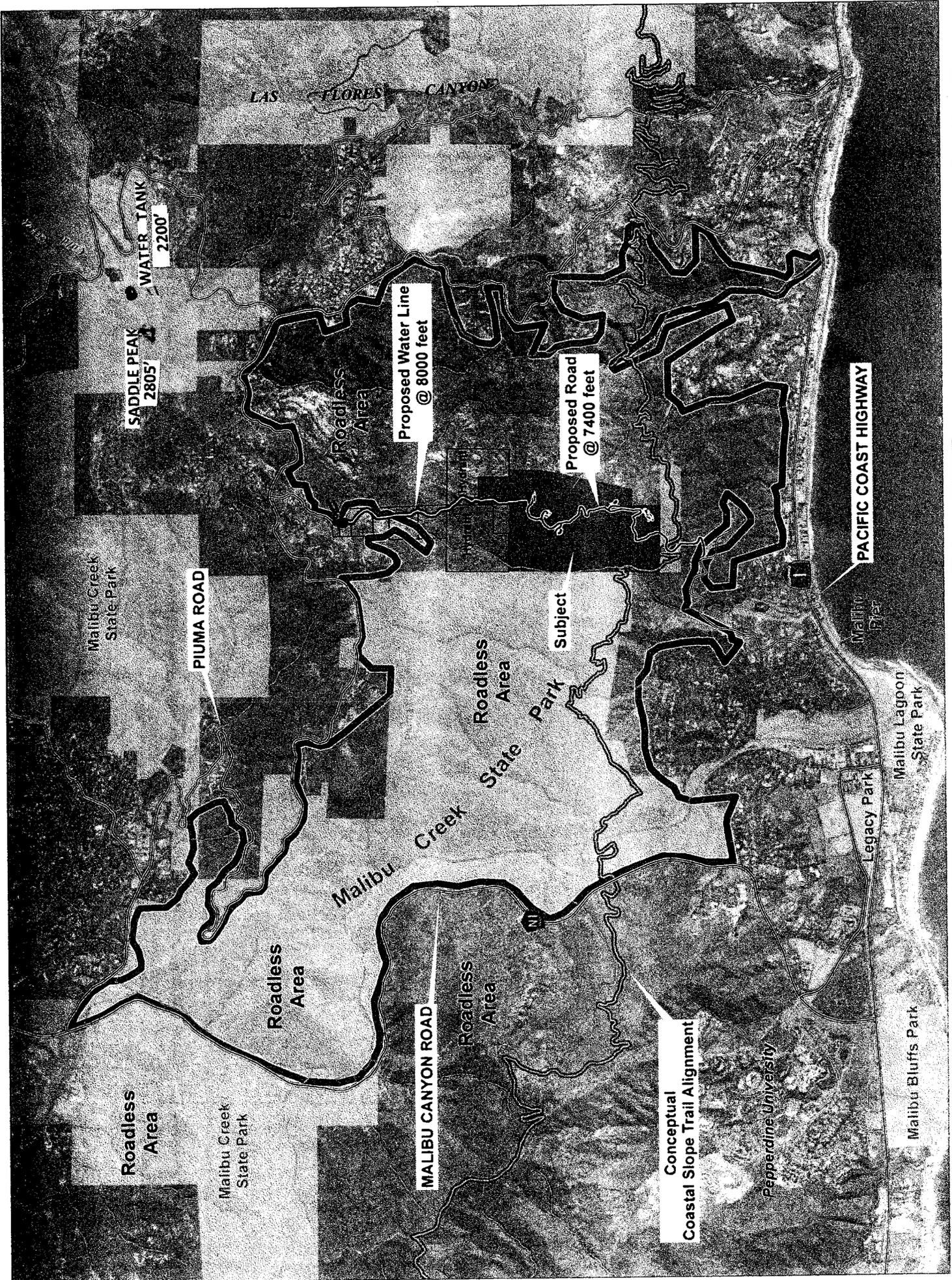
Saddle Peak is not in faraway Big Sur; it is within one of the ten largest metropolitan areas in the world and dominates the view from beaches, piers, and waterfront parks all around Santa Monica Bay.

The Santa Monica Mountains Conservancy has mapped a 2920 acre area of roadless core habitat ESHA surrounding the project site on all sides (outlined in purple on the enclosed map). The proposed access road (black bordered in yellow), the five scattered ridgetop building sites (in yellow), and the water line extension (blue outlined in black) would bisect this core habitat area and facilitate the piecemeal development of the remainder.

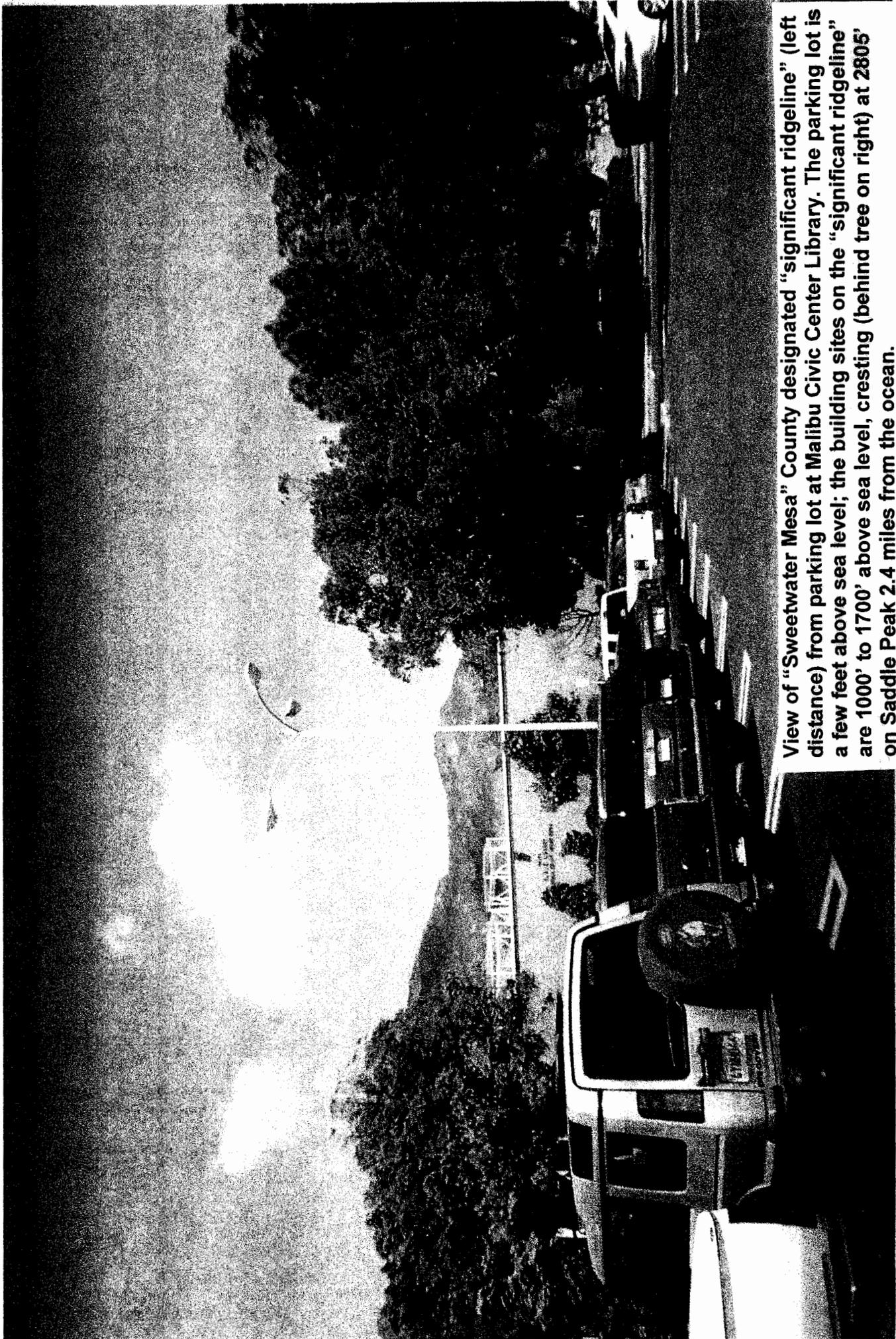
Please support the denial of the above applications,

Mary Ann Webster, Chair *Mary Ann Webster*

Santa Monica Mountains Task Force, Angeles Chapter, Sierra Club



Eastern Malibu Canyon Roadless Area (2920 Acres)



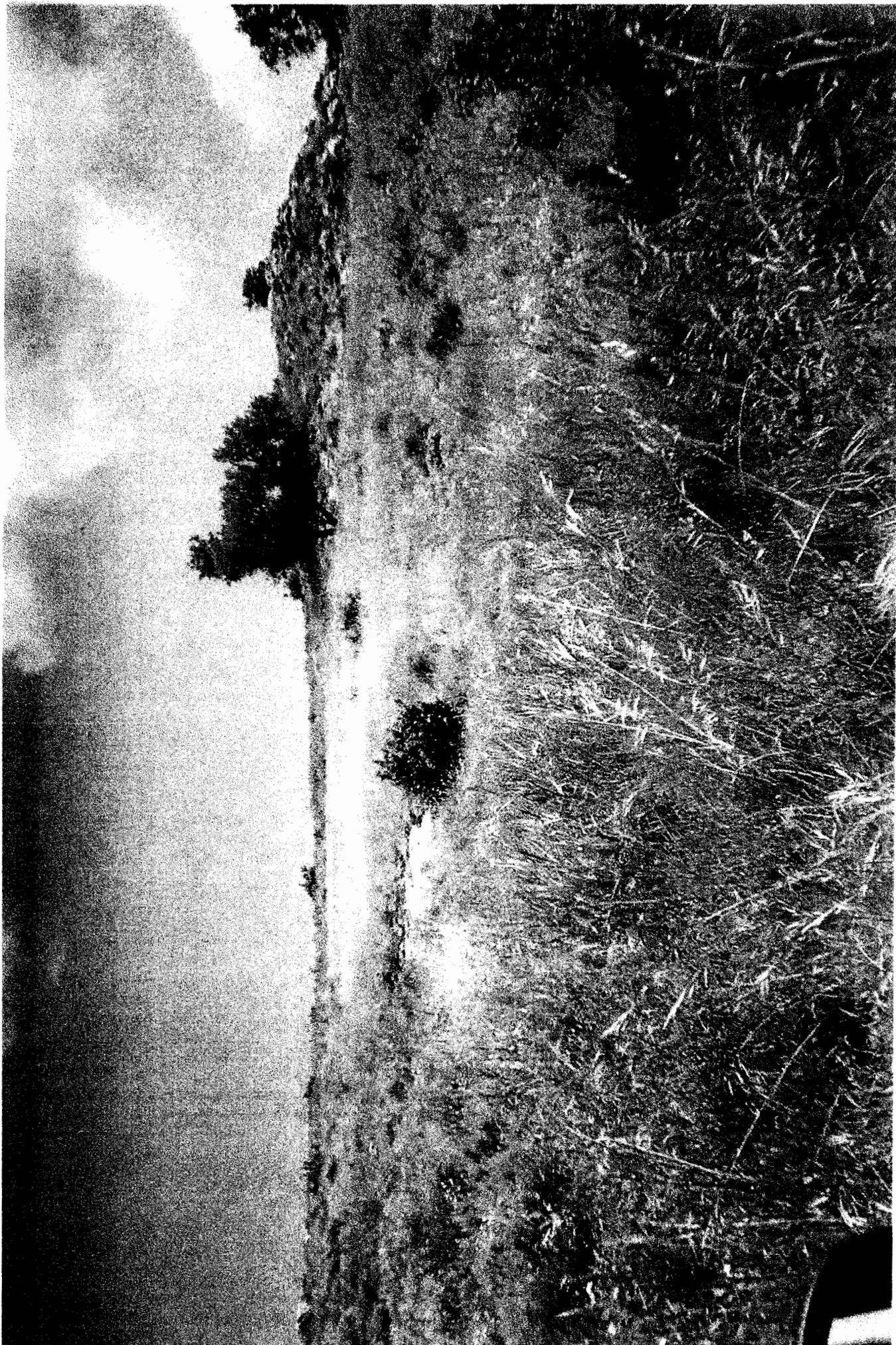
View of "Sweetwater Mesa" County designated "significant ridgeline" (left distance) from parking lot at Malibu Civic Center Library. The parking lot is a few feet above sea level; the building sites on the "significant ridgeline" are 1000' to 1700' above sea level, cresting (behind tree on right) at 2805' on Saddle Peak 2.4 miles from the ocean.



View looking west from "Lunch" building site at 1000' above sea level. Malibu and Pacific Coast Highway on left 1000' below viewer. Try to imagine how five mansions here could be defended and evacuated in a chaparral fire driven by gale force winds with flames 100' to 200' high. Would emergency vehicles even try to come up here in a fire? Does it make sense to extend infrastructure (road, water line) and induce growth in such a hazardous location? This ridge is designated a "Significant Ridgeline" in Los Angeles County's adopted draft of the Santa Monica Mountains LCP.

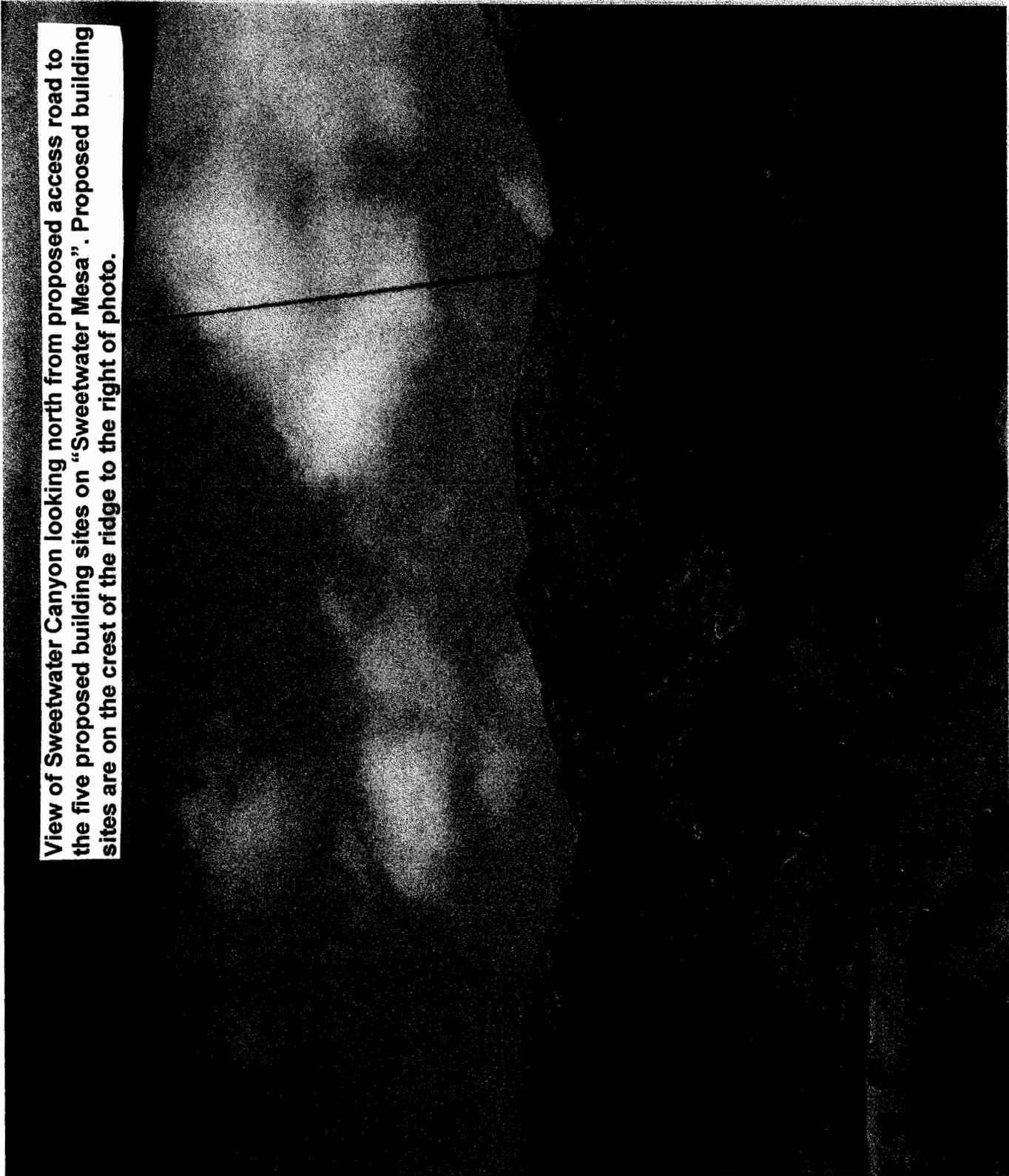
A black and white photograph showing a landscape with a rocky ridge. The foreground is a grassy meadow. To the right, a steep, mapped landslide is visible. The ridge extends into the distance under a cloudy sky.

View looking north from "Lunch" building site at 1000' elevation toward "Morleigh", "Mulryan", and "Ronan" building sites on rocky ridge ranging up to 1700' above sea level. Note very steep access road to "Mulryan" site to left of center of rocky ridge. The grassy meadow in the foreground (the "Lunch" site) is actually a mapped landslide still being tested.

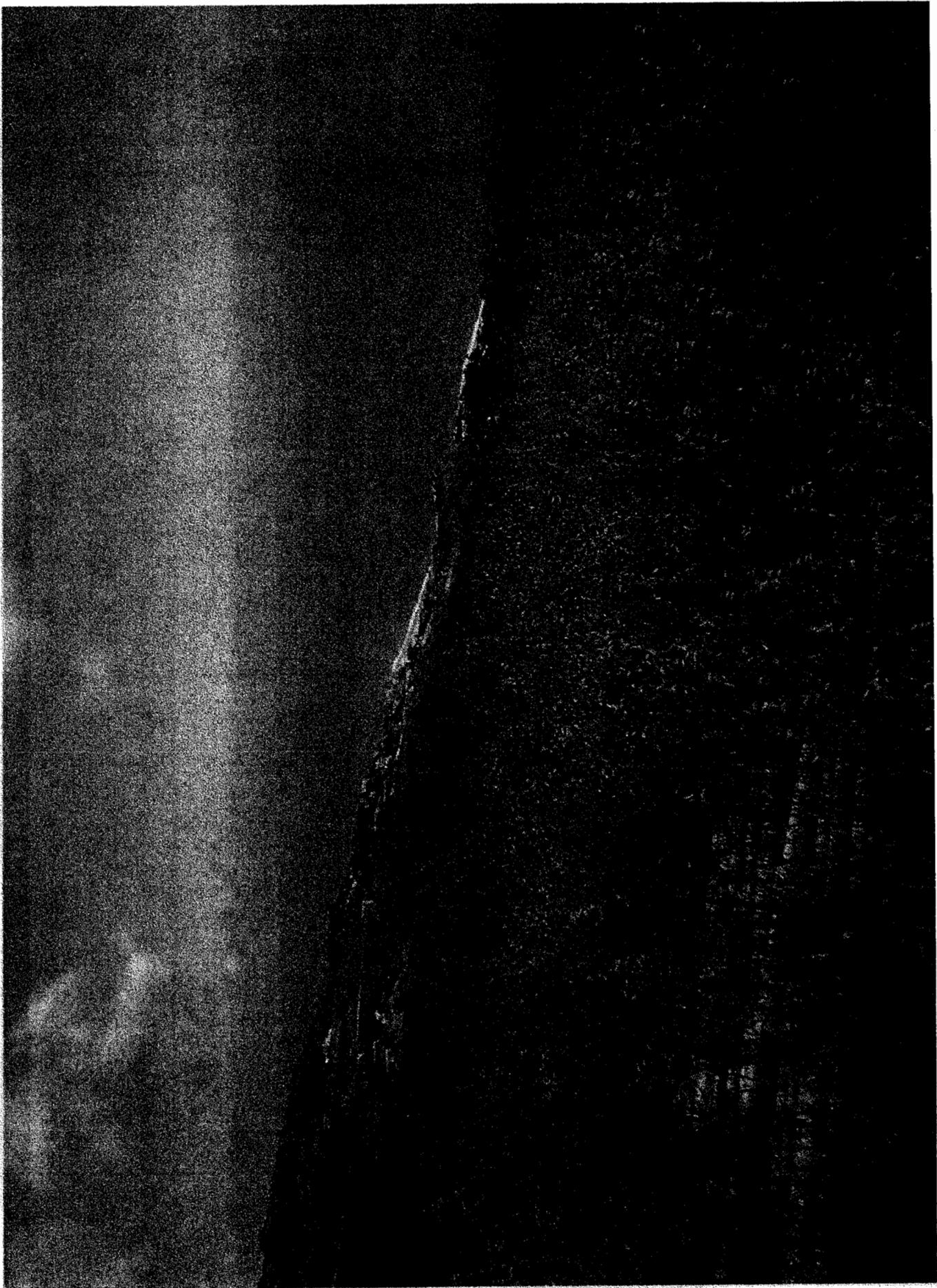


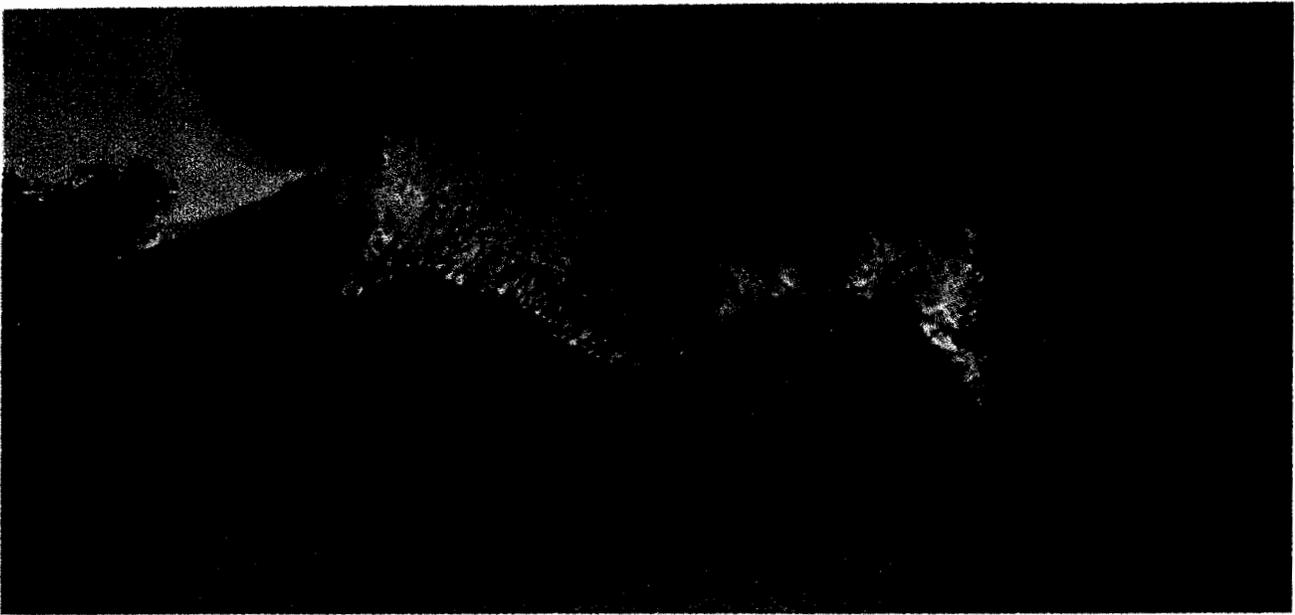
View at 1000' looking south across mapped landslide (grassy meadow) to "Vera" site (behind rocky knoll on right).

View of Sweetwater Canyon looking north from proposed access road to the five proposed building sites on "Sweetwater Mesa". Proposed building sites are on the crest of the ridge to the right of photo.



View looking east from proposed "Lunch" building site 1000' above Santa Monica Bay. Santa Monica and the Los Angeles Basin, normally visible in the center background of this photo are obscured by haze.





This burning mountain shows that houses situated on ridges and sideslope are extremely vulnerable to fire.

WIND-DRIVEN FIRE IN COASTAL CHAPARRAL IN PACIFIC PALISADES A FEW MILES EAST OF THE SWEETWATER MESA APPLICATIONS. THIS LOCATION IS SIMILAR TO SWEETWATER MESA, THOUGH THE RIDGE IS NOT AS HIGH.

PLEASE NOTE THE SIZE OF THE FLAMES, WHICH MUST BE AT LEAST 50' TO 60' LONG. NOTE HOW THE WIND DRIVES THEM UP THE MOUNTAINSIDE AND OVER THE CREST, TURNING THE RIDGETOP - WHERE DAVID EVANS WOULD LOCATE MOST OF HIS PROPOSED HOUSES - INTO A RED, FIERY FURNACE.

HOW COULD ANY STRUCTURE, NO MATTER HOW IT IS CONSTRUCTED, WITHSTAND THE HEAT OF SUCH A FIRE. FURTHERMORE, COULD THE COMMISSION BE CERTAIN THAT THE INHABITANTS COULD ESCAPE FROM SUCH A HOLOCAUST, ESPECIALLY IF THEIR ONLY ACCESS IS A SINGLE LONG, STEEP, WINDING SUBSTANDARD ROAD THROUGH BURNING CHAPARRAL.

THE ONLY WAY TO MAKE SUCH BUILDING SITES SAFE FOR HUMAN HABITATION IS TO REMOVE VIRTUALLY ALL OF THE FUEL (i.e. THE COASTAL SAGE AND CHAPARRAL ESHA) AND DENUDE THE PROPERTY OF MOST OF ITS NATIVE COVER. SUCH EXTREME MITIGATION WOULD MAKE A MOCKERY OF SECTION 30240 OF THE COASTAL ACT.

REMOVAL OF SUFFICIENT NATIVE GROWTH TO REDUCE THE FIRE HAZARD TO ACCEPTABLE LEVELS WOULD CONTRIBUTE TO SLOPE INSTABILITY IN VIOLATION OF SECTION 30253 OF THE COASTAL ACT.

Photo From Homeowner's Guide to Fire and Watershed Safety at the Chaparral/Urban Interface, Published by the Los Angeles County Fire Department.

THIS DIAGRAM WAS PUBLISHED IN *THE TIMES* IN APRIL, 2004, AS PART OF AN ARTICLE EXPLAINING WHY SO MANY HOMES WERE LOST IN THE SAN DIEGO AND SAN BERNARDINO COUNTY BRUSH FIRES OF THE YEAR BEFORE. IT REINFORCES THE IMPORTANCE OF NOT BUILDING ON RIDGELINES

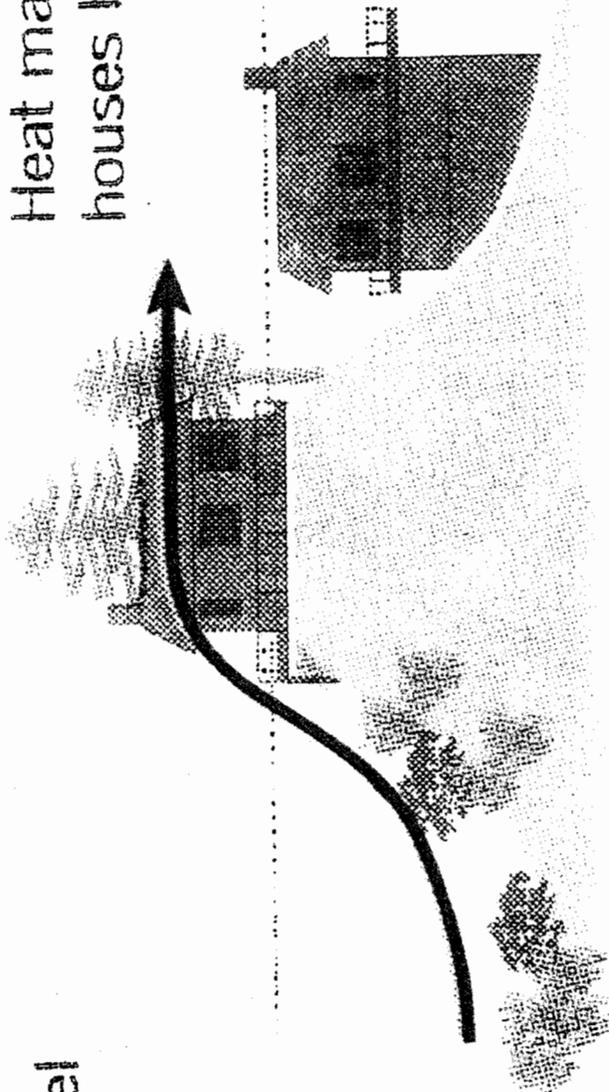
LOS ANGELES TIMES

A24 THURSDAY, APRIL 1, 2004

Beating the heat

Fire tends to travel uphill. Houses atop a hill are most vulnerable, as hot air flows under eaves and decking.

Heat may pass over houses below a ridge.





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

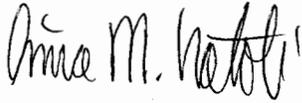
The Draft LCP also requires the use of Best Management Practices on slopes greater than 15 percent to control erosion and runoff. (22.44.614, 22.44.615)

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, appearing to read "Gina M. Natoli". The signature is written in a cursive, flowing style.

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	SFR	SFR	SFR	SFR	
Number of Structures	One	One	Two	Three	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	9,900	9,960	9,883	48,893
Disturbed Area w/Access (acres)	2.53	1.17	4.00	0.59	1.54	9.83
Grading Amount (cu.yd.)	31,150	5,250	14,680	5,390	17,210	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	New pipe	New pipe	New pipe	New pipe	New pipe	
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	

- 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 BMPs on slopes over 15 %

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

- 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

RECEIVED

AUG 19 2010

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

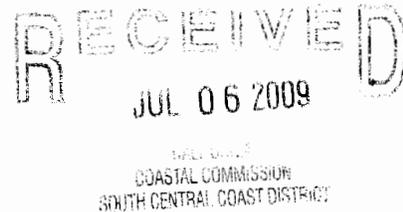
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Law Clerk

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).)

**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



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

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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
Sally and Ron Munro

RECEIVED
Feb 7, 2011 BR

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

February 2, 2011

Coastal Commission
South Central Coast District Office

Sara Wan Public Member, Malibu Resident
Richard Bloom, South Coast Representative

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

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

Re: Permit Numbers 4-10-040, 4-10-041, 4-1-042, 4-1-043, 4-10-044, 4-10-045
Five estates North of Sweetwater Mesa Road, Santa Monica Mountains

Dear Commissioners,

We are writing to support your staff recommendation to deny the above referenced projects. 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. As you have stated, the impact of five large single family dwellings along the ridgeline would 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, as you have accomplished with other similar situations.

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

Sally and Ron Munro

SURFER

SURFERS

P.O. BOX 4006 SAN CLEMENTE, CA 92674

949 361-0331 TOLL-FREE 800 666-2122 FAX 949 361-2417

jeff@surfersjournal.com www.surfersjournal.com

191 AVENIDA LA PATA SAN CLEMENTE, CA 92673 949 361-0331 TOLL-FREE 800

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

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APR 22 2009

CALIFORNIA
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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

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MAR 25 2009

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SOUTH CENTRAL COAST DISTRICT

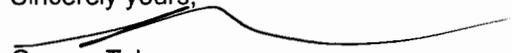
California Coastal Commission

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

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FEB 4 2011

Deanna Christensen

From: Deanna Christensen
Sent: Sunday, February 06, 2011 9:29 AM
To: Deanna Christensen

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Subject: FW: Paddy McKillen's son, U2's the Edge (aka David Evans), the Edge's wife, Derek Quinlan and the woman who held the rings at the Edge's wedding ceremony. A plot worthy of Hollywood. « NAMA Wine Lake

From: Fran Gibson [mailto:fragibson@comcast.net]
Sent: Friday, February 04, 2011 8:34 AM
To: John Ainsworth
Subject: Fwd: Paddy McKillen's son, U2's the Edge (aka David Evans), the Edge's wife, Derek Quinlan and the woman who held the rings at the Edge's wedding ceremony. A plot worthy of Hollywood. « NAMA Wine Lake

Begin forwarded message:

<http://namawinelake.wordpress.com/2011/02/03/paddy-mckillen%E2%80%99s-son-u2%E2%80%99s-the-edge-aka-david-evans-the-edge%E2%80%99s-wife-derek-quinlan-and-the-woman-who-held-the-rings-at-the-edge%E2%80%99s-wedding-ceremony-a-plot-worthy-of/>

ex. 24

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NAMA Wine Lake

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Paddy McKillen's son, U2's the Edge (aka David Evans), the Edge's wife, Derek Quinlan and the woman who held the rings at the Edge's wedding ceremony. A plot worthy of Hollywood.

February 3, 2011 by [namawinelake](#)

Oh and let's not omit Mulryan Properties LLLP (principal: Derek Quinlan, yes really!) and Ronan Properties LLLP (principal: Dean McKillen, Paddy's son, yes really!). The following is the story of how five apparently separate companies sought to develop luxury real estate on 157-acres of adjacent plots in Santa Monica, southern California only to have their plans rebuffed last week with the planning authorities having discovered that the applications mightn't have been as separate as they first appeared.

Last week, a Staff Report of the [California Coastal Commission](#) concluded it was appropriate to decline five separate applications to build five separate residences ranging in size from 7,000 to 13,000 sq ft in the Santa Monica mountains in west Los Angeles. No story there – planning authorities reject planning applications all around the world every day for a variety of reasons. Yes, the fact that one of the applicant companies is apparently controlled by U2's the Edge (aka David Evans) adds some chachacha to the bureaucracy but the applications were essentially about building houses – nothing extraordinary there. The Edge did go to the trouble of [building a website](#) to explain his vision for the project. And indeed some aspects of this story are not new – in 2009 Gemma O'Doherty in the [Irish Independent](#) wrote about the scheme and the involvement of Derek Quinlan.

But it is the people behind the applicant companies that is of interest. Now if it was the Dun Laoghaire-Rathdown county council examining the applications, they would probably have picked up very quickly

that the applicants were connected to large-scale property developers – in Ireland, the names Ronan, Mulryan, Quinlan and McKillen have practically become household names on the back of the property boom that swallowed the country in the mid-2000s but alas has today spit the country back out. The folks at the California Coastal Commission can be forgiven for not being familiar with the fact that Johnny Ronan and Sean Mulryan are two of the Top 10 NAMA developers with debts in excess of €1bn (USD \$1.4bn) each. Derek Quinlan is also a NAMA Top 10 developer and were it not for the legal case that Paddy McKillen took against NAMA last July in which he has had partial success today, he too would be a NAMA Top 10 developer. It should be stressed that there is no evidence to connect Johnny Ronan or Sean Mulryan to the applicant companies in the Santa Monica scheme – at present it seems like a co-incidence that two of the applicant companies bear the surnames of two of the most prominent property developers in the State.

So precisely what happened in west Los Angeles? Back in 2007 the Edge bought a 157-acre plot in the Santa Monica mountains with views out to the Pacific and over Malibu. A scheme developed to build five luxury single-family residences. Derek Quinlan became involved. The planning applications have been around for nearly four years and have undergone some changes but were finally exhaustively examined last week and a conclusion was reached that it was appropriate to deny them. The land apparently cost USD \$9m in 2007. According to the 2009 Irish Independent story, the five properties might have been expected to fetch USD \$40m each.

In 2007/8 six separate applications were made by five separate companies as follows:

- (1) Lunch Properties LLLP (LLLp means limited liability limited partnership and is a form of company allowed in the state of Delaware in the US where the five companies are registered), whose principal is James Vanden Berg, the project manager
- (2) Vera Properties LLLP, whose principal is the Edge (aka David Evans)
- (3) Mulryan Properties LLLP, whose principal was Derek Quinlan until July 2010 when control passed to Tim and Gillian Delaney. Tim Delaney was a Vice President at Polygram Records until 1999, the record company that produced U2 albums. There is no evidence of Sean Mulryan, one of Ireland's most prominent developers being associated with this company.
- (4) Morleigh Properties LLLP, whose principal was Morleigh Steinberg (the Edge's wife) until April 2010 when control passed to Chantal O'Sullivan (of O'Sullivan Antiques and the woman who held the rings at the Edge's wedding) and Lisa Menichino
- (5) Ronan Properties LLLP, whose principal was Jacqueline Cremin (a director of Quinlan's companies) until April 2010 when control passed to Dean McKillen, son of Paddy McKillen. There is no evidence of Johnny Ronan, one of Ireland's most prominent developers being associated with this company.
- (6) A joint application between Mulryan/Morleigh

The planning applications were examined last week and a conclusion reached was that it was appropriate to deny the applications for a number of reasons, interference with environmentally sensitive habitat areas and the development diminishing the scenic beauty of the area included. But one of the key issues investigated by the planning authorities was whether the five applicant companies were connected and they concluded after some digging that they were. That conclusion had implications as to the planning modalities, but the point of interest on here was the connection between the Edge, Derek Quinlan and Paddy McKillen (via his son Dean) and the fact that two of the companies, Ronan

Properties LLLP and Mulryan Properties LLLP, bear the name of two of Ireland's most prominent property developers. There appears to have been some concerted effort in 2010 to change the apparent ownership of the five application companies as detailed from page 73 of the California Coastal Commission report but it seems that the Commission decided that the applicant companies were in fact connected.

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7

Posted in Developers, NAMA, Non-Irish property | 7 Comments

7 Responses

1. on February 3, 2011 at 8:01 pm | Reply  John Beshoff

Paddy and Johnny are long time business partners, nothing new here. Their joint venture/dealings commenced in the mid eighties.

- o on February 3, 2011 at 8:08 pm | Reply  namawinelake

To be clear there is nothing in the California Coastal Commission refusal to grant permission to develop to suggest that Johnny Ronan is associated with Ronan Properties LLLP but given the prominence of Messrs McKillen and Quinlan in Irish property development the co-incidence is striking.

2. on February 3, 2011 at 10:05 pm | Reply  Hardy Buck

I understand Tim Delaney is the Edge's brother in law.

3. on February 4, 2011 at 1:18 am | Reply  Armchair View

Has Jacqueline Cremin any connection to Olan Cremin who worked with Derek Quinlan?

4. on February 4, 2011 at 12:30 pm | Reply  notnumb

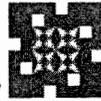
It would be interesting to know who financed this deal, maybe Paddy and Edge's friend Lars

Bradshaw?



5. on [February 4, 2011 at 4:55 pm](#) | [Reply](#) Fran Gibson

The project has NOT been denied or approved by the California Coastal Commission. The hearing is scheduled for February 10. The CCC staff is strongly recommending denial due to the coastal resource adverse impacts of the development as proposed.



o on [February 4, 2011 at 5:19 pm](#) | [Reply](#) namawinelake

Hi Fran, I accept what you say though the report does use the wording "Consequently, it is appropriate for this Commission to deny with guidance". The reasons for concluding this appropriateness to deny are set out in some detail in the Staff Report.

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Notify me of follow-up comments via email.



United States Department of the Interior

NATIONAL PARK SERVICE
Santa Monica Mountains National Recreation Area
401 West Hillcrest Drive
Thousand Oaks, California 91360-4207

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In reply refer to:
L76/ 134-03, -20, -83

January 26, 2011

California Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RE: Sweetwater Mesa Projects - Application Nos. 04-09-056, 04-09-057, 04-09-058,
04-09-059, 04-09-060, 04-09-061

Honorable Chairperson Neely and Commissioners:

The National Park Service has reviewed the case materials for five proposed homes ranging from 7,220 to 12,785 square feet (averaging 10,500 square feet), a 7,800-foot water line extension and associated access road, and 6,210 feet of paved access road and driveways on a significant ridgeline in the Santa Monica Mountains. The project site falls within the boundary of the Santa Monica Mountains National Recreation Area (SMMNRA). The project parcels are bordered on two sides by public parkland. Malibu Creek State Park is located west of the project parcels, and Mountains Recreation and Conservation Authority parkland is adjacent to the south.

Congress, when it established SMMNRA, found¹:

(1) There are significant scenic, recreational, educational, scientific, national, archeological, and public health benefits provided by the Santa Monica Mountains and adjacent coastline.

(2) There is a national interest in protecting and preserving these benefits for the residents of and visitors to the area; and

(3) The State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority.

The National Park Service appreciates the opportunity to participate in the public review process for the proposed project. We provide comments on the effects of private and public land development in the Santa Monica Mountains at the invitation of state and local units of

¹ Omnibus Parks Act of 1978 (P.L. 95-625)

government with authority to prevent or minimize adverse uses. We assume a neutral position and do not support or oppose land development. We offer the following comments.

We are concerned that the project would incur significant adverse impacts to the biological and visual resources of the national recreation area owing to habitat fragmentation, edge effects of residential development against open space, visual degradation from ridgeline development, and placing development in an area of frequent wildland fires. The project, as proposed, conflicts with our resource protection and recreational access goals. The project's growth inducing potential also needs to be examined. We believe the intensity of this project – in terms of the amount of new construction, location relative to surrounding habitat and topography, scale of grading, and significance of infrastructural improvements – is unprecedented for single family residential development in the Santa Monica Mountains. We have organized our comments by issues of concern.

Biological Resources

Habitat Fragmentation

Habitat fragmentation is one of the biggest threats to the park's natural resources. The proposed project promotes habitat fragmentation of an area currently undeveloped. The project environs are currently undeveloped and in a natural condition. Within the national recreation area, there are five areas referenced as core habitat areas, i.e. they are consolidated open space with only unpaved roads, trails and camping areas. The core habitat areas consist of protected parkland and adjacent undeveloped private land. Core habitat areas provide large reservoirs of native habitat. Such areas are necessary to conserve the full complement of native wildlife found in the Santa Monica Mountains, including large carnivores that require extensive habitat for their home ranges. The core habitat areas also serve as core recreational areas, with trails that have high aesthetic value and traverse long distances desired by many recreational visitors. Protection of these core habitat areas, including acquisition when feasible of additional adjacent private lands, is key to long-term preservation of the resource values for which the national recreation area was established.

The subject project parcels are contiguous with the Malibu Creek State Park core habitat area. Malibu Creek State Park is approximately 7,000 acres. The project parcels occur within a block of core habitat that overlaps a portion of the state park and private property, covering approximately 2,800 acres (Attachment 2). Approximately half of this core habitat block is protected as public parkland. Most of protected land occurs within Malibu Creek State Park (MCSP) and includes other public parkland owned by the NPS and the Mountains Recreation and Conservation Authority (Piuma Ridge Park).

“Fingers” of development, such as the proposed project, that extend deeply into undeveloped, undisturbed core habitat areas fragment habitat either in whole or partially. Fragmentation increases edge effects that further degrade habitat, reduces diversity, and lowers habitat productivity.²

² Baur, B. and A. Erhardt. 1995. Habitat Fragmentation and Habitat Alterations: Principal Threats to Most Animal and Plant Species. GAIA 4: 221-226.

The spread out arrangement of the houses along the ridgeline increases their edge effects, as the amount of overlap of fuel modification zones is minimal. This will be discussed in further detail.

Wildlife

NPS mountain lion tracking data indicate that the project parcels have been part of the home ranges for at least seven radio-collared mountain lions since our tracking program began in 2002. These seven lions have all been located within 500 meters of the five proposed residences. Some tracking location data points fall within the proposed development footprint of the residences. The most recently recorded point within the project site occurred when lion "P14" crossed the site on January 18th this year. Generally speaking, the project parcels and their vicinity comprise core habitat suitable for this large carnivore and others, including bobcats and coyotes. The consistently documented presence of these lions confirms that the project site is high quality core habitat that, if developed, would introduce a significant negative incursion into the previously referenced 2,800-acre core habitat block.

Native Vegetation

Based on information from the applicant's biologist's assessment and NPS vegetation maps, the vegetation communities on the project parcels demonstrate the high natural resource value of habitat defined as ESHA. We concur with the Coastal Commission's findings in the 2003 "Designation of ESHA in the Santa Monica Mountains" memo:

"This [the Santa Monica Mountains] is the only place in the coastal zone where the Commission has recognized chaparral as meeting the definition of ESHA."³

The proposed project, with its extensive removal of native vegetation and grading would increase the potential for erosion and mass wasting that would negatively impact biological resources. Loss of soil reduces the ability of the area to support plant life, further exacerbating erosion. As a result, habitat is lost. Also, downstream water quality can be impaired due to the inflow of mud and silt. Furthermore, the areal extent of ground disturbance and increase in openness creates conditions conducive to establishment of invasive non-native plant species within a previously uninfested large area of native habitat. Prior research has shown that invasive species established along roads and in fuel modification areas can spread into neighboring uninfested wildlands, especially after wildfires or other disturbance. Invasion of these species into wildlands further degrades the habitat value of these natural areas⁴.

³ Dixon, John. 2003. "Designation of ESHA in the Santa Monica Mountains." State of California, The Resources Agency, California Coastal Commission.

⁴ Merriam, Keeley, Beyers, 2006. "The Role of Fuel Breaks in the Invasion of Nonnative Plants"

We are concerned in particular about removal of vegetative cover for the fuel modification zones of the Lunch, Mulryan, and Ronan projects. These houses are bordered by very steep drop-offs on up to three sides: Lunch – North, East and South; Mulryan – Southeast; Ronan – Northeast and South. Removing soil-stabilizing native vegetation in these fuel modification zones would result in great potential for erosion, which could damage valuable oak woodland and riparian habitat below. Oak woodlands in particular have a high ecological value, containing a significant proportion of the biodiversity of the Santa Monica Mountains.

Clustering the proposed residences closer to each other would reduce the size of the wildland-development interface. This would also result in overlapping fuel modification zones, reducing the amount of native vegetation clearance required. The project as proposed has minor overlap of 32,949 square feet between the Morleigh and Mulryan, Mulryan and Ronan residences.⁵ Considering that the total fuel modification footprint for these three residences is approximately 670,000 square feet, 32,949 square feet is very minimal, corresponding to only 4.9% overlap. The fuel modification zones for the Vera and Lunch residences stand alone and do not overlap with any of the other residences.

The applicant's biologist generalizes the native habitat across the project as mixed chaparral. It is worth noting that a spectrum of mixed chaparral vegetation associations exists across the site. The associations range from the more woody, large shrub associations to the herbaceous smaller shrub associations. The diversity of habitats found on the site serves the needs of a variety of wildlife. All of these vegetation types greatly protect the landscape from soil erosion. This is even more important on steep slopes and ridgelines, which characterize the project parcels. The canopies of coastal sage scrub, other coastal scrub foliage, and in particular, chaparral vegetation capture rainfall and slow down its distribution, deterring erosion. The extensive root systems of shrubs help keep soil in place. Chaparral in particular maintains extensive root systems, on the order of tens of feet in depth. Vegetation removal, such as would occur within grading footprints, building pads, and fuel modification zones, promotes erosion and even mass wasting (i.e. landslides, mudflows, rockfall). This is routinely demonstrated in post-burn situations throughout our region and elsewhere.

Visual Resources

One of the national recreation area's goals is to provide, as maximally as possible, a sense of unobstructed open space. The ridgeline is currently in a mostly undeveloped and natural condition (Figure 6, Attachment 1). The proposed residences would be visible from several viewing locations throughout the park and would remove forever unobstructed views up to, across, and over this ridgeline. The proposed large retaining walls, the elevated viaduct section (up to 24 feet high on the downslope side [Sheet C2.1]⁶), and the cut and fill slopes necessary to access just five residences would greatly exacerbate the significant visual degradation. Furthermore, no effort has been made to reduce the residences' silhouette against the natural backdrop by limiting the structures to one story.

⁵ Schmitz & Associates Inc.. October 21, 2009. "Sweetwater Mesa Fuel Modification Exhibit"

⁶ Whitson Engineers. November 4, 2009. "Sweetwater Mesa Road Improvements From STA: 26±70± to 70+53.43."

The project ridgeline is highly visible by virtue of its topographic prominence. It stretches from the ocean to the mass of Saddle Peak, the highest point in the eastern half of the Santa Monica Mountains. The surrounding topography also contributes to its high visibility: unlike other high points in the mountains, the project ridgeline is bordered to the southwest by the flat, low-elevation floodplain of Malibu Creek (the Malibu Civic Center Area). With no surrounding high ridges to block views, the ridgeline is widely visible from the west.

On the ridgeline's eastern side, views of the ridge from adjacent Carbon Canyon are rugged and scenic (Figure 4, Attachment 1). This project would place houses in this viewshed. From the Rambla Pacifico Road Pullout (Figures 6, Attachment 1), the visible undeveloped expanse of the ridge is approximately 7,000 feet in length. The project would develop an approximate 2,500-foot stretch along the ridgeline. The projects would be visible from large stretches of Rambla Pacifico, as well as the eastern extent of Piuma Road. Both of these roads are identified as scenic routes in the draft Los Angeles County LUP (dated September, 2007).

Furthermore, the project would be visible from Pacific Coast Highway from Pepperdine University (at John Tyler Drive) to Malibu Pier, a stretch of approximately two miles. Pacific Coast Highway is identified as one of two scenic routes in the 2002 Santa Monica Mountains National Recreation Area General Management Plan.

Fire Hazard

The proposed residences are located in a documented area of high fire frequency and extreme risk of future wildland fires. The project area has burned seven times since 1942. Experience in managing the national recreation area has demonstrated that placing homes in such high-risk locations results in pressure from landowners and local fire protection agencies upon NPS and other park managers to take actions to reduce the threat of fire. Actions that remove or disrupt native habitat can be contrary to NPS habitat preservation mandates and can result in significant negative impacts on natural and scenic resources.

The extensive length of the driveway to the proposed residences would present challenges to preserving native habitat while providing wildfire protection. The projects would be isolated from other development in incorporated Malibu where road access would originate. Vera, the southernmost and least remote project, is approximately 4,800 road-feet from the nearest residence in incorporated Malibu. Ronan, the northernmost and most remote project, is at the dead-end of the road, approximately 12,650 feet in length (2.4 miles). Remote residences complicate firefighters' ability to maximally protect human life and property by drawing away resources from the suburban neighborhoods at the wildland fringe in order to protect outlying residences within the wildland matrix. Additionally, firefighters are placed at higher risk by increased danger associated with locating, traveling to, and defending a remote structure surrounded by vegetation in the fire's path.

The ridgeline placement is also problematic, as it places the home in danger of convective heat from wildland fires. Fuel modification zones are intended to protect against radiant heat, which makes up twenty percent of total fire heat output. Fuel modification zones offer lateral protection from fire that is sufficient for flatter terrain. However, the remaining eighty percent of fire energy is given off as convective heat, which travels upward. Homes located

along ridgelines are much more likely to burn in a wildland fire event and require much larger fuel modification zones to sufficiently reduce heat and protect them from fire. These large fuel modification zones on steep slopes result in erosion and landslide problems post-fire.

Ronan, Lunch, and Mulryan are more vulnerable due to their placement close to the ridgeline's steep drop-off into Carbon Canyon. These three residences are each located at the top of "chimneys." Chimneys are dangerous locations from a fire perspective because they channel and concentrate heat, flames, and embers as a fire burns upslope. The 2007 Santa Monica Mountains Draft LCP identifies chimneys as "particularly prone to fire due to their funnel-like topography."⁷

Additionally, the topography surrounding the proposed locations for the Ronan and Lunch houses would expose them to increased fire hazard from Santa Ana winds. Both of these houses are located on promontories extending eastward from the primary ridgeline. They are both bordered by steep drop-offs to the north/northeast. Santa Anas, which originate from the north/northeast, create the most hazardous fire conditions in the Santa Monica Mountains.

Further, the projects are proposed in an area which has an intense fire history. Since 1942, the project area has burned seven times, an average fire interval of less than ten years. Combined, these factors give the proposed houses poor wildfire defensibility. We have found in such high fire-hazard circumstances that homeowners remove native vegetation beyond the required 200-foot zone. Such removal exacerbates impacts to native habitat and associated flora and fauna, as well as causes further erosion, increases landslide potential, and exacerbates visual scarring. We find it imprudent to place development in a demonstrated sensitive natural resource area that exhibits very high fire risk.

Recreational Resources

A segment of the Coastal Slope Trail (CST) is proposed to cross the Vera and Mulryan parcels. To the west, the trail would head into adjacent Malibu Creek State Park. Directly south of the project parcels, the trail would traverse Mountains Recreation and Conservation Authority parkland. The CST is a long-envisioned regional trail traversing the full length of the southern, ocean-facing slope of the Santa Monica Mountains. It is designed to provide continuous views of the Pacific Ocean and to provide an alternate route to the California Coastal Trail, of which segments can be submerged at high tide.

The CST is referenced in trail planning documents dating to the mid-1970s. Thereafter, the CST has been included in virtually all coastal-oriented planning documents with a trail planning component, including but not limited to the following:

- 1982 Santa Monica Mountains National Recreation Area General Plan
- 1986 Los Angeles County Master Trails Plan
- 1997 Santa Monica Mountains Area Recreation Trails (SMMART) Report

⁷ p. GL-104, "Proposed Santa Monica Mountains Local Coastal Program Coastal Zone Plan," September 2007, County of Los Angeles Department of Regional Planning

- 2004 Draft City of Malibu General Plan Amendment—Revised Trail Maps for Trails Master Plan
- 2005 Santa Monica Mountains National Recreation Area Interagency Trail Management Plan Draft Trail Maps

The proposed houses would be located directly upslope from the planned trail alignment, introducing a developed visual presence in what is otherwise an undeveloped area.

Tentative proposals for the trail and driveway alignment require three trail/driveway crossings. A driveway and trail design solution that could reduce the number of intersections would increase trail and driveway user safety. If the proposed projects move forward, we urge the Commission and the applicant to work toward an amicable trail easement that would secure safe public access while maximizing private landowner privacy.

Growth Inducement

We are concerned that the construction of the access road and water main connection would open up the surrounding area to further development. The proposed project could catalyze further development that would incur similar impacts to biological and visual resources as discussed here, but on a larger, cumulative scale. We find the growth-inducing effects of such significant infrastructure improvements warrant thorough analysis and quantification of habitat that could be lost and other natural resource values that could be concomitantly lost or significantly compromised.

This habitat area has remained undeveloped due to its remoteness, rugged terrain and lack of services. The proposed projects would clear the very high financial and infrastructure hurdles that currently inhibit development in the area. The road is a costly and immense engineering undertaking. In places it would actually be a submerged bridge over landslide material. It would have numerous piles going to bedrock, on top of which would be a structural deck.

The proposed water main design includes capacity for connecting nine additional parcels in the area to water service.⁸ Four of these parcels, on Costa Del Sol Way, have existing residences dependent on well water. Introduction of water service to development currently using limited well water facilitates expanded development and allows for the potential installation of landscaping requiring irrigation. Irrigation brings about non-native Argentine ants, which spread into and negatively impact adjacent native habitat by outcompeting native invertebrates.

Five vacant parcels north (upslope) of the proposed project could potentially be developed. These parcels are identified in Attachment 1.

We are also concerned that the water line alignment may result in removal of rocky outcrops. These outcrops contribute to the area's aesthetic character and provide habitat for raptors.

⁸ Table 1 - "Estimated Potable Water Demand for Proposed and Future Parcels," p. 3-2, "Water System Design Report for Sweetwater Mesa Properties," January 2007, Las Virgenes Municipal Water District

Sustainability

The National Park Service commends efforts to reduce the environmental impacts of the house structures. We, however, ultimately find these “green building” measures are negligible in light of the potential significant adverse environmental impacts of the project. We find the environmentally friendly aspects of the project do not offset or mitigate the adverse impacts of this project.

Despite green design features, placement of the proposed houses high on a ridgeline results in their having a carbon footprint that is much larger than if they were placed within a previously developed, urbanized area, where they would not have required a water main extension, pile foundations, or a highly engineered road requiring large amounts of concrete and steel (both of which have high carbon footprints). If piped water is unable to be brought to the proposed houses, then trucking large amounts of a dense material like water up the ridgeline will further increase the project’s carbon footprint.

In some cases, project features intended to be “sustainable” could actually exacerbate the project’s negative impacts to biological resources. Irrigating fuel modification zones would facilitate populations of Argentine ants with the aforementioned negative impacts.

Any analysis of the project's "greenness" must look at other aspects of the project: its setting within the context of core habitat and public parkland; the 7,800 foot ridgetop water line and access road; the 6,210 feet of paved access road and driveways.

Planned LEED Certification

The project is proposed for LEED certification, but this does not necessarily make it environmentally friendly toward the sensitive habitat in which the structure would be developed. The local habitat context is that which the National Park Service and the Coastal Act seek to protect. For the proposed project, the LEED criteria do not appropriately weight the importance of preserving the existing natural setting. Out of 110 total possible points used to determine a project’s rating (Platinum, Gold, Silver, or Certified), there are only two points that address the setting: “Site Selection” and “Site Development – Protect or Restore Habitat.” These points amount to only 1.8% of the point total.⁹

Clustering

If houses are to be constructed on the project parcels, environmental prudence would dictate constructing smaller structures lower down on the ridge, clustered closer to existing development and roads. This would reduce impacts from road construction and fuel modification. Habitat fragmentation and visual disturbance of the viewshed would also be reduced. Locating the residences on the gentler sloping western side of the ridge would further reduce impacts to the Carbon Canyon viewshed. The carbon footprint would also be vastly reduced due to less driving up and down the ridge.

⁹ LEED 2009 for New Construction and Major Renovation - Project Checklist

We value this opportunity to provide our comments on the potential impacts of this project on the resources of the Santa Monica Mountains National Recreation Area. We appreciate the Coastal Commission's stewardship and strong efforts to protect the visual resources, recreational resources, and sensitive Mediterranean ecosystem of Santa Monica Mountains National Recreation Area, both in accordance with the environmental protection policies of the Coastal Act and with our Congressional mandate.

Thank you for the opportunity to comment. If you have questions, please call Melanie Beck, Outdoor Recreation Planner, at (805) 370-2346.

Sincerely,



for Woody Smeck
Superintendent

Enclosures:

- Attachment 1. Visual Resource Impacts of the Sweetwater Mesa Projects
- Attachment 2. Core Habitat
- Attachment 3. Fragmented Core Habitat

cc: Joe Edmiston, Executive Director, Santa Monica Mountains Conservancy
Craig Sap, Acting Superintendent, Angeles District, State Department of Parks and Recreation
Clark Stevens, Executive Officer, Resource Conservation District of the Santa Monica Mountains

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COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Attachment 1: Visual Resource Impacts of the Sweetwater Mesa Projects

This analysis includes visual simulations of the proposed residences only from three public viewing sites in the mountains, as well as photographs of these views in their current conditions.

All the proposed houses were simulated as 6 meter (19.7 feet) tall polygons over their footprints. Two houses are proposed to be 22 feet high and three are proposed at 28 feet, so the simulation is conservative. The houses may be more visible than depicted here.

Color overlays are described in the map legend.

Note: Vegetation cover in simulations is from aerial photographs taken before the 2007 Canyon Fire.

Public View Site #1: Backbone Trail – Mesa Peak Motorway (in Malibu Creek State Park)

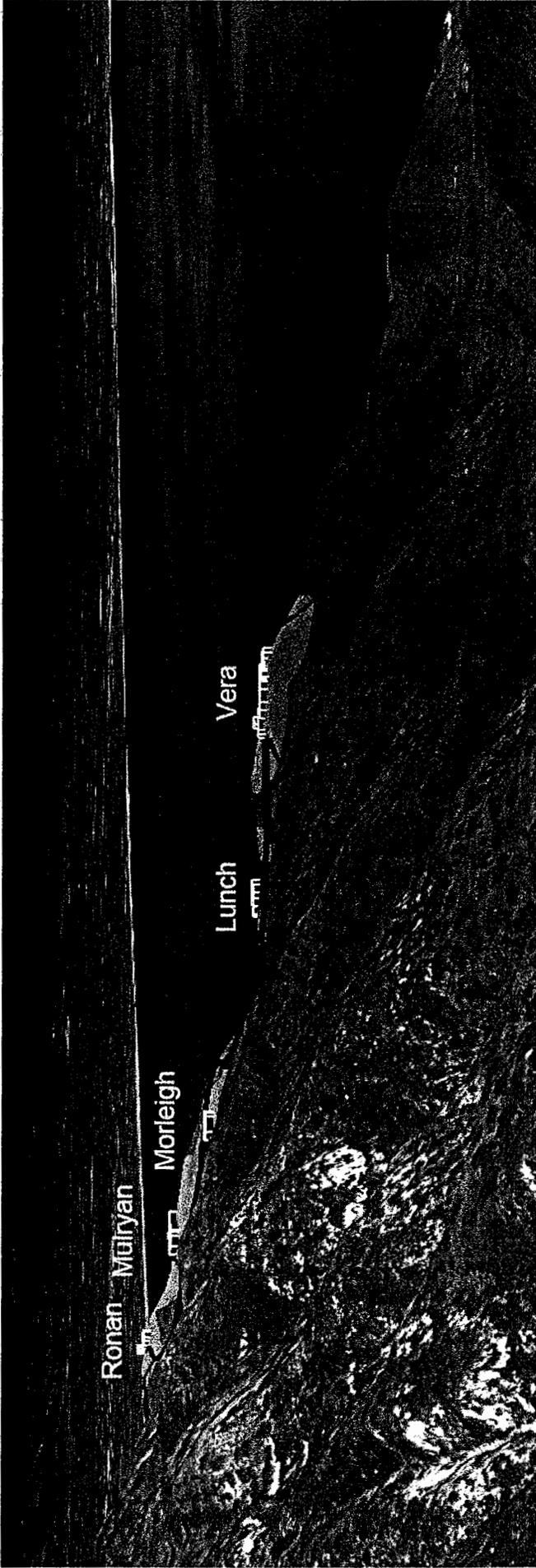


Figure 1: Proposed houses, fuel modification footprints, access road and driveways, and water line.

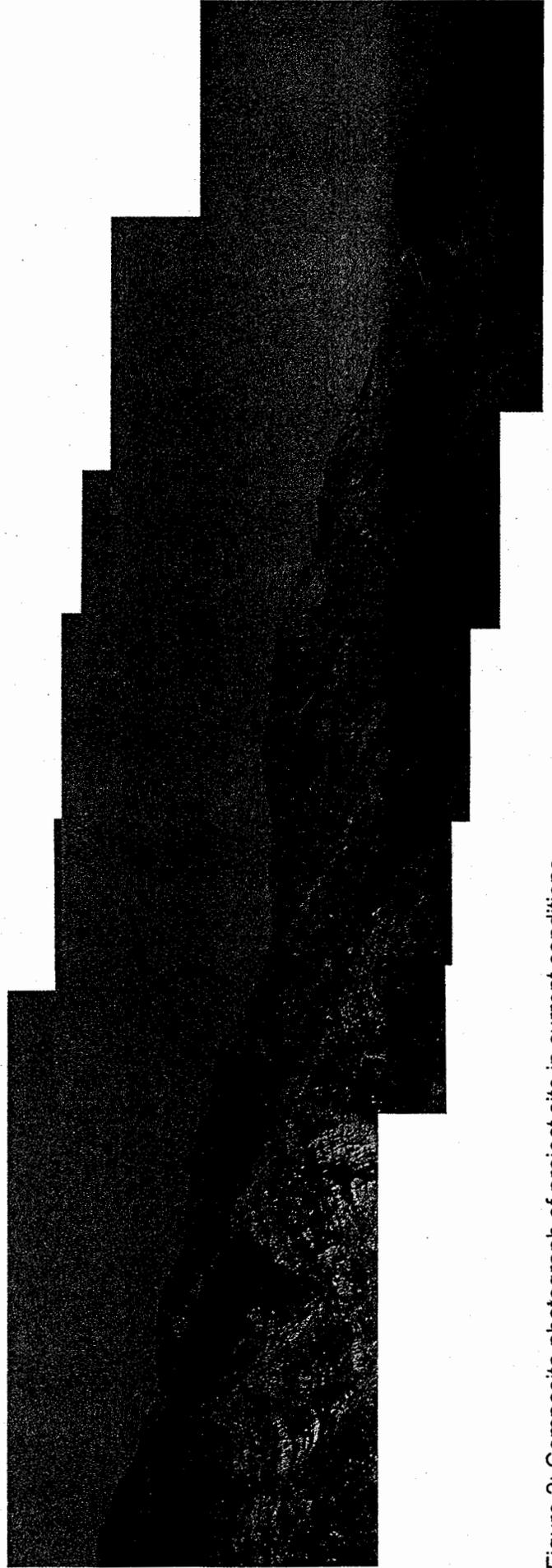


Figure 2: Composite photograph of project site in current conditions.

Public View Site #2: Pioma Road Pullout, Carbon Canyon

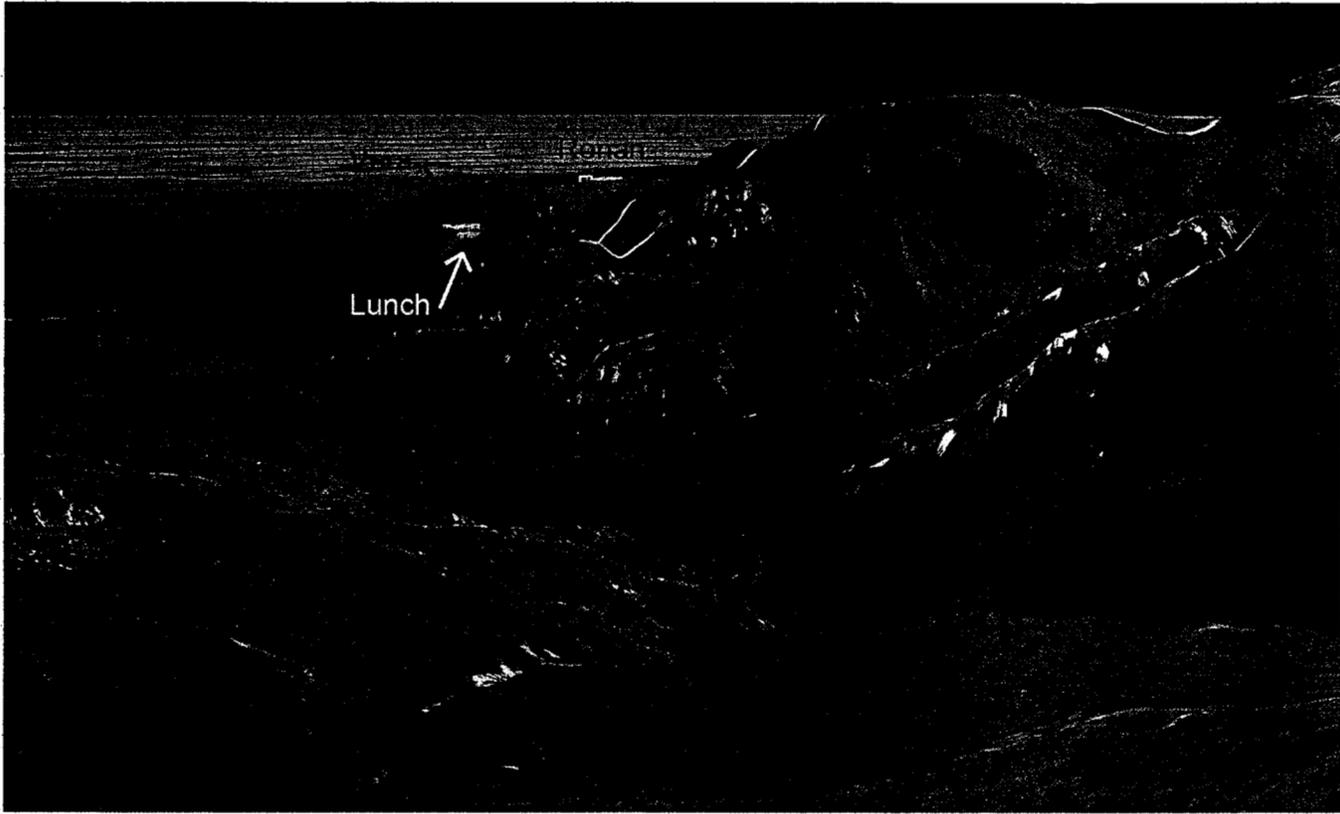


Figure 3: Proposed houses, fuel modification footprints, access road and driveways, water line, and potential future development parcels.



Figure 4: Photograph of viewshed in current conditions.

LX.24

Public View Site #3: Rambla Pacifico Road Pullout, Carbon Canyon

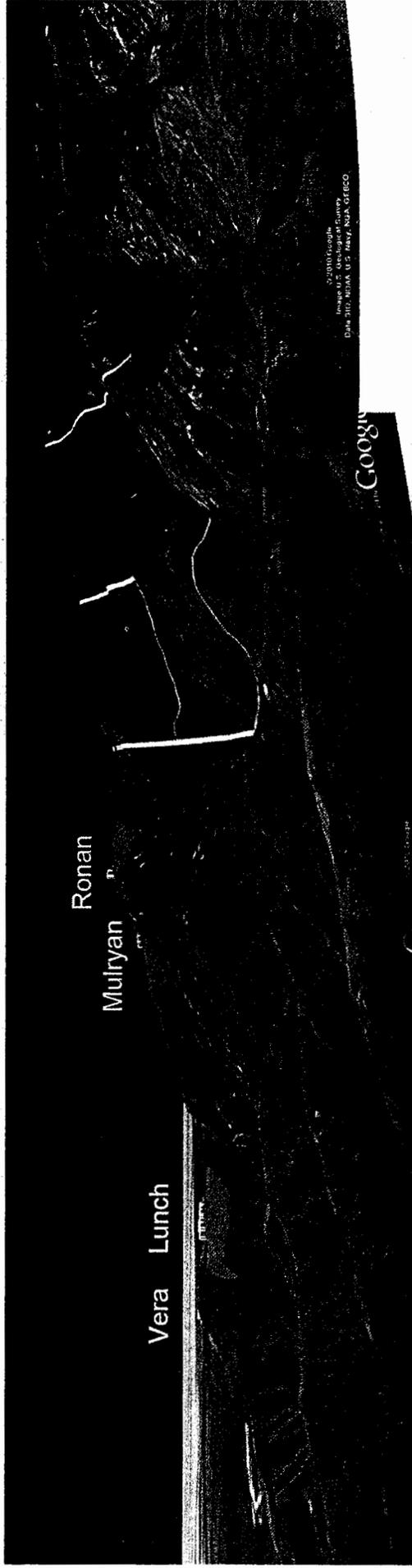


Figure 5: Proposed houses, fuel modification footprints, access road and driveways, water line, and potential future development parcels.

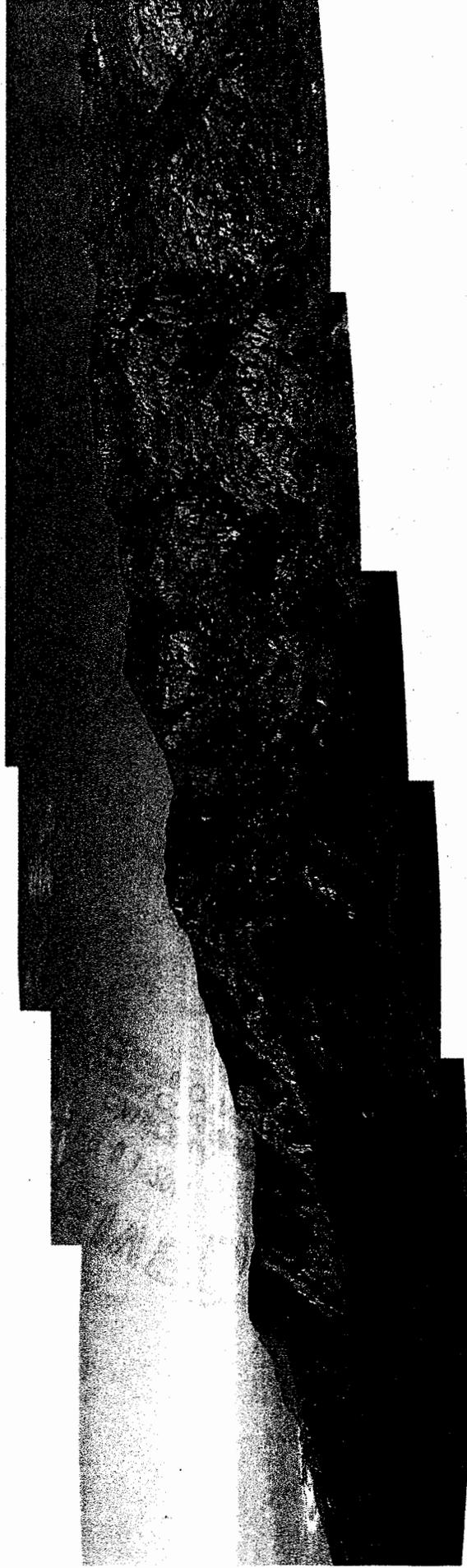
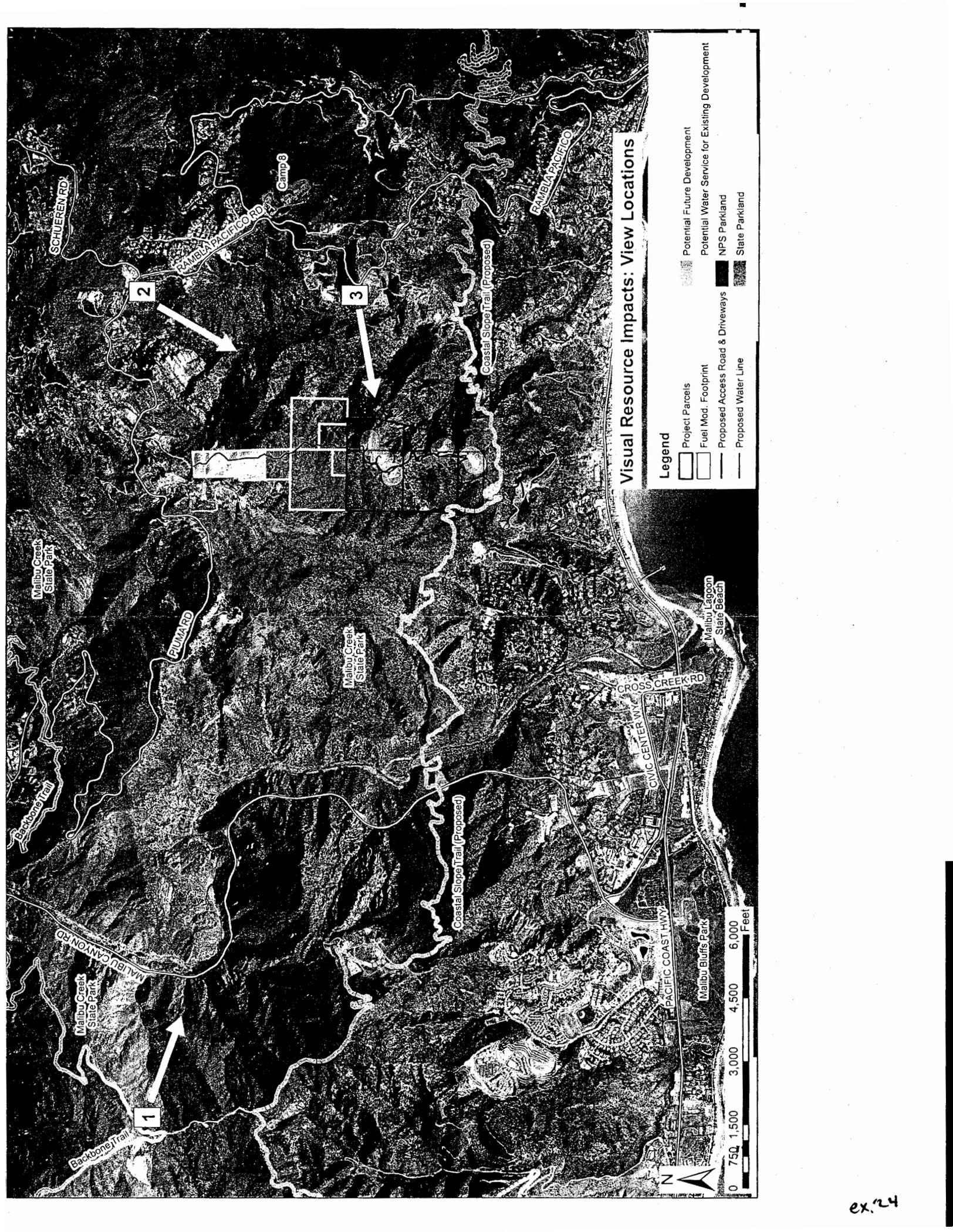


Figure 6: Composite photograph of viewshed in current conditions.



Visual Resource Impacts: View Locations

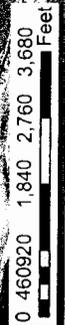
Legend

- Project Parcels
- Fuel Mod. Footprint
- Proposed Access Road & Driveways
- Proposed Water Line
- Potential Future Development
- Potential Water Service for Existing Development
- NPS Parkland
- State Parkland



Attachment 3: Fragmented Core Habitat

- Legend**
-  Project Parcels
 -  Fragmented Core Habitat
 -  House Footprints
 -  Proposed Access Road & Driveways
 -  Proposed Water Line
 -  Fuel Mod. Footprint
 -  NPS Parkland
 -  State Parkland







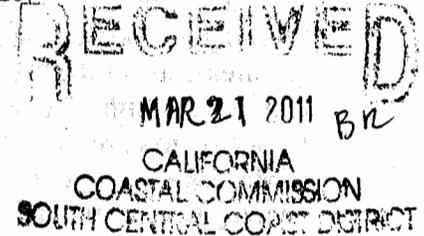
United States Department of the Interior

NATIONAL PARK SERVICE
Santa Monica Mountains National Recreation Area
401 West Hillcrest Drive
Thousand Oaks, California 91360-4207

In reply refer to:
L76/ 134-03, 20, 83

March 18, 2011

California Coastal Commission
South Central Coast District Office
89 S. California Street, Suite 200
Ventura, CA 93001



Re: Sweetwater Mesa Project - Application Nos. 04-09-056, 04-09-057, 04-09-058,
04-09-059, 04-09-060, 04-09-061

Honorable Chairperson Wan and Commissioners:

The National Park Service offers this letter to expand upon our previous comment letter for the above-mentioned project, dated January 26, 2011.

The National Park Service appreciates the opportunity to participate in the public review process for the proposed project. We provide comments on the effects of private and public land development in the Santa Monica Mountains at the invitation of state and local units of government with authority to prevent or minimize adverse uses. We assume a neutral position and do not support or oppose land development. We offer the following comments.

In our previous letter, we examined the project's claims of "greenness" with respect to the LEED 2009 for New Construction program. We expressed concerns that the LEED program contains, out of a total 110 possible points, only two points (two credits at one point each) that would be relevant to preserving the existing natural setting.

It has been brought to our attention that the project applicant is seeking LEED® Gold certification under the LEED 2008 for Homes program. We have now reviewed the proposed project under the LEED 2008 for Homes program. The LEED 2008 for Homes program features just five points, out of a total 136 points, that would be relevant to preserving the existing sensitive natural resource setting. Overall, our concerns remain the same: we find the project's most significant impacts are related to the natural resource setting, and therefore, the LEED program would not be a good measure of the project's "greenness" in the subject context. We offer the following analysis that leads to our concerns.

LEED 2008 for Homes, LL 2. Site Selection

In LEED 2008 for Homes, there are two points available (out of 136 total) for the credit "Site Selection." There are five requirements for this credit, four of which are already covered under federal and state statute and permitting from jurisdictional agencies. The remaining requirement

is that prior to acquisition for development, the project parcel should not have been public parkland.

In spite of the project's location within sensitive core habitat and the intent of this credit to "Avoid development on environmentally sensitive sites,"¹ this project would still meet the requirements for the "Site Selection" credit because the site qualified under the first four criteria and, per the fifth criteria, was not public parkland prior to acquisition for development. It should be noted, however, that the site is within the Santa Monica Mountains National Recreation Area (SMMNRA), a unit of the National Park System. The legislated boundary of SMMNRA encompasses a mixture of public and private parcels. The NPS has an active federal parkland acquisition program for SMMNRA. The SMMNRA 1984 Land Protection Plan prescribes a variety of land protection methods, ranging from fee acquisition to cooperative planning with local agencies to assure compatibility with adjacent park resources. We have enclosed the LPP map, with the subject parcels circled. The LPP designates the subject parcels for fee acquisition, if funding and a willing seller are present. Therefore, although the proposed project was not public parkland at the time acquired by the applicant, the property lies within an area of national and state parkland significance and has long been identified for public parkland acquisition.

This two-point credit, as currently defined and as it applies to this project, does not accurately evaluate the environmental impact of locating these homes in this area.

LEED 2008 for Homes, LL 3. Preferred Locations

While LEED 2009 for New Construction has a "Site Development – Protect or Restore Habitat" credit, LEED 2008 for Homes does not have a credit that directly translates. The LL 3. Preferred Locations category in the Homes program captures some of the intent of the similar credit in the New Construction program. A maximum three points can be achieved under this credit.

The proposed project would not meet the "Edge Development," "Infill," or "Previously Developed" credit requirements under this category. One of the major impacts – habitat fragmentation – of this project occurs due to its remoteness from other development. However, the proposed residences would lose only three points (out of 136 total) for this.

Home Size Adjustment

Under LEED 2008 for Homes, the five proposed residences would incur large point penalties as a result of their very large size (average of 10,500 square feet). "All things being otherwise equal, a large home consumes more materials and energy than a small home over its lifecycle (including pre-construction, construction, use, and demolition or deconstruction). The adjustment compensates for these impacts by making it easier or harder to reach LEED for Homes certification¹". In other words, smaller homes are rewarded, and larger homes are penalized.

Though we do not have access to detailed square footage figures that would allow for precise calculation of such penalties, based on publicly available figures and drawings from the Coastal

¹ United States Green Building Council, "LEED for Homes Rating System," January 2008

Commission staff report, we estimate that the homes would incur penalties ranging from about 18 to 30 points. Out of 136 total points, this ranges from 13 to 22%.

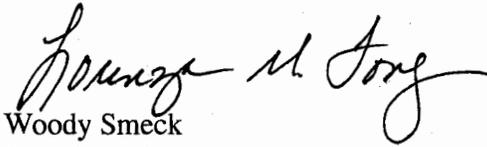
Conclusion

Under the LEED 2008 for Homes green building standards, the conclusions in our original letter's analysis remain the same. We commend the use of building practices that reduce consumption of materials and energy and provide improved indoor environmental quality. Santa Monica Mountains National Recreation Area uses LEED standards to help make new construction more environmentally friendly. Our new visitor center, currently under construction at King Gillette Ranch, is proposed for LEED Platinum certification.

Because of the large size of the Sweetwater Mesa project's proposed residences, their proposed locations within a core habitat block, the amount of new infrastructure construction necessary to serve them, and the potential for growth inducement, we find that LEED certification does not accurately reflect the environmental impacts of the proposed project. The project's green building measures, while commendable, are negligible in light of the project viewed as a whole, and do not offset the potential significant adverse impacts of this project.

Thank you for the opportunity to comment. If you have questions, please call Melanie Beck, Outdoor Recreation Planner, at (805) 370-2346.

Sincerely,

for 
Woody Smeck
Superintendent

Enc: Santa Monica Mountains National Recreation Area Land Protection Plan, January, 2011

cc: Joe Edmiston, Executive Director, Santa Monica Mountains Conservancy
Craig Sap, Acting Superintendent, Angeles District, State Department of Parks and Recreation
Clark Stevens, Executive Officer, Resource Conservation District of the Santa Monica Mountains

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Revised comments

Malibu Coalition for Slow Growth 403 San Vicente Blvd. , Santa Monica CA 90202

To : Members of the Coastal Commission
From: Malibu Coalition for Slow Growth by Patt Healy
Re: Agenda item Thursday 2-10-11 8 a-f Edge project

The Malibu Coalition for Slow Growth opposes and comments on projects that violate the Coastal Act and Local Land Use Plans in a significant way. These projects meet this criteria.

We support the staff report and ask that you adopt the staff recommendation and deny these projects.

Along with staff we too strongly oppose these projects because they do not meet the requirements of the Coastal Act for ESHA , visual resource protection, geology and public safety . Projects as currently proposed will create individual and cumulative adverse impacts on coastal resources . Development will occur in a completely undeveloped area of the Santa Monica Mountains and will open a virgin undisturbed area of 2800 acres to future development. This 2800 acre area contains steep rugged terrain with a rare and valuable Mediterranean Ecosystem consisting of mixed chaparral, coastal sage and oak woodland habitat.

There will be construction on a prominent ridgeline which is not allowed under the County Malibu LUP. 153 acres of the 156 acre subject site is ESHA . This project is not a resource dependant use and there are other alternative avenues the Applicants can take that are more protective of ESHA and visual resources. A twenty foot wide access road rises to the ridgeline, bisecting two landslide areas, impervious surface will cause drainage, run-off and erosion issues. The project will require almost 100,000 cu. yds. of grading

We ask that you deny the projects since the enormous negative impacts created by these proposed projects can be minimized through design alternatives which the Applicants should be required to do.

Thank you for considering our comments.

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SOUTH CENTRAL COAST DISTRICT

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

JAMES P. SMITH
3140 SWEETWATER MESA
MALIBU , CA. 90265

Feb. 1 , 2011

Dear Commissioner ,

Malibu has ridge line ordinances drafted by this Commission in 2002 . Los Angeles County adopted ridge line protection in 2005 . Coastal has always had visual impact guidelines . All of this was in place when Mr. Evans purchased his land . At the first stroke of his pen on design these guidelines were ignored . Further disregard of guidelines is demonstrated by the lot line adjustment being requested . This request seeks to relocate the building site on Mulryan so it too will be on a prominent ridge line completing the placement of all 5 homes on ridge lines . What is before you is an attempt to obtain approvals that would clearly be denied to others . Unlimited money has been spent on design and lobbying in that effort .

The building sites for Vera and Mulryan both have off ridge line locations with bedrock nearly at the surface . This is shown on the enclosed sheet with blue for Vera and pink for Mulryan .

The water line construction will require a path for a tractor 10' wide plus the 4' deep trench . In addition the dirt has to be piled beyond the trench . This will create a path nearly 20' wide that will remain as a scar after the pipe is covered .

Respectfully ,



4. New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.

B. Development Design

1. The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, pursuant to Section 13.27 of the Malibu LIP the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure.
2. The length of on-site roads or driveways shall be minimized, except where a longer road or driveway would allow for an alternative building site location that would be more protective of visual resources or ESHA. Driveway slopes shall be designed to follow the natural topography. Driveways that are visible from a scenic highway, a beach, a public viewing area, or public hiking trail shall be a neutral color that blends with the surrounding landforms and vegetation.
3. Retaining walls visible from scenic highways, public viewing areas, trails, parks, and beaches should incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape.
4. Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public view areas.
5. New development in scenic areas visible from scenic roads or public viewing areas shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
 - a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.
6. New water tanks in scenic areas visible from scenic roads or public viewing areas shall be designed to be partially below grade, where feasible. Water tanks shall incorporate colors that are compatible with the surrounding landscape and landscape screening to minimize visual impacts.

C. Hillside Development

1. Ridgelines

- a. New development shall be sited and designed to prohibit construction of structures on a primary or secondary ridgeline. Any structures shall be located a minimum of 300 feet (measured horizontally) or 100 feet (measured vertically) from the top of a primary ridgeline, and shall maintain the roof or top of structure below a primary ridgeline when viewed from a public street or highway.
- b. Where there are no feasible building site that can conform to the requirements of Section a, or where the only feasible building site would result in unavoidable adverse impacts to environmentally sensitive habitat areas, then a variance may be approved for a building site that does not conform to these standards, with design measures that minimize the visual resource impacts. Any

LOS ANGELES COUNTY

designation, are set forth on the official Santa Monica Mountains North Area Plan Significant Ridgeline Map, prepared and maintained in the offices of the county department of regional planning, which is adopted by reference as part of this ordinance, and on the map and corresponding appendix following this Section.

b. The highest point of a structure that requires any permit shall be located at least 50 vertical feet and 50 horizontal feet from a significant ridgeline, excluding chimneys, rooftop antennas, wind energy conversion systems, and amateur radio antennas.

c. Where structures on a lot or parcel of land cannot meet the standards prescribed by subsection D.5.b, above, a variance as provided in Part 2 of Chapter 22.56 shall be required. In addition to the required findings set forth in Subsection A of Section 22.56.330, findings shall be made that: (1) alternative sites within the property or project have been considered and eliminated from consideration based on physical infeasibility or the potential for substantial habitat damage or destruction if any such alternative site is used; and (2) the proposed project maintains the maximum view of the applicable significant ridgeline through the use of design features for the project such as, but not limited to, minimized grading, reduced structural height, clustered structures, shape, materials, and color that allow the structures to blend with the natural setting, and use of locally indigenous vegetation for concealment of the project, as described on the list referenced in subsection D.4.b.



Temescal Canyon Association

Since 1972 Dedicated to Preservation of the Santa Monica Mountains

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February 5th, 2011

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

To: Members of the Coastal Commission

Re: Agenda item Thursday 2-10-11 8 a-f

Dear Commissioners: I am writing to you on behalf of Temescal Canyon Association, an environmental and hiking association based in Pacific Palisades, founded in 1972.

We strongly oppose the developments planned by the "Edge". The staff report recommends denying these projects. The developments planned are in currently undeveloped areas of the Santa Monica Mountains. They will impact ridgelines and potentially destroy the oak woodland habitat. And as currently planned they could create serious erosion problems.

Furthermore, Local Coastal Plan Resources policies and ordinances have now been updated. Areas adjacent to environmentally sensitive habitat areas and parks and recreation areas are to be compatible with the protection of the resources.

There are alternative options for this development that would protect environmentally sensitive habitat areas. We strongly recommend that the applicants be required to consider such alternatives.

Sincerely, Carol Leacock, President



1444 9th Street
Santa Monica CA 90401

tel 310-451-1500
fax 310-496-1902

info@healthebay.org
www.healthebay.org

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February 7, 2011

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

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: Sweetwater Mesa Development, Agenda items Th8a-f; Application Nos. 4-10-040, 4-10-041, 4-10-042, 4-10-043, 4-10-044, 4-10-045 (Lunch Properties LLLP, Vera Properties LLLP, Mulryan Properties LLLP, Morleigh Properties LLLP, and Ronan Properties LLLP)

Dear Coastal Commissioners:

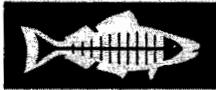
On behalf of Heal the Bay, a non-profit environmental organization with over 13,000 members dedicated to making the Santa Monica Bay and Southern California coastal waters and watersheds safe and healthy for people and local ecosystems, we have reviewed the staff report regarding the Sweetwater Mesa coastal development project and respectfully submit the following comments. Upon review of the staff report, we have identified multiple areas of the project that we are concerned about, especially as the project pertains to loss of sensitive habitat and water quality issues. In addition, we believe that wastewater and stormwater are inadequately addressed in the report. This development requires extensive and significant infrastructure, which would cause unmitigatable impacts to a biologically sensitive area and our coastal zone environment.

Although each of the proposed developments are submitted as separate items on the Coastal Commission agenda, we agree with Commission staff that these applications should be characterized and considered as a single development. This is not a minor project, and the cumulative impacts of such a large contiguous development should be thoroughly considered before the Coastal Commission decides whether or not to approve this project.

Project Violates the California Coastal Act

After review, we are concerned that the proposed project is inconsistent with several areas of the Coastal Act. We discuss the impacts of the proposed project in further detail below. The project is inconsistent with Section 30240 of the Coastal Act as each project would result in permanent and significant disruption of environmentally sensitive habitat area ("ESHA"). By building on ridgelines and steep, unstable terrain, erosion and run-off into local streams would increase; thus, we are concerned that the project would not uphold the requirements of Coastal Act Section 30231, which requires that biological productivity and stream water quality be maintained.

ex. 24



1444 9th Street
Santa Monica CA 90401

tel 310-451-1500
fax 310-496-1902

info@healthebay.org
www.healthebay.org

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Destruction of Environmentally Sensitive Habitat

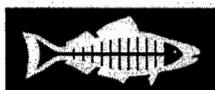
This project includes building roads, water lines, structures, and a fire clearance area in an extremely valuable and sensitive chaparral and coastal sage habitat. Although habitat in the Santa Monica Mountains is severely fragmented and the water quality of many local streams is highly degraded, the Santa Monica Mountains Conservancy and Coastal Commission staff have identified this area as an undeveloped core habitat and ESHA, and the Commission's Staff Ecologist has identified the properties as "relatively pristine" habitat areas.¹ This project would adversely disturb and displace native wildlife that reside and depend on this essential habitat, including rare and endemic species.

We support the findings in Exhibit 27 of the staff report from Commission Staff Ecologist, Dr. Jonna Engel, where the biological resources of the subject properties were evaluated. As the staff report states, "the entire 156 acres that make up the subject properties is comprised of relatively pristine native chaparral, sage scrub, and oak woodland habitat areas ... with the exception of an approximately 3-acre non-native grassland mesa area located on the Mulryan and Lunch properties and the 10 ft. wide jeep trail leading up to it." This property has immeasurable value to our local wildlife populations, as it provides essential habitat for species that require several habitat types during the course of their life histories, and if developed at the scale that the applicants propose, the project could adversely impact important wildlife populations in the area. According to a 2003 memorandum prepared by the Commission's Ecologist, Dr. John Dixon, native habitats of the Santa Monica Mountains, such as coastal sage scrub, chaparral, oak woodland and riparian woodlands are easily disturbed by human activities. Developments like the Sweetwater Mesa project have had many well-documented deleterious effects on natural communities, such as increased fire frequency, night lighting, fuel modification, vegetation clearance, and introduction of exotic and invasive species.² This area is important habitat for local mountain lions and other wildlife, and serves as a corridor between adjacent natural areas.

In addition to the native habitat that would be directly destroyed by the project, we are concerned that a large expanse of undisturbed native chaparral, sage scrub, and oak woodland habitat that surrounds the properties would also be impacted by the project. The proposed project area is within and surrounded by a contiguous wilderness area of about 2,800 acres – an extremely important habitat area for local wildlife, especially local mountain lion and bobcat populations which require more territory and undisturbed habitat to survive. Currently the area around the property has no paved roads and a minimal amount of dirt roads, unlike other areas of the Santa Monica Mountains. The properties are located within a "habitat linkage area", identified in the National Park Service's "Santa Monica Mountains National Area Land Protection Plan" that connects Malibu Creek State Park with Cold Creek

¹ Coastal Commission Staff Report posted on January 26, 2011 on Applications 4-10-040, 4-10-041, 4-10-042, 4-10-043, 4-10-044, 4-10-045 available at: <http://documents.coastal.ca.gov/reports/2011/2/Th8a-s-2-2011.pdf>

² March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D: <http://www.coastal.ca.gov/ventura/smm-asha-memo.pdf>



1444 9th Street
Santa Monica CA 90401

tel 310-451-1500
fax 310-496-1902

info@healthebay.org
www.healthebay.org

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Canyon Preserve and surroundings to the northeast. These are all reasons for the Commission to carefully consider the project's surrounding cumulative impacts on ESHA.

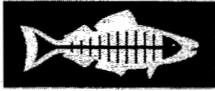
Not only will this project have a direct impact on a biologically sensitive area, violating Section 30240 of the Coastal Act, but approval could usher in future development along the roads and water lines, further cutting into this ESHA. The Sweetwater Mesa development is not a resource-dependent ESHA use, thus it is inconsistent with the Malibu Land Use Plan and the Coastal Act. The construction of a residence on each property will require both the complete removal of ESHA from the home development area and fuel modification for fire protection purposes around them, and therefore the proposed projects would significantly disrupt habitats.

Project May Cause Water Quality Issues

If coastal resources are to be maintained, protected, and enhanced for the benefit of current and future generations, then more comprehensive steps need to be taken to control runoff and other environmental costs associated with a new development of this size. Heal the Bay is concerned that the water quality impacts of large coastal projects, such as the Sweetwater Mesa development, may cause irreparable and long-term damage to the surrounding watershed.

Erosion & Sedimentation:

Significant grading and road development along the ridgeline is necessary for this project, and road development would result in a considerable area of impervious surfaces along the ridgeline, which would increase runoff volumes and rates down steep slopes descending to pristine canyons and blue-line streams below. It is unclear in the staff report where the development would drain to and what creeks and streams would be impacted, we recommend that these streams be identified in the report. Road development in this area will increase the susceptibility to erosion and geologic instability. Many of the proposed structures and roads are underlain by landslide debris, which poses a significant constraint for access and development of the properties, and are typically areas of high erosion, which would further impact water quality. There are several incidences of failed roads in steep areas of the Santa Monica Mountains contributing to erosion and habitat degradation, such as Las Flores and Tuna Canyon roads. Much of the Malibu Creek Watershed is listed as impaired for sedimentation on the 2006 303(d) list of impaired waterbodies for California. Development in steep areas and without adequate BMPs to prevent erosion contributes to this impairment. Although the proposed project is located just outside of the Malibu Creek Watershed, it requires "major alteration of natural landforms" with grades of up to 18.95% in unstable terrain, which will likely cause sediment loading in adjacent streams and waterways. Section 30231 of the Coastal Act requires that biological productivity and stream water quality be maintained and, where feasible, restored through means such as controlling runoff, and preventing substantial interference with surface water flows. As proposed, this project is inconsistent with this section of the Coastal



1444 9th Street
Santa Monica CA 90401

tel 310-451-1500
fax 310-496-1902

info@healthebay.org
www.healthebay.org

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Act, and instead will likely cause further degradation of water quality in local creeks and associated riparian habitats.

Low Impact Development:

Although the proposed projects have been designed to be LEED certified, LEED certification falls short of incorporating low impact development ("LID") principles that address water quality and runoff. If approved, the Commission should require that LID principles be incorporated in the project, to be consistent with Los Angeles County's LID Ordinance, which became effective in 2009.³ The LID approach is being taken by other jurisdictions in planning, for example the Los Angeles Regional Water Quality Control Board incorporates LID requirements in its draft MS4 permit for Ventura County.⁴ LID is a land development and stormwater management strategy that emphasizes conservation and the use of onsite natural features integrated with engineered, small-scale hydrologic controls to reflect predevelopment hydrologic functions. The primary objective is to capture and infiltrate runoff on-site, which will result in reduced pollutant loads and peak storm flows. It is a source control strategy that minimizes the need for large sub-regional and regional treatment control Best Management Practices ("BMP") to reduce pollution associated with runoff.

Furthermore, to employ LID principles, facilitate compliance with nutrient and bacteria TMDLs, and reduce sediment loading to streams and waterbodies, hydrologic control measures should be integrated into the proposed development for all associated parcels with this project. LID infiltrates runoff so it cannot cause or contribute to water quality standards exceedances. The purpose of hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration by maintaining the project's pre-development storm water runoff flow rates and durations. Specifically, we recommend the Commission integrate a provision that the project implement hydrologic control measures to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems. Incorporating LID requirements will help prevent water quality and riparian habitat degradation, including erosion and sedimentation, in natural areas adjacent to this project.

For previous coastal developments, the Commission has required compliance with Standard Urban Stormwater Mitigation Plan Standards which requires that 100% of the runoff generated from an 85th percentile storm must be captured, treated, or infiltrated on site. The Commission did not include this standard as a development requirement. Heal the Bay strongly believes that all new developments or significant re-developments should require a LID standard where 100% of the runoff generated from an 85th percentile storm be infiltrated or captured and reused on site.

³ County of Los Angeles Low Impact Development (LID) Standards Manual 2009: http://dpw.lacounty.gov/wmd/LA_County_LID_Manual.pdf

⁴ California Regional Water Quality Control Board Los Angeles Region, Ventura County Draft MS4 Permit, August 28, 2007.



1444 9th Street
Santa Monica CA 90401

tel 310-451-1500
fax 310-496-1902

info@healthebay.org
www.healthebay.org

Heal the Bay.

Septic Systems:

The proposed development includes plans for septic systems, which could potentially leach bacteria and nutrients into nearby waterbodies, but the proposed project and staff report do not include requirements for those systems. We recommend that the Commission include requirements regarding the treatment, monitoring, and maintenance of these systems. The applicant should be required to include a wastewater management plan as part of their permit application with at least an advanced treatment system (tertiary treatment), as the City of Malibu requires. Failures in septic systems can degrade water quality, impair human health, and cause environmental damage to aquatic life, downstream riparian habitat, and coastal resources. Without guidance, the proposed development may exacerbate water quality problems. Specific treatment, performance, monitoring, and maintenance criteria are necessary to treat to the appropriate level, and ensure that these systems are properly sized, monitored, and maintained.

As demonstrated by the Malibu Creek Watershed nutrient and bacteria TMDLs, numerous streams and tributaries in the Santa Monica Mountains have excessively high levels of bacteria and/or nutrients and do not meet state water quality standards. Poorly sited and unregulated septic systems have the reasonable potential to cause or contribute to pollution problems.

Conclusion

In conclusion, we urge the Commission to carefully consider in their decision that the proposed developments are inconsistent with several areas of the Coastal Act and do not protect ESHA from significant habitat destruction, while putting water quality and public safety at risk due to erosion and runoff through significant landform alteration. The proposed project should also be considered cumulatively in conjunction with fragmented development in the Santa Monica Mountains, as this property is one of few large areas still intact. In addition, stormwater and wastewater should be addressed in the report. The proposed Sweetwater Mesa project is likely to cause significant and unavoidable adverse impacts on one of our few-remaining natural California coastal landscapes. We appreciate the opportunity to comment on this application. Please contact us if you have any questions regarding our comments.

Sincerely,

Mark Gold, D. Env.
President

Sarah Abramson Sikich, MESM
Coastal Resources Director

Dana Roeber Murray, MESM
Staff Scientist



CENTER for BIOLOGICAL DIVERSITY

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Feb 7 2011 BR

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

February 4, 2011

To: Chair Sara Wan
Vice Chair Esther Sanchez
Commissioner Steve Blank
Commissioner William A. Burke
Commissioner Wendy Mitchell
Commissioner Mary K. Shallenberger
Commissioner David Allgood
Commissioner Kenneth Zanzi,
Commissioner Ross Mirkarimi
Commissioner Mark W. Stone
Commissioner Mary Ann Reiss
Commissioner Richard Bloom

Cc: John Ainsworth, Deputy Director
Steve Hudson, District Manager

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 Chair Wan, Vice-Chair Sanchez, and Commissioners:

The Center for Biological Diversity previously commented on the Sweetwater Mesa project, expressing our serious concerns with the long-term environmental impacts of the development in our detailed comment letter dated August 17, 2010. While those comments were made on behalf of our entire membership, many of our online activists wished to express their concerns personally and to urge the Commission to follow the recommendation of your staff to reject the proposed project. Each of these letters (4172 in total) is contained on the attached cd-rom. Although not all of the letters are the same (many of our activists have commented in their own words), attached for your convenience is a paper copy that is representative of most.

Thank you very much for your attention and consideration of these comments. If you have any questions about the attached letters or the Center's concerns about this project, please do not hesitate to contact me.

Sincerely,


Adam Keats

Arizona • California • Nevada • New Mexico • Alaska • Oregon • Minnesota •

Adam Keats, Senior Counsel • 351 California St., Suite 600 • San
Phone: 415-436-9682 x304 • Fax: 415-436-9683 • akeats@biol

ex. 24

California Coastal Commission

Dear Commission Members,

I concur with Commission's staff that The Edge's five luxury house developments on Sweetwater Ridge near Malibu will cause significant and unavoidable adverse impacts and for that reason they should be denied. As one of the few remnants of natural California coastal landscapes left, this area should remain undeveloped so that the Ecologically Significant Habitat Area, covered by coastal scrub, chaparral and oak woodland, can continue to provide wildlife habitat onsite and wildlife movement corridors to the directly adjacent conservation investments of California State Parks and the Mountains and Recreation Conservation Authority. Sweetwater Ridge also needs to be preserved for its iconic viewshed values as one of the last unspoiled prominent ridges in the area.

Please support the staff recommendation and deny The Edge's development on Sweetwater Ridge. Thank you.

Mrs. Elda Unger
PO Box 6128
Malibu, CA 90264

ex.24



MALIBU
TOWNSHIP COUNCIL, INC.
A Community Association
MALIBU, CALIFORNIA
P.O. BOX 803, 90265-0803

February 4, 2011

Agenda 8 a-f Edge Project
California Coastal Comm.
February 10, 2011

California Coastal Commission
89 S. California St.
Ventura, Ca. 93001

Dear Commissioners:

Please support the Staff Report on these projects, and deny approval. The structures are located in a remote area and will cause extreme environmental damage during construction of the required access, site pads and structures.

Thank you for your consideration,


Lucile Keller, Secretary

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SOUTH CENTRAL COAST DISTRICT



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Sonoma County

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Patrick Ward
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Richard Nichols
Sonoma County

Amy Purvis
Yolo County

John Woolley
Humboldt County

Una J. M. Glass,
Executive Director

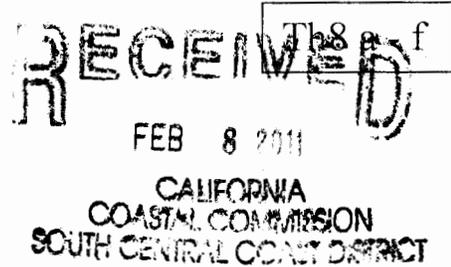
Mailing Address:
555 South Main St., Suite 1
Sebastopol, CA 95472
(707) 829 8685

1015 Lincoln Blvd Ste 222
San Francisco, CA 94129
(800) 550 6854

www.coastwalk.org
californiacoast@allinfo

February 7, 2011

Chairperson Wan and Commissioners
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219



**RE: California Coastal Commission - February 10, 2011 - Agenda Item Th 8a - f
- Application Numbers 4-10-040, 4-10-041, 4-10-042, 4-10-043, 4-10-044, 4-10-045**

Dear Chairperson Wan and Commissioners:

Coastwalk California is in support of the California Coastal Commission Staff Report recommending *denial* of proposed residential developments north of Sweetwater Mesa Road above Malibu in Los Angeles County. We have reviewed information about these projects, and believe that, as presented, they violate the Coastal Act and will cause impacts within the Coastal Zone that cannot be mitigated.

We respectfully urge support of staff's recommendation and denial of the applications.

Thank you

Sincerely,

Una J. M. Glass
Executive Director

February 2, 2011
(Via UPS)

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission
South Central Coast District Office
Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: February 2011 Coastal Commission Hearing – Item Th8a (CDP 4-10-040)
Applicant: Lunch Properties, LLLP
Issue: Precedent

A copy of the enclosed has been forwarded to Coastal Commission Staff and other Commissioners as per Public Resources Code sections 30319-30324

Dear Mr. Ainsworth,

We are in receipt of the Staff Report for the above-referenced CDP application, which is scheduled to go before the Commission on February 10, 2011. We would like to provide the enclosed information to address Staff's assertion that the proposed driveway associated with this application is unprecedented.

The applicant purchased the subject 20-acre parcel that is zoned to allow for residential development with the intent to build a home on the property. The applicant is proposing one single-family residence with an access driveway that is the minimum required by the Los Angeles County Fire Department. Coastal Commission Staff has independently verified that the subject parcel was created legally in 1962, as evidenced in the Staff Report on pages 16-17.

Based upon a review of previous Coastal Commission action in approving homes of similar scope and scale, it becomes apparent that there is little that distinguishes this proposed home from many others that have been approved in the Santa Monica Mountains. Therefore, it is difficult to understand how Staff can characterize the proposed driveway as more "significant" in its potential impacts than the homes that the Commission has previously approved.



PROVIDERS OF LAND USE PLANNING
FOR A BETTER COMMUNITY

HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265

TEL: 310.589.0773 FAX: 310.589.0353

EMAIL: INFO@SCHMITZANDASSOCIATES.NET WEBSITE: WWW.SCHMITZANDASSOCIATES.COM

ex. 24

Attachment Number	Applicant	CDP Number	Length of Access Drive	Grading	Structure
1	Worldwide Resources, et. al.	4-93-144 thru 149	13,500 ft.	59,541 cu. yds.	6 Homes
2	Creekside Ranch, LLC	4-04-077	8,850 ft.	32,795 cu. yds.	1 Home
3	Stoney Heights, LLC	4-05-153	7,180 ft.	11,640 cu. yds.	1 Home
4	Lunch Properties, LLLP (Subject Property)	4-10-040	4,191 ft.	16,200 cu. yds.	1 Home
5	Hoang, Bao	4-07-001	2,700 ft.	1,100 cu. yds.	1 Home
6	Malibu Ocean Ranches, LLC	4-04-099	1,352 ft.	11,540 cu. yds.	1 Home
7	Bren-Haley, Inc.	4-02-019	1,100 ft.	16,716 cu. yds.	1 Home
8	Rein, Robert	4-05-132	1,100 ft.	4,433 cu. yds.	1 Home
9	Smith, Dennis	4-07-101	1,000 ft.	11,266 cu. yds.	1 Home

The Coastal Commission has approved numerous single-family residences with access driveways in excess of 1,000 linear feet and commensurate grading. The proposed access driveway is no different than many residences that have previously been approved by the Commission and built in the Santa Monica Mountains. Therefore, we do not understand the basis for Commission Staff to recommend denial of the subject application or to treat the applicant differently than it has treated other property owners, such as the ones referenced above.

Based upon the foregoing, we respectfully request that the Commission approve CDP 4-10-040. If you have any questions or comments, please do not hesitate to contact me at (818) 338-3636.

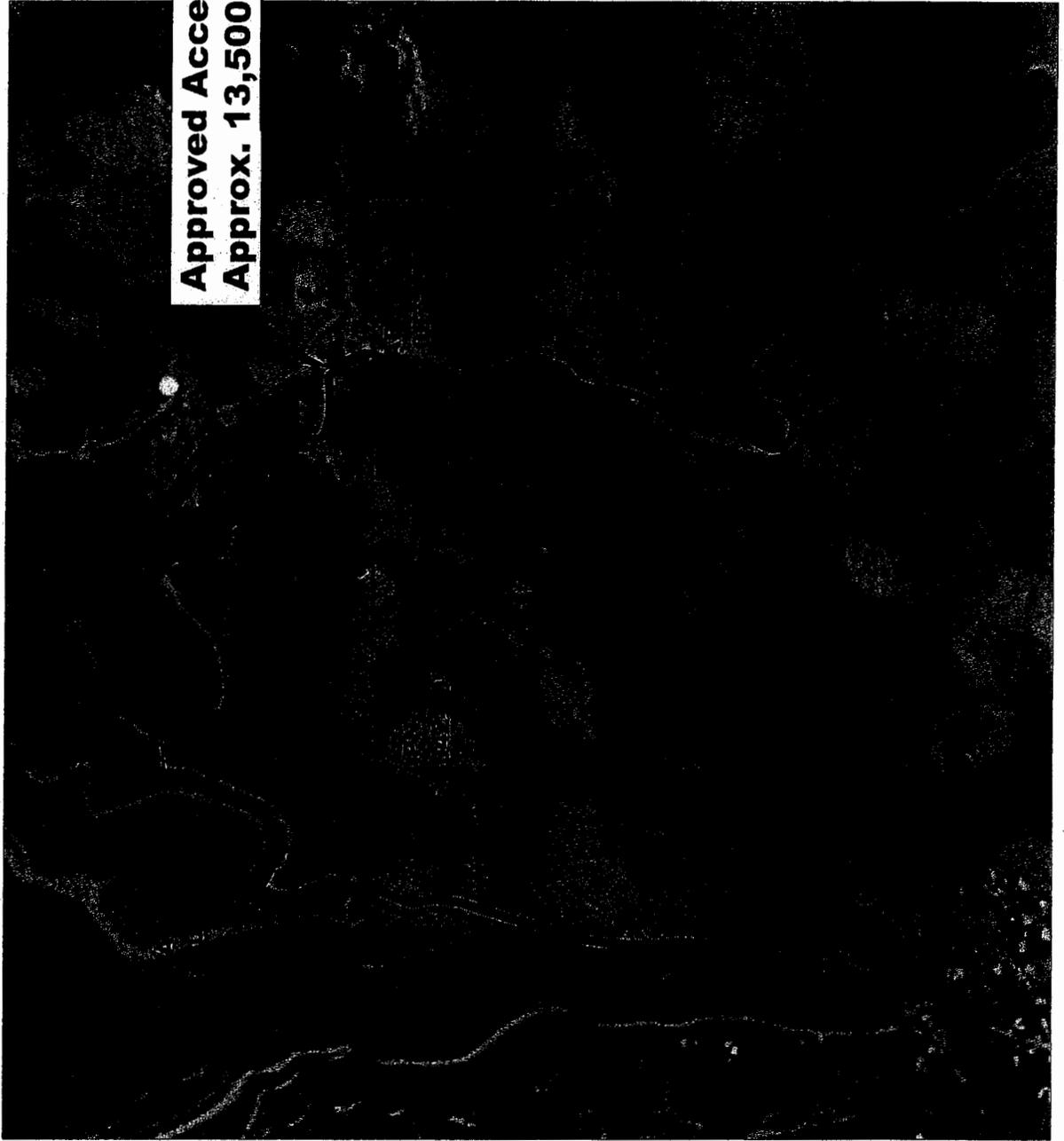
Sincerely,
Schmitz & Associates, Inc.



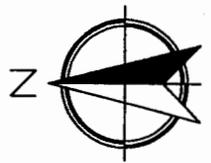
Donald W. Schmitz, II, AICP
President

Cc: Lunch Properties, LLLP

**Attachment 1 - Approved Development
CDPs 4-93-144 thru 4-93-149
Topographic Map and Access Road**



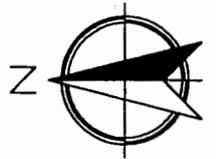
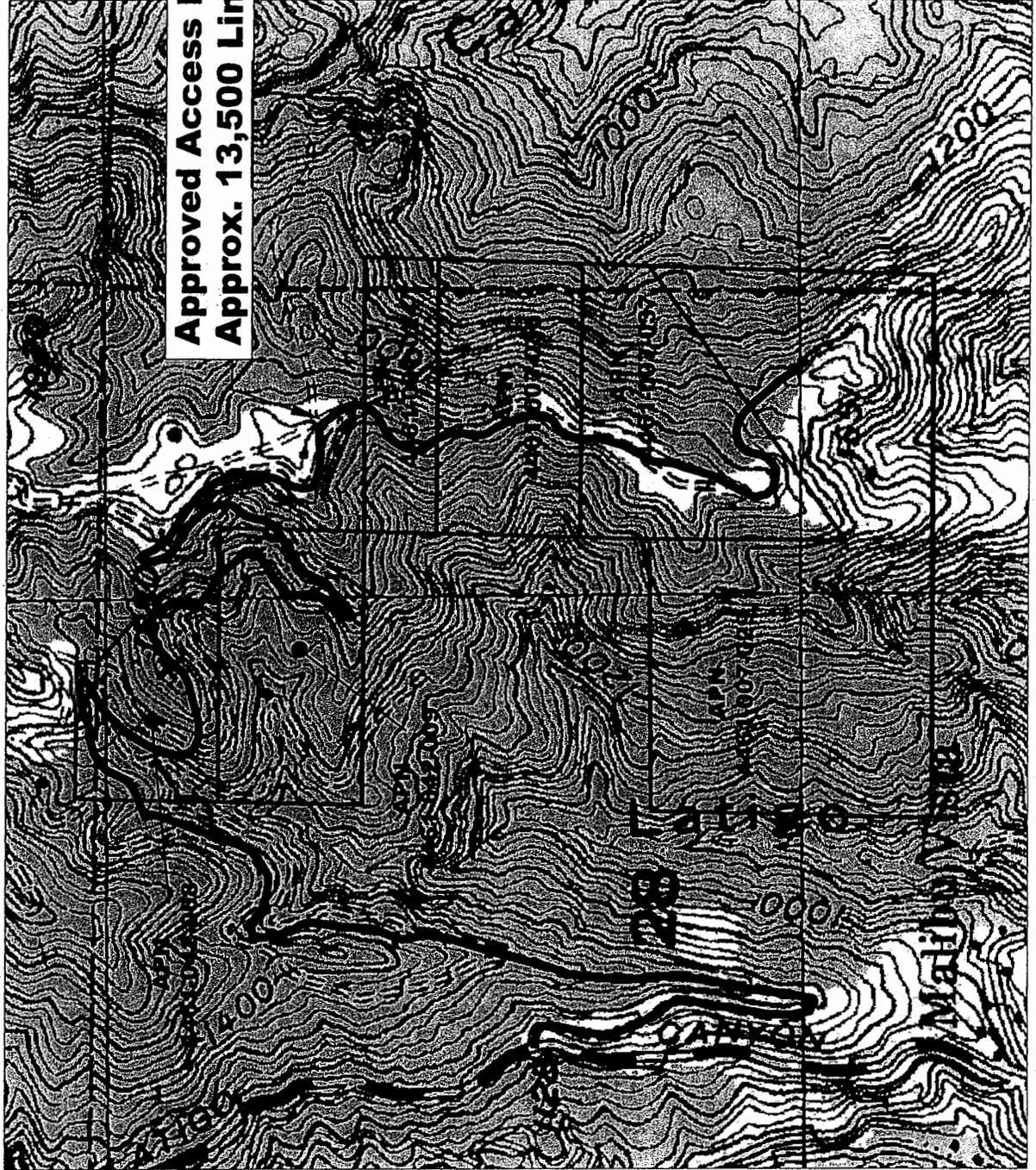
**Approved Access Road
Approx. 13,500 Linear Feet**



Scale: NTS



**Attachment 1 - Approved Development
CDPs 4-93-144 thru 4-93-149
Topographic Map and Access Road**

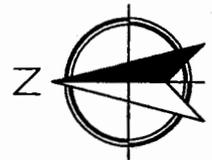
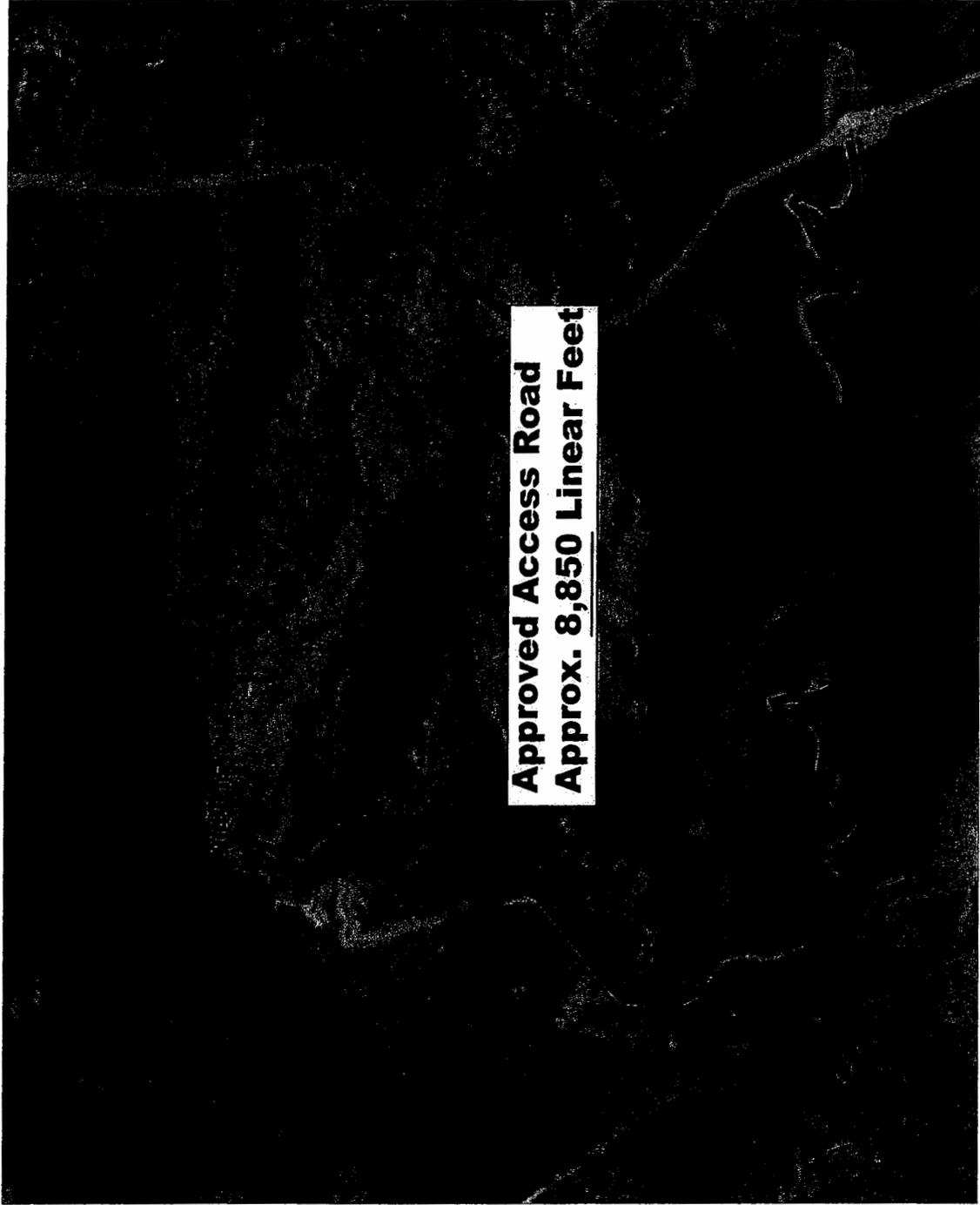


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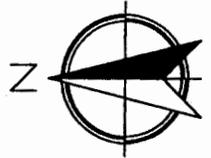
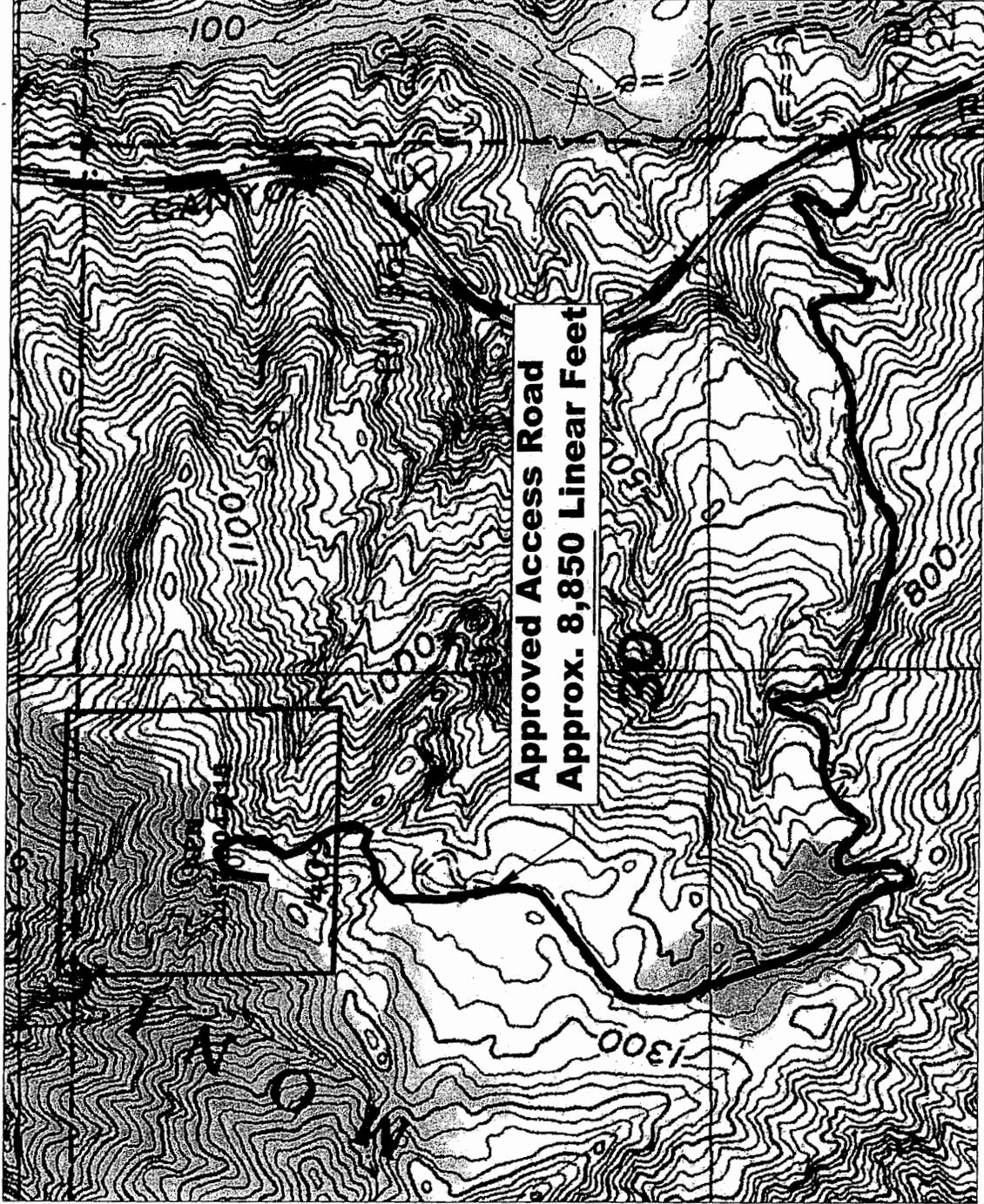
**Attachment 2 - Approved Development
CDP 4-04-077 - Topographic Map and Access Road**



Scale: NTS

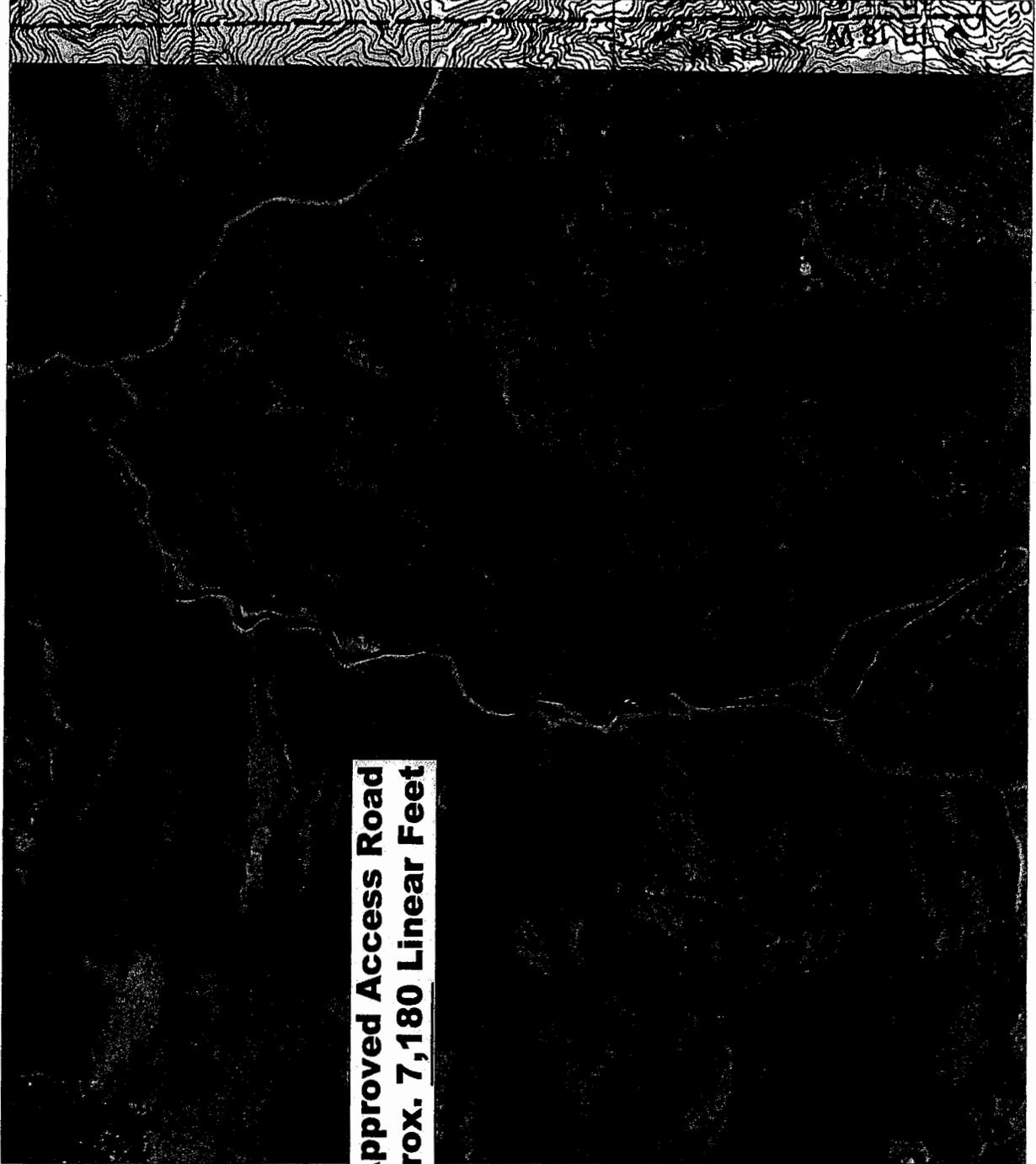


**Attachment 2 - Approved Development
CDP 4-04-077 - Topographic Map and Access Road**

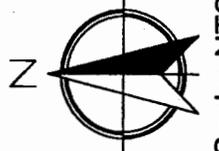
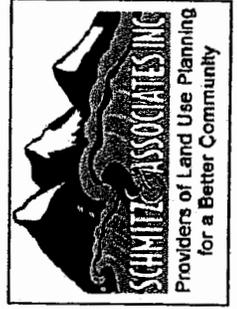


Scale: NTS

**Attachment 3 - Approved Development
CDP 4-05-153 - Topographic Map and Access Road**

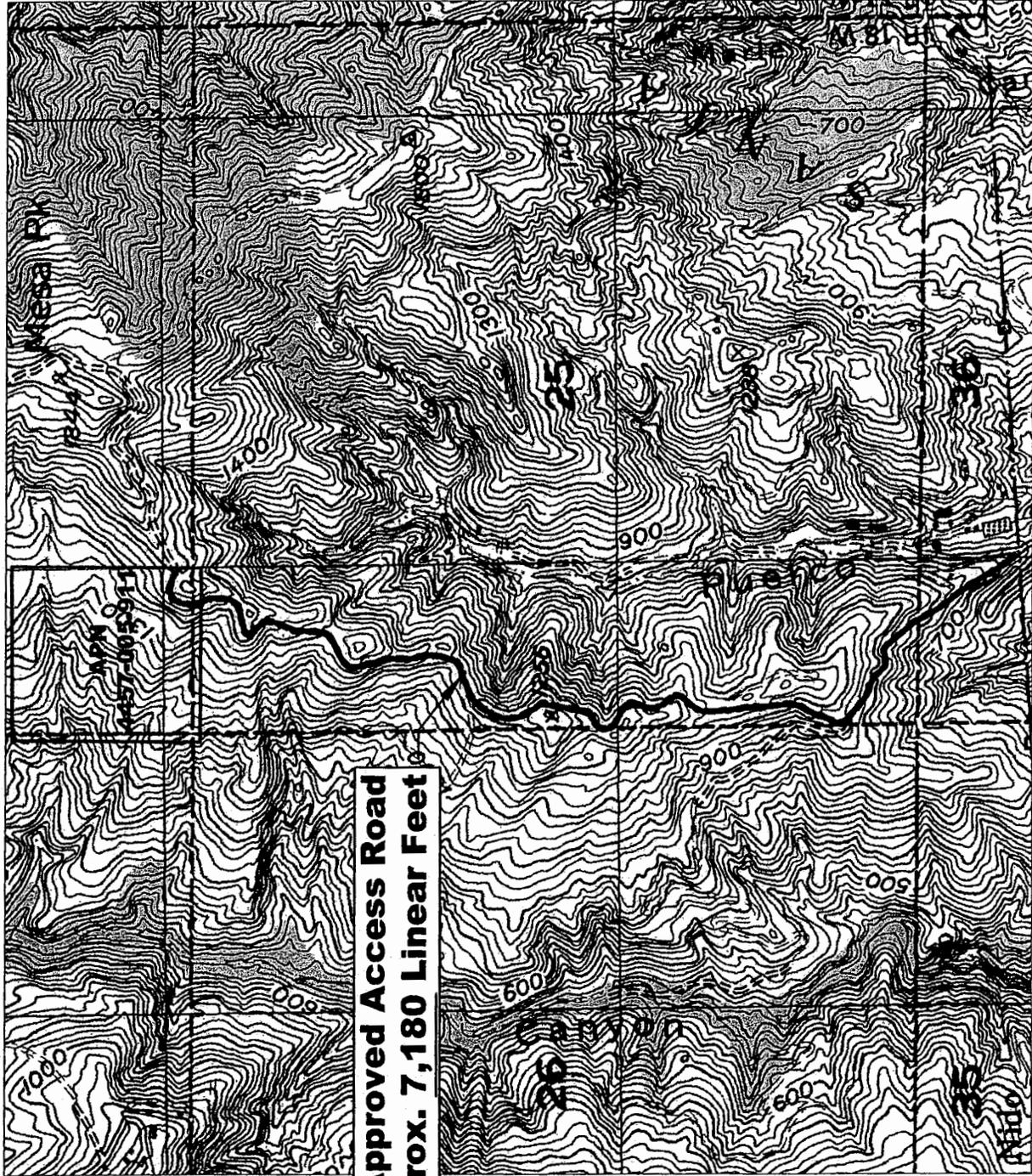


**Approved Access Road
Approx. 7,180 Linear Feet**

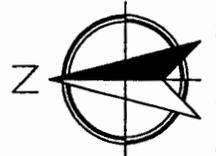


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Attachment 3 - Approved Development CDP 4-05-153 - Topographic Map and Access Road



Approved Access Road
Approx. 7,180 Linear Feet

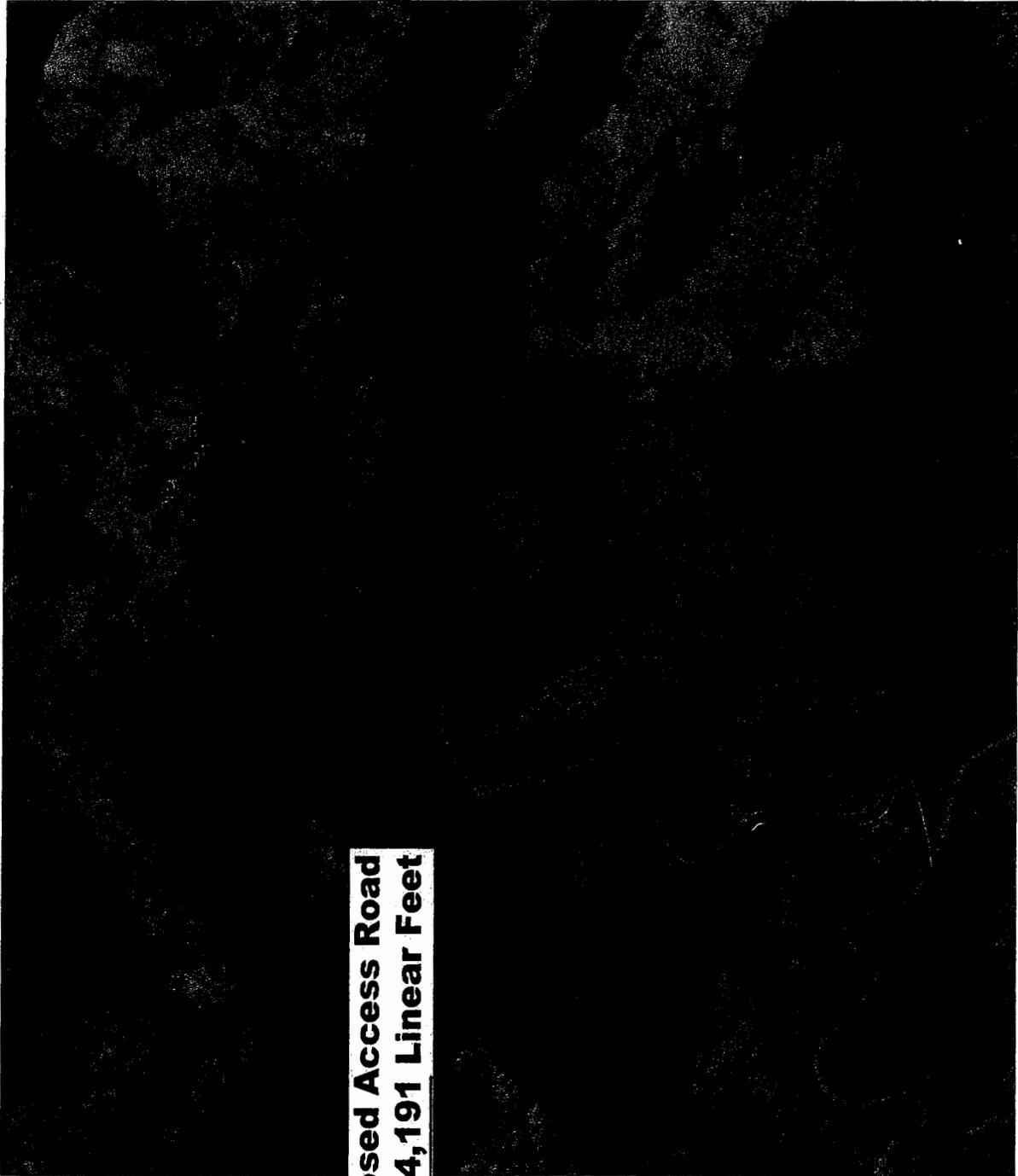


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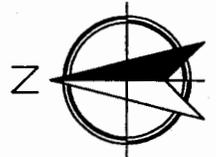
ex. 24



**Attachment 4 - Proposed Development
CDP 4-10-040 - Topographic Map and Access Road**



**Proposed Access Road
Approx. 4,191 Linear Feet**

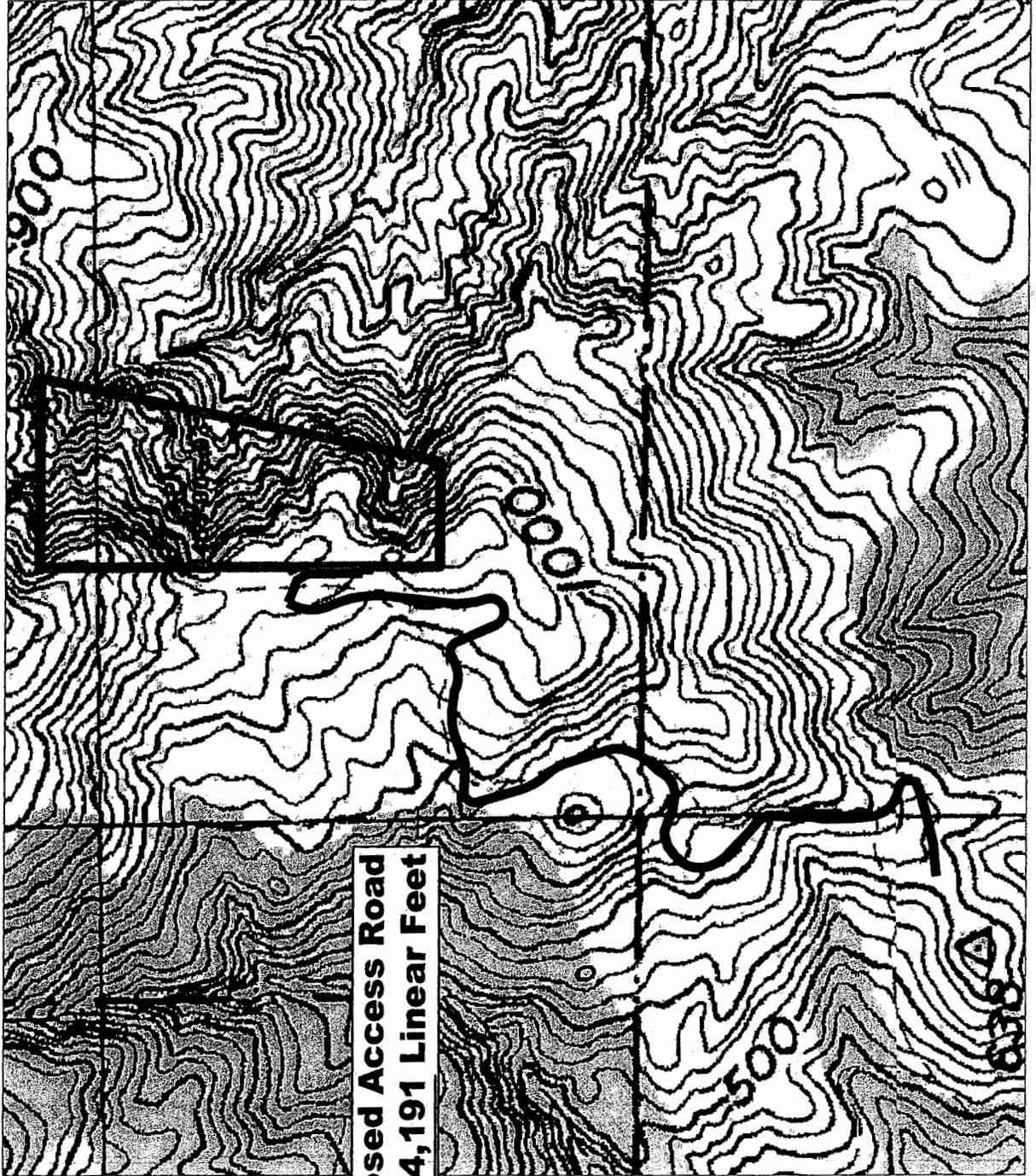


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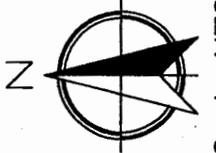
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**Attachment 4 - Proposed Development
CDP 4-10-040 - Topographic Map and Access Road**



**Proposed Access Road
Approx. 4,191 Linear Feet**

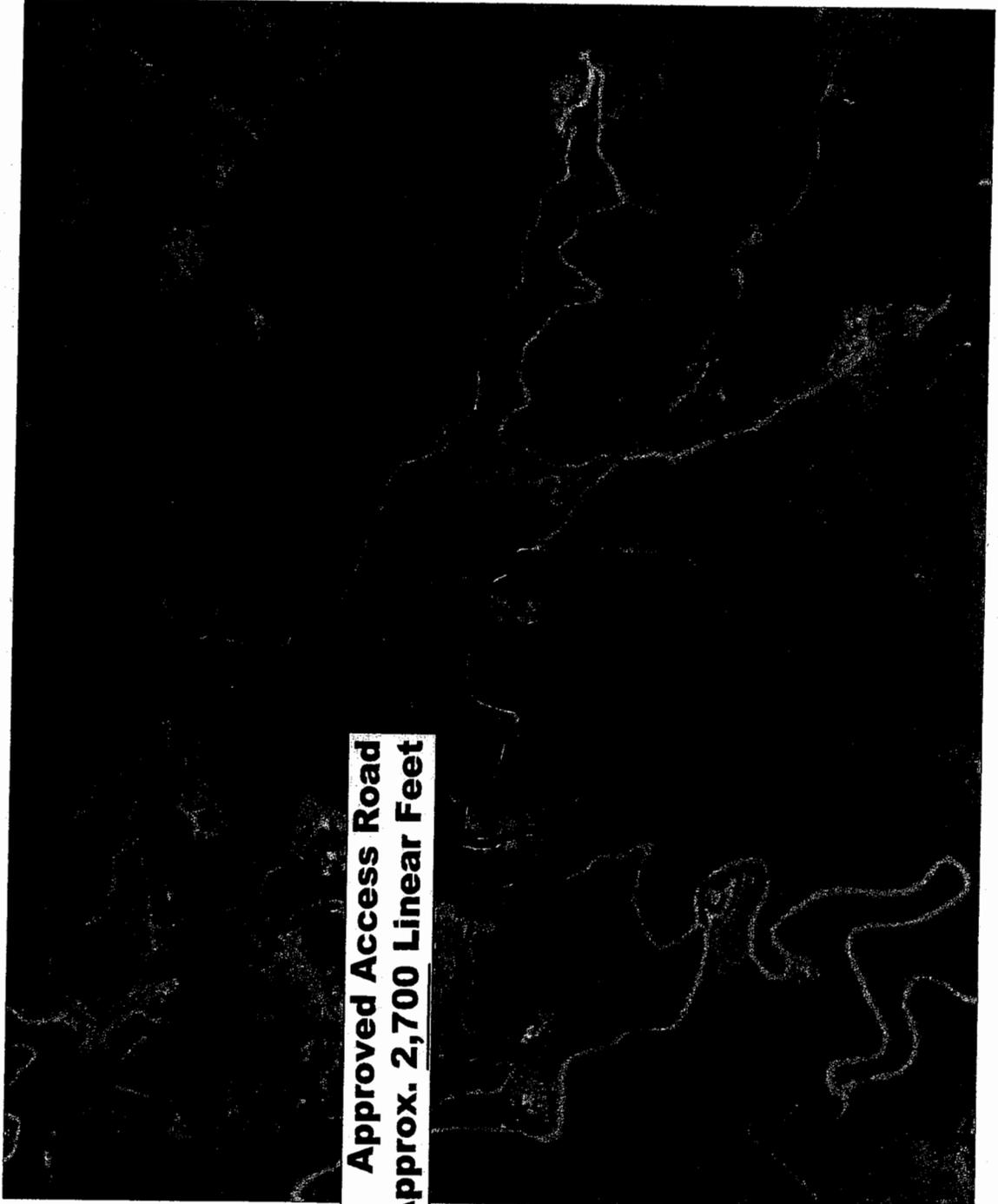


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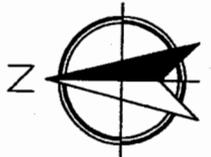
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**Attachment 5 - Approved Development
CDP 4-07-001 - Topographic Map and Access Road**



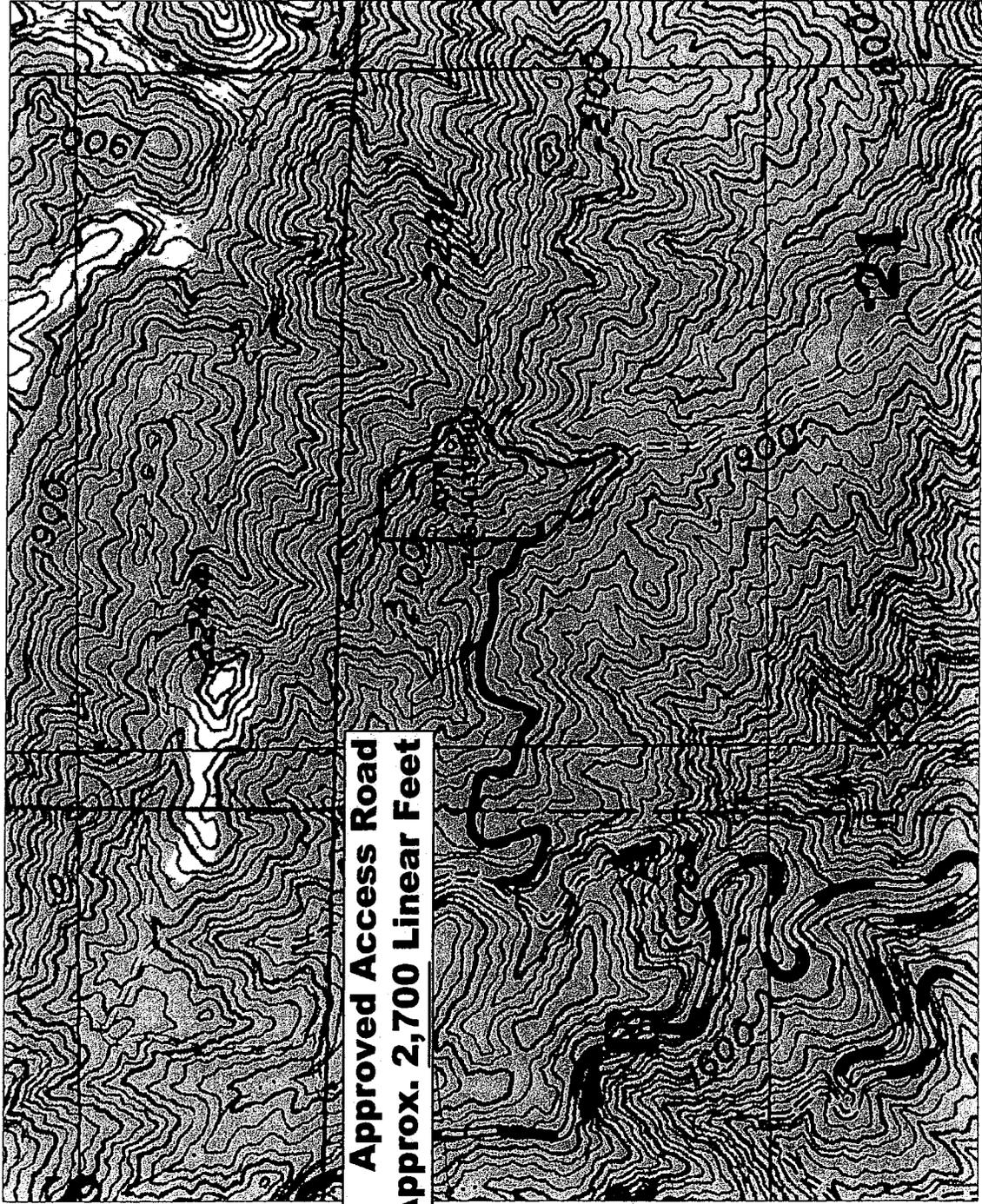
**Approved Access Road
Approx. 2,700 Linear Feet**



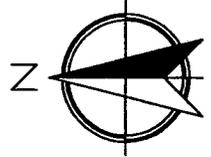
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**Attachment 5 - Approved Development
CDP 4-07-001 - Topographic Map and Access Road**



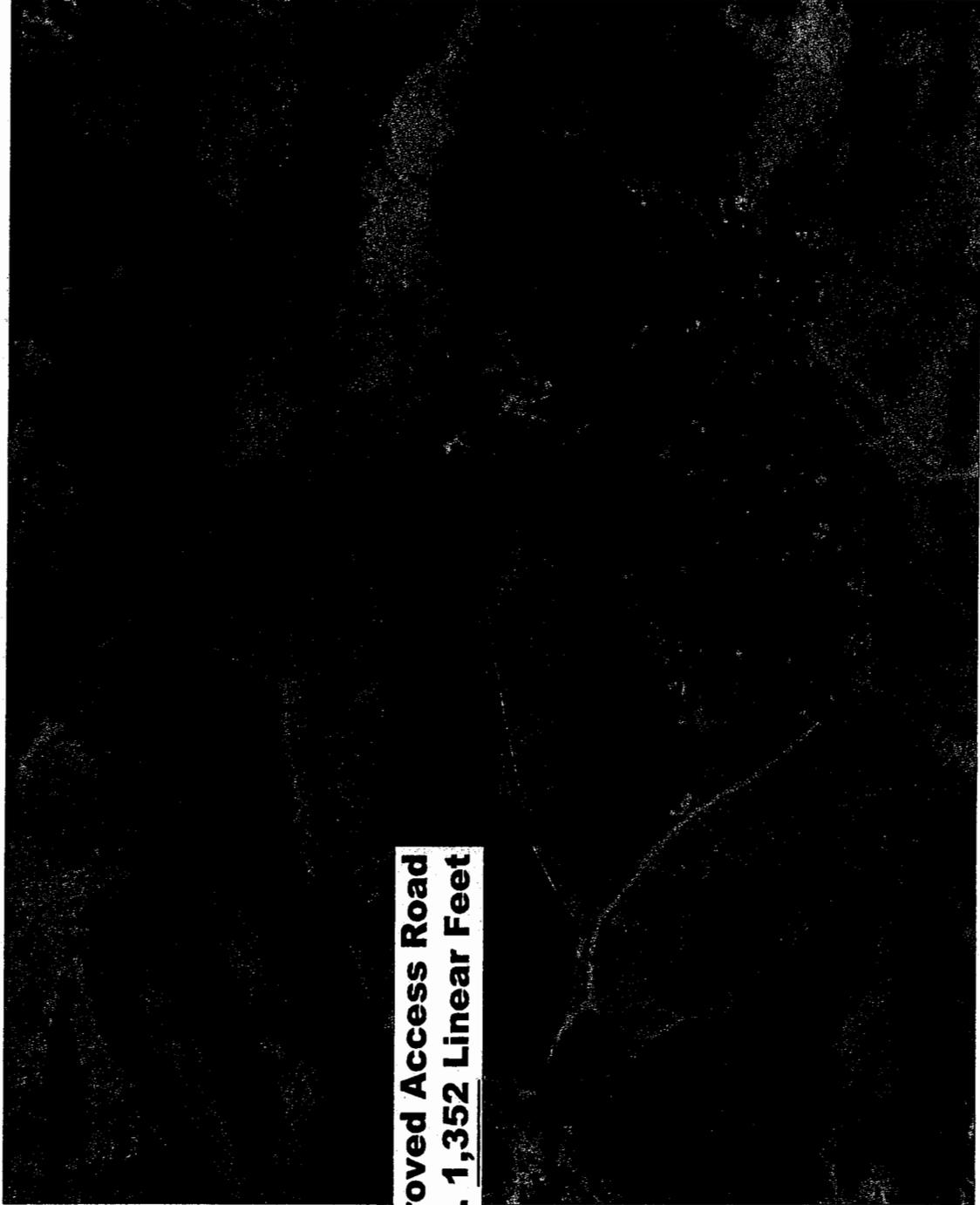
**Approved Access Road
Approx. 2,700 Linear Feet**



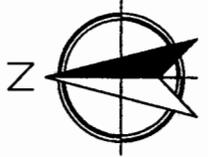
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**Attachment 6 - Approved Development
CDP 4-04-099 - Topographic Map and Access Road**



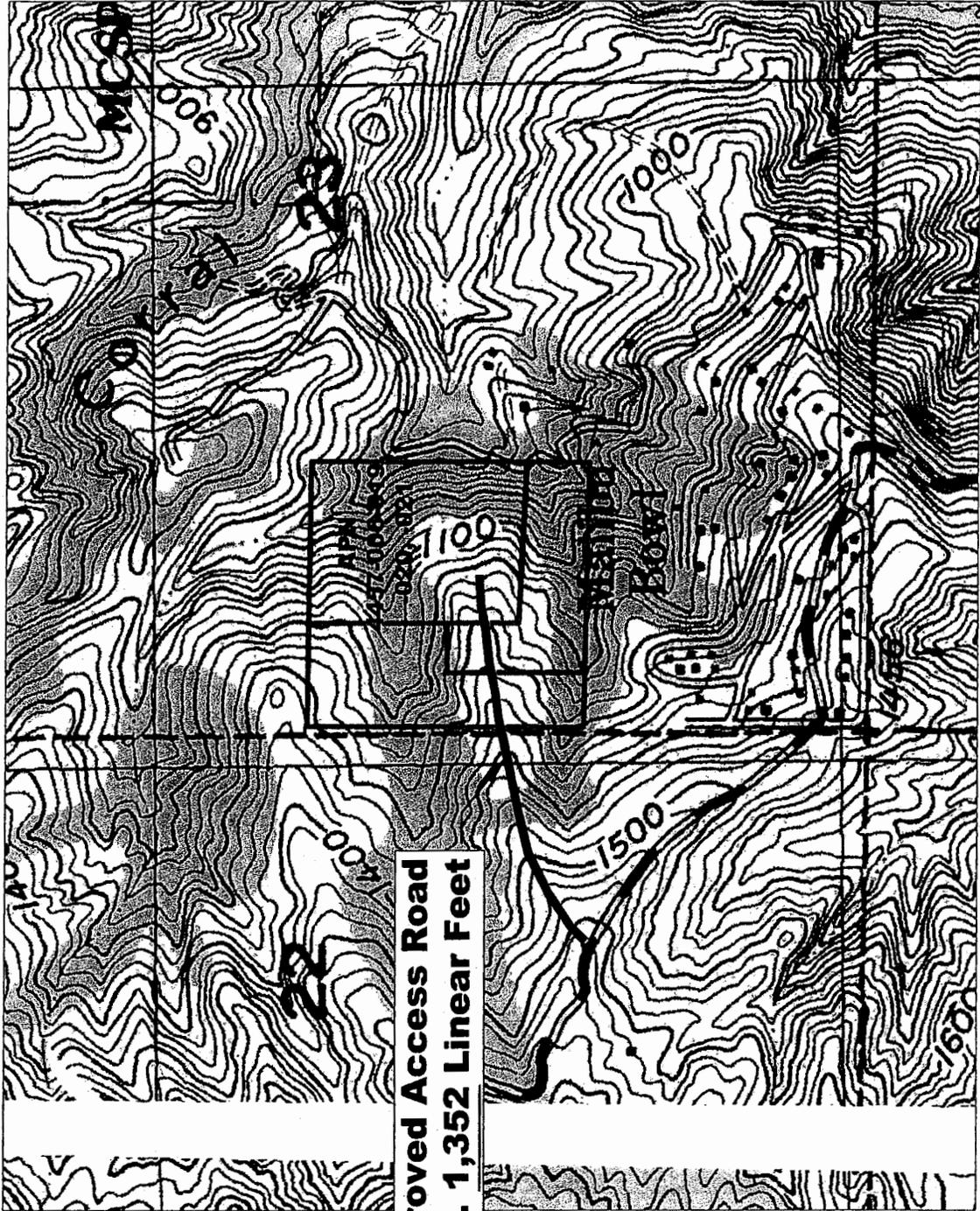
**Approved Access Road
Approx. 1,352 Linear Feet**



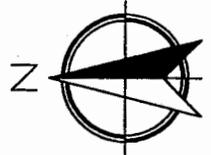
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Attachment 6 - Approved Development CDP 4-04-099 - Topographic Map and Access Road



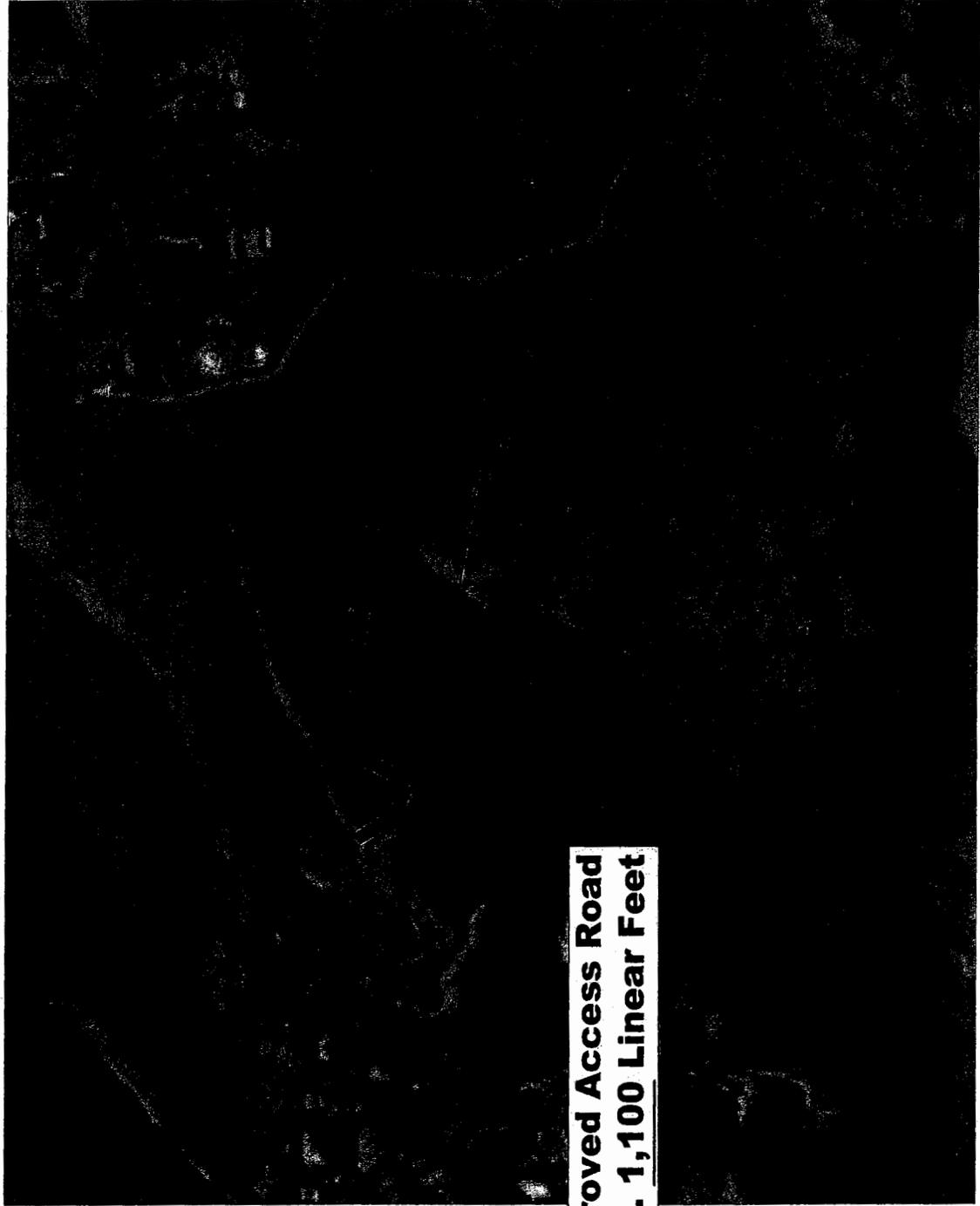
Approved Access Road
Approx. 1,352 Linear Feet



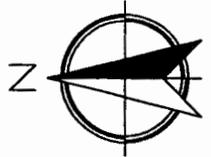
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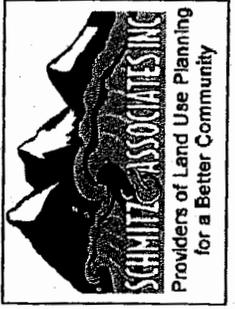
Attachment 7 - Approved Development CDP 4-02-019 - Topographic Map and Access Road



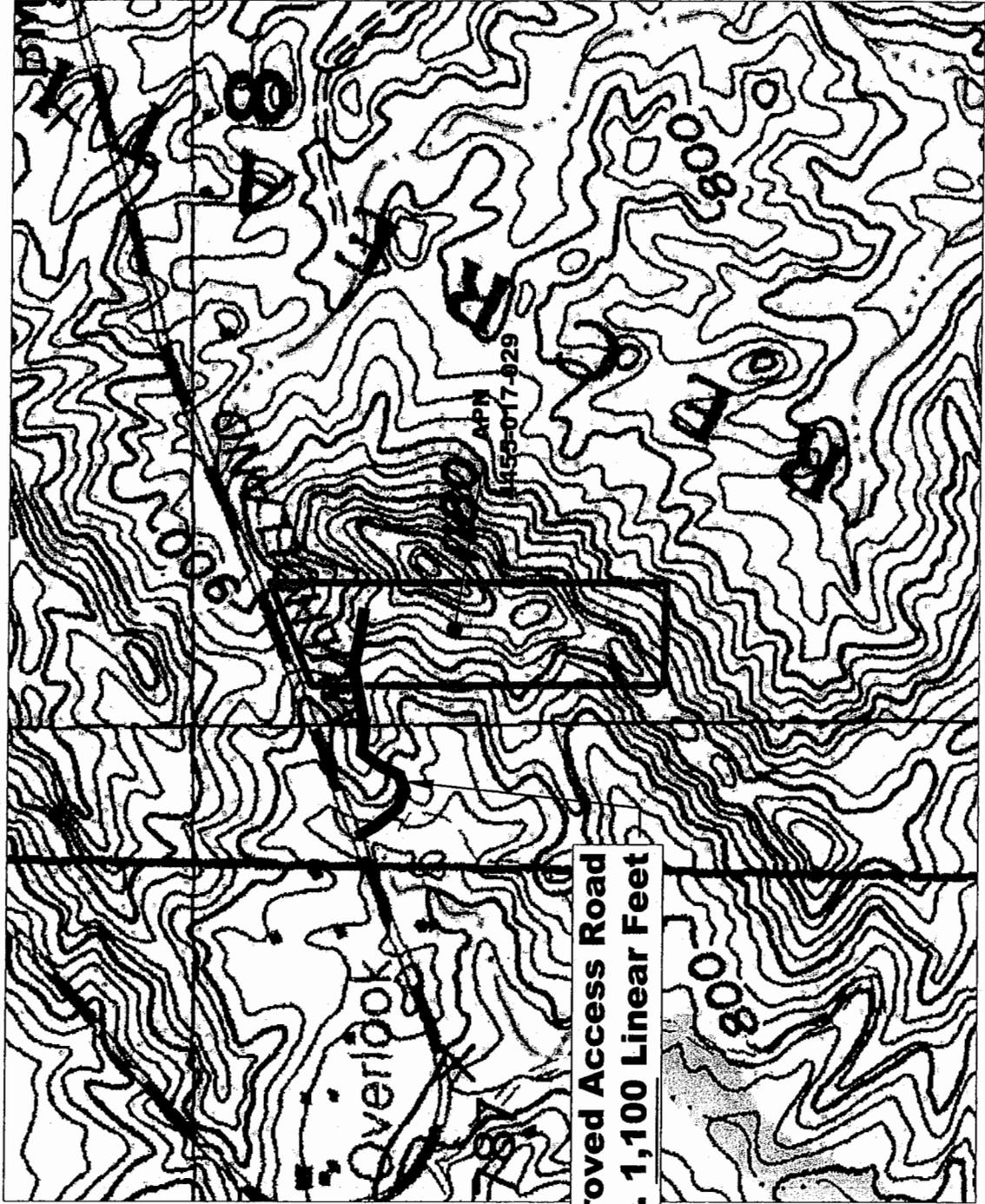
**Approved Access Road
Approx. 1,100 Linear Feet**



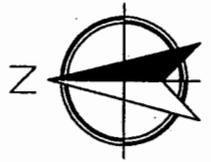
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**Attachment 7 - Approved Development
CDP 4-02-019 - Topographic Map and Access Road**



**Approved Access Road
Approx. 1,100 Linear Feet**

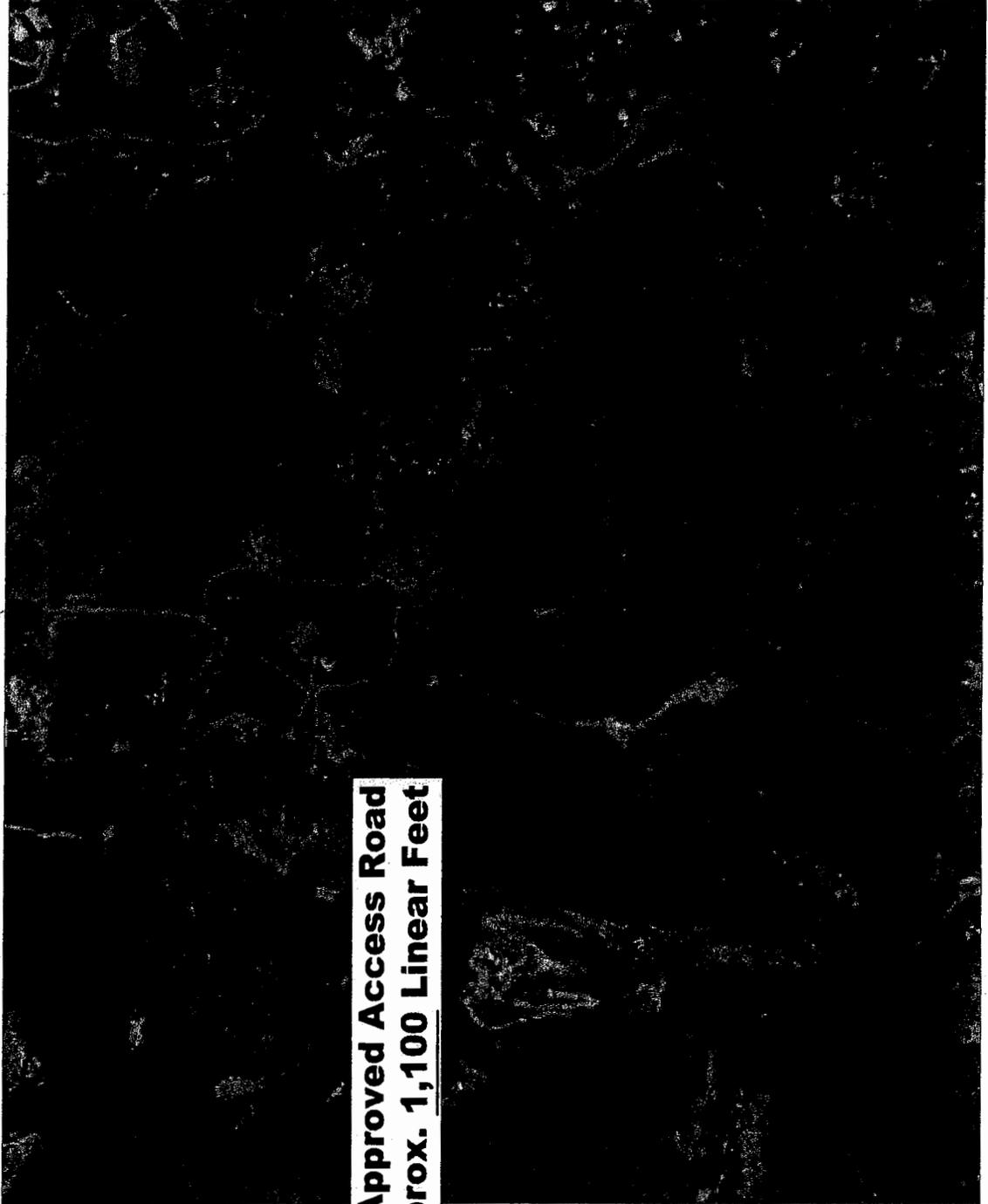


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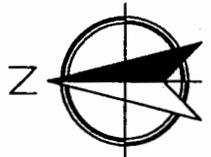
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**Attachment 8 - Approved Development
CDP 4-05-132 - Topographic Map and Access Road**



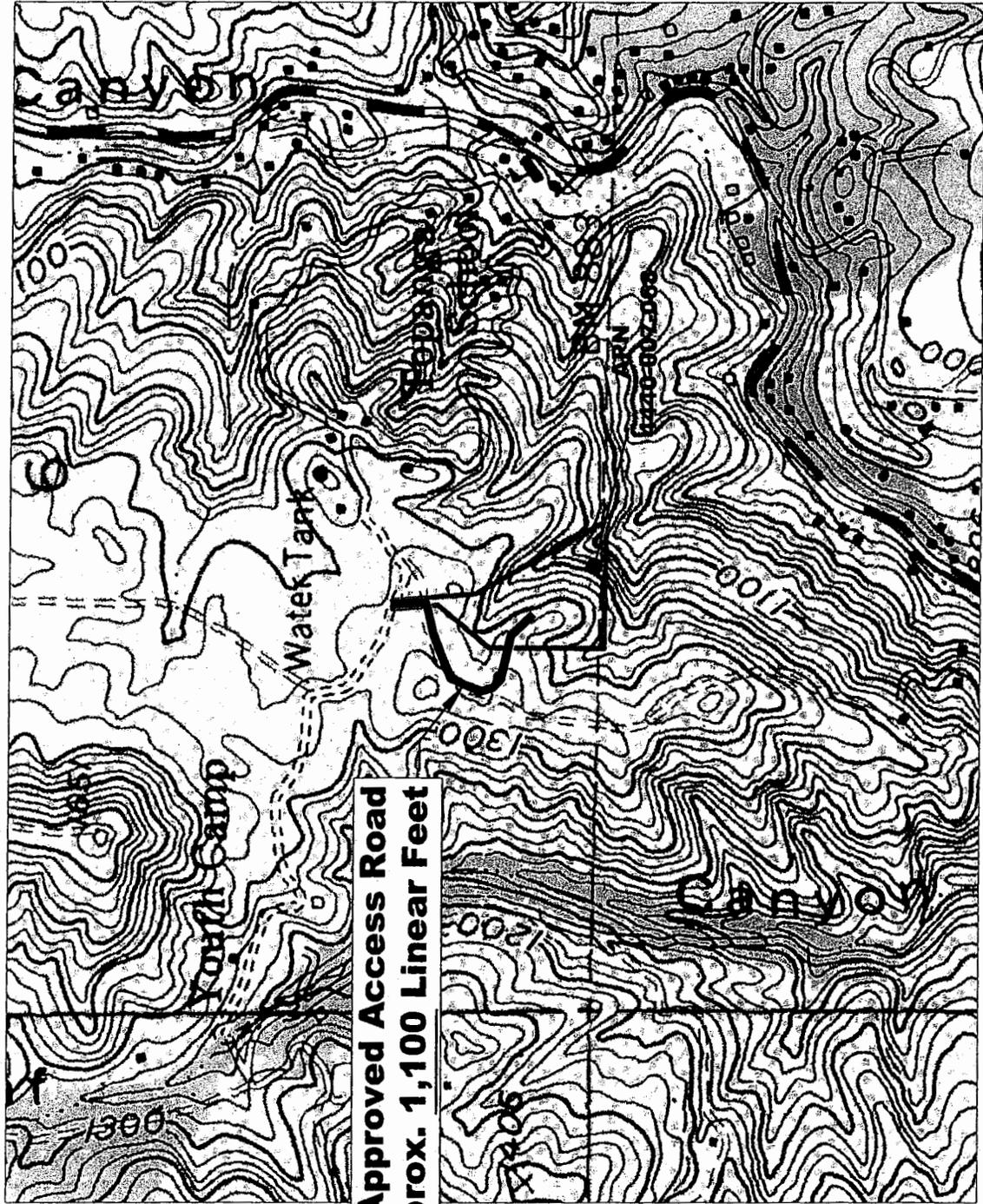
**Approved Access Road
Approx. 1,100 Linear Feet**



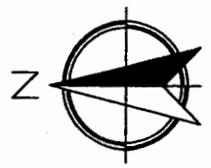
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**Attachment 8 - Approved Development
CDP 4-05-132 - Topographic Map and Access Road**



**Approved Access Road
Approx. 1,100 Linear Feet**

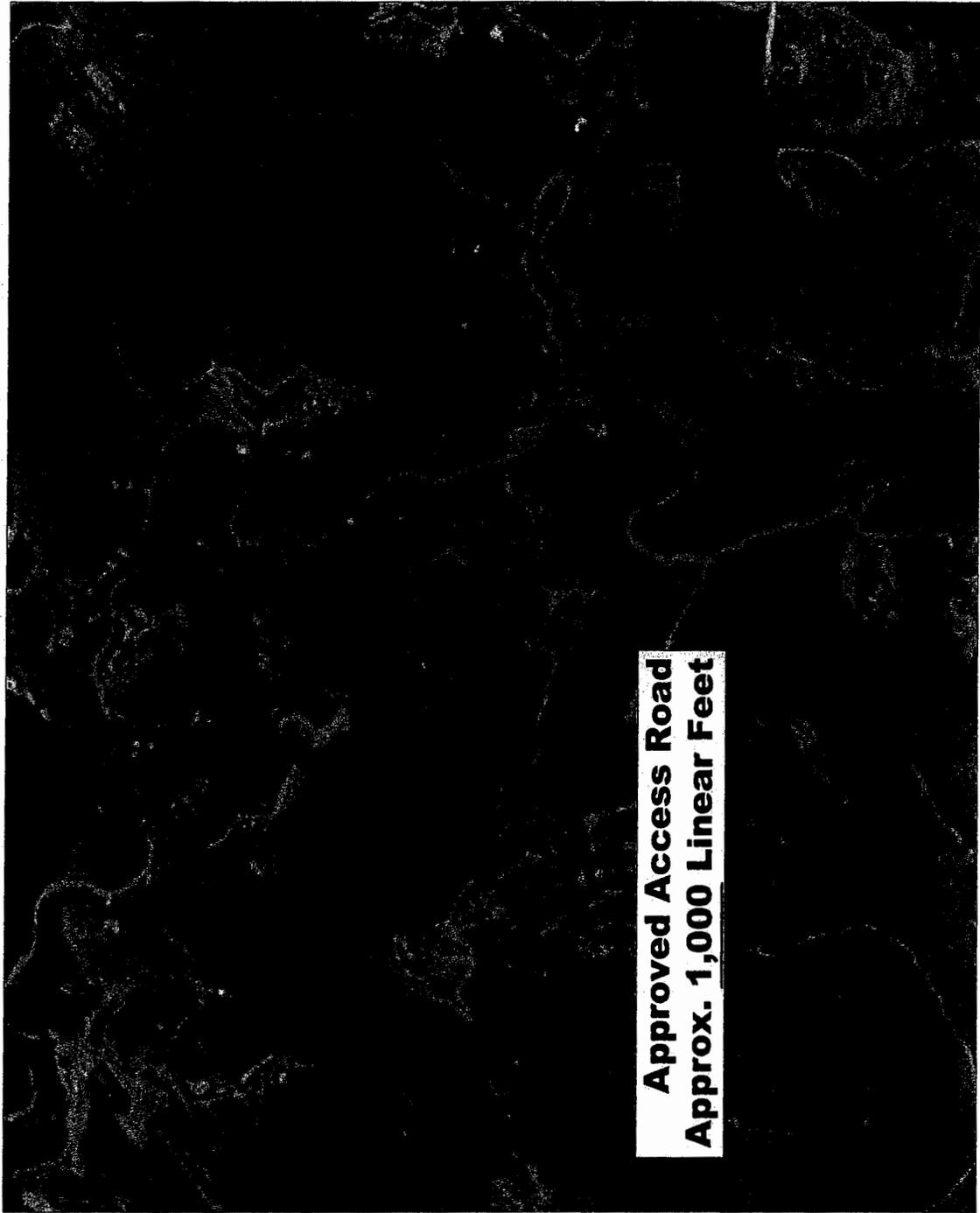


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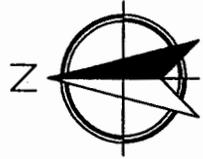
ex. 24



**Attachment 9 - Approved Development
CDP 4-07-101 - Topographic Map and Access Road**



**Approved Access Road
Approx. 1,000 Linear Feet**

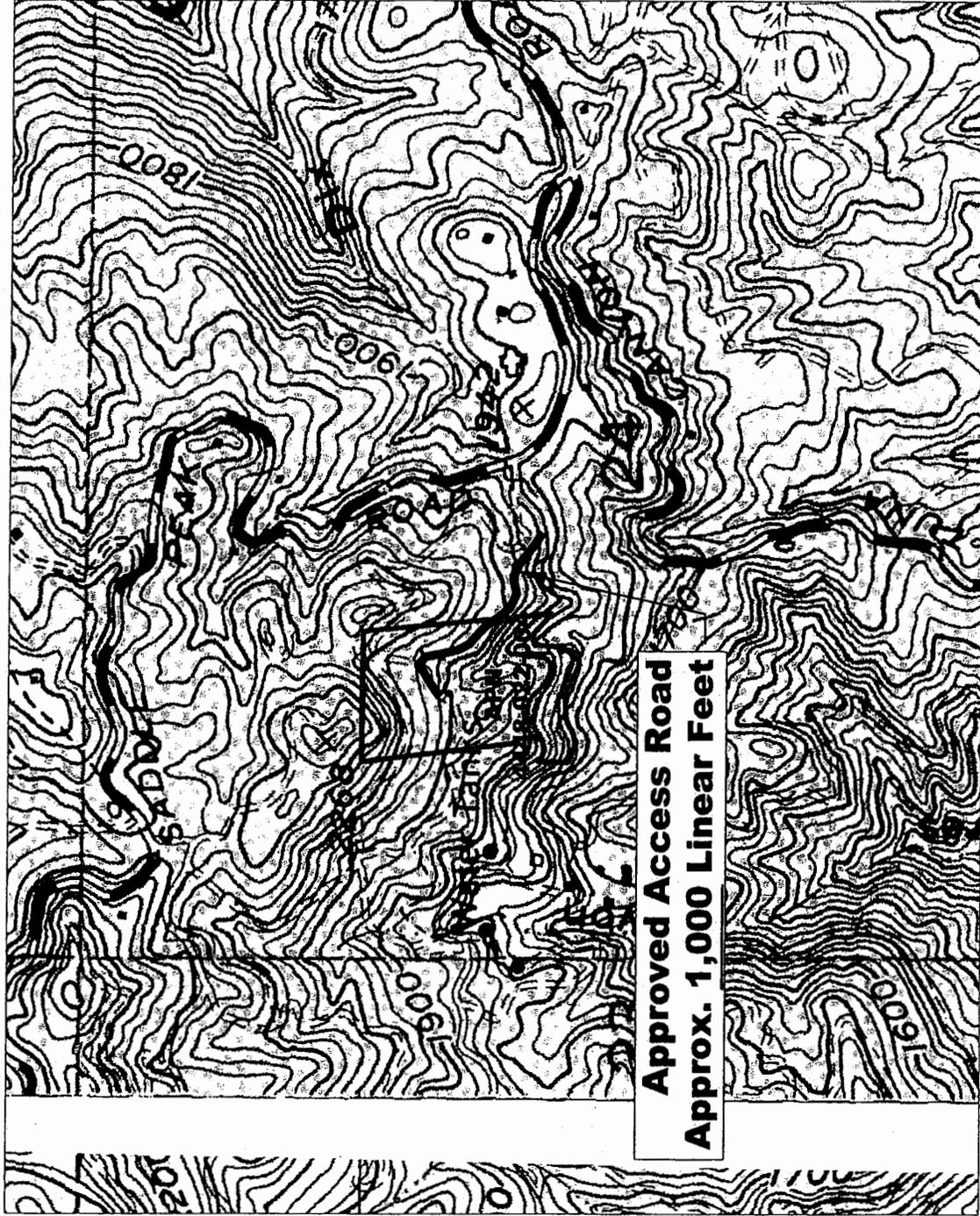


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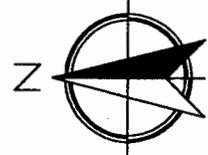
ex. 24



Attachment 9 - Approved Development CDP 4-07-101 - Topographic Map and Access Road



Approved Access Road
Approx. 1,000 Linear Feet



Scale: NTS

ex. 24



February 4, 2011
(Via UPS)

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California Coastal Commission
South Central Coast District Office
Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: February 2011 Coastal Commission Hearing – Item Th8a (CDP 4-10-040)
Applicant: Lunch Properties, LLLP
Issue: Geology

Dear Mr. Ainsworth,

For your reference and file, please find enclosed a copy of correspondence that has been transmitted to the California Coastal Commissioners regarding the above-referenced application, as per the requirements of Public Resources Code, sections 30319-30324. If you have any questions or comments, please feel free to contact me at (818) 338-3636. Thank you.

Sincerely,
Schmitz & Associates, Inc.



Donald W. Schmitz, II, AICP
President

Cc: Lunch Properties, LLLP



HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265
TEL: 310.589.0773 FAX: 310.589.0353
EMAIL: INFO@SCHMITZANDASSOCIATES.NET WEBSITE

REGIO
5234
AGOU
TEL: 8

ex. 24

PROVIDERS OF LAND USE PLANNING
FOR A BETTER COMMUNITY

February 4, 2011
(Via UPS)

Ms. Sara Wan
California Coastal Commissioner, Chair
22350 Carbon Mesa Road
Malibu, CA 90265

Re: February 2011 Coastal Commission Hearing – Item Th8a (CDP 4-10-040)
Applicant: Lunch Properties, LLLP
Issue: Geology

A copy of the enclosed has been forwarded to Coastal Commission Staff and all Commissioners as per Public Resources Code sections 30319-30324

Dear Ms. Wan,

The above-referenced CDP application is scheduled to go before the Commission on February 10, 2011. The enclosed information provides some additional background and context to the extensive geotechnical review and analysis that has been conducted for the proposed development.

1. Prior to submittal of the CDP application, the applicant's geotechnical consultants conducted extremely thorough geologic testing, modeling, and analysis. Project consultants confirmed proposed development to be feasible.
 - a. 37 Borings, 16 Test Pits, 3 Seismic Trenches, 25 Cross Sections
(Attachment 1)
2. In addition to thorough geotechnical reports, Commission Staff requested County Geology review/approval in concept (AIC). The applicant had to work with the County to create an AIC process, as they did not have a system in place. Following the County's nearly 6-month review process, the County issued a Geology AIC. **(Attachment 2)**
3. Commission Geo/Engineering Staff requested structural engineering plans and an outside consultant to review highly detailed structural plans (including details regarding subsurface mitigation utilizing concrete and steel) which is far in excess of the conceptual plans that the Commission typically requires. **(Attachment 3a, 3b, and 3c)**
 - a. Commission Geo/Engineering Staff and outside consultants requested extensive amounts of additional information and reviewed Geo/Engineering for nearly a year. **(Attachment 4)**



PROVIDERS OF LAND USE PLANNING
FOR A BETTER COMMUNITY

SCHMITZ & ASSOCIATES, INC.

HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265
TEL: 310.589.0773 FAX: 310.589.0353
EMAIL: INFO@SCHMITZANDASSOCIATES.NET

REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301
TEL: 818.338.3636 FAX: 818.338.3423
WEBSITE: WWW.SCHMITZANDASSOCIATES.COM

ex. 24

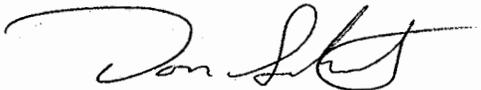
4. Staff Report confirms that the proposed development has been designed to be stable, safe, and suitable consistent with Section 30253 of the Coastal Act.
(Attachment 5a, Attachment 5b, Attachment 6, Attachment 7)

As evidenced by the foregoing and attached, the applicant has undergone an excruciatingly thorough geotechnical review process over the course of over three and a half years. The applicant has spent hundreds of thousands of dollars in testing, preparation of reports and plans, and additional review fees over this lengthy time period.

The proposed development has been reviewed and approved by the project geotechnical consultants, Los Angeles County Geotechnical and Materials Engineering Division, the Coastal Commission Geologist and Engineer, and the Coastal Commission's outside consultants. In light of the overwhelming amount of geology review that has been done and the conclusions reached by all parties, it is abundantly clear that the proposed development fully minimizes potential geologic hazards and is clearly consistent with Section 30253 of the Coastal Act.

If you have any questions or comments, please do not hesitate to contact me at (818) 338-3636.

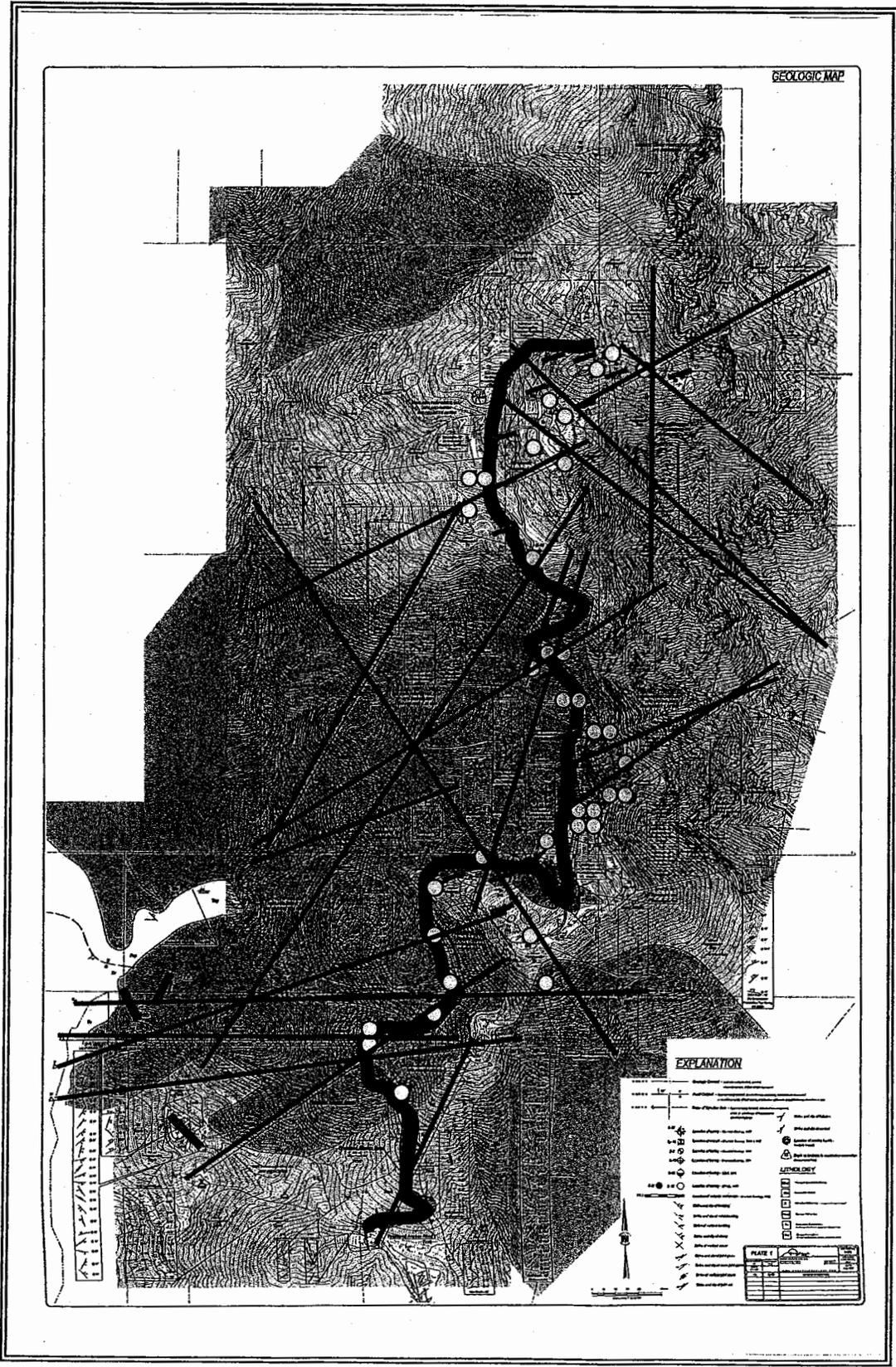
Sincerely,
Schmitz & Associates, Inc.



Donald W. Schmitz, II, AICP
President

Cc: Lunch Properties, LLLP

Attachment 1 – Extensive Geologic Testing



37 Borings ○

3 Seismic Trenches —

16 Test Pits ●

25 Cross Sections —

COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
GEOTECHNICAL AND MATERIALS ENGINEERING DIVISION

SOILS ENGINEERING REVIEW SHEET

Address: 900 S. Fremont Ave., Alhambra, CA 91803
Telephone: (626) 458-4925
Fax: (626) 458-4913

District Office 9.1
Job Number MMSIR
Sheet 1 of 2

Review of Conceptual Design - Pad for Single Family Residence and Access Road

- DISTRIBUTION:
- 1 Drainage
 - 1 Grading
 - 1 Geo/Soils Central File
 - 1 District Engineer
 - 1 Geologist
 - 1 Soils Engineer
 - 1 Engineer/Architect

Location Sweetwater Mesa, (Lunch Properties, APN# 4453-005-037)
 Developer/Owner Lunch Properties
 Engineer/Architect _____
 Soils Engineer CalWest Geotechnical, Inc. (4743-2-lunch)
 Geologist Mountain Geology (JH6727)

Miscellaneous Application No. 0706150006

Review of:

Geotechnical Report Dated 7/14/08, 12/27/07, 5/22/07
 Geologic Report Dated 7/7/08, 12/18/07, 6/11/07
 Previous Review Sheet Dated 4/2/08

REMARKS:

1. A visual inspection of the proposed building site and a cursory review of the submitted geotechnical report(s) indicate there are no apparent adverse geotechnical conditions that would preclude the development of the identified building site as long as the geotechnical consultants' recommendations are followed. However, additional data may become available in the future, which may supersede this finding. Specific development plans must be submitted for review during the building/grading permit process. At that time, a comprehensive geotechnical review will be conducted, which may require addendum geology and soils reports.
2. The Department of Public Works "Geologic Site Inspection" review is intended to preliminarily tell you if readily apparent conditions indicate that a geology or soils report may be required and/or to tentatively indicate possible conditions that may have to be met prior to issuance of a permit. This process is not intended to produce geotechnical review sheets suitable for submittal to Building and Safety Division for the issuance of building/grading permits or to any other agency. Any comments, determinations, opinions or other statements concerning the property which are contained in this review sheet are tentative and subject to change. Additional data may be brought to the Department's attention which may materially affect and/or supersede statements made herein. Because of the very limited nature of the review conducted by the Department, any statements made in this review sheet are not binding on this Department and are not to be relied upon by anyone in deciding whether to build on or buy any property. Further review requires submittal of a permit application for Grading and/or Building.

Prepared by



[Handwritten signature]
 Yoshiya Morisaku
 P.E.

[Handwritten signature]
 Clayton Masters
 Geology Section

Date 10/27/08

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

Attachment 4



25 January 2011

GEOTECHNICAL REVIEW MEMORANDUM

To: Deanna Christensen, Coastal Program Analyst
From: Mark Johnsson, Staff Geologist
Re: Sweetwater Mesa Project

In connection with the above-referenced project, I have reviewed the documents listed in Appendix A. In addition, I have attended numerous meetings and teleconferences among the Commission staff, applicants' consultants, and consultants for the Commission over the past two years. I visited the site on 8 April 2009.

Introduction

To summarize very briefly, the project consists of a lot-line adjustment, the construction of five single-family residences, the installation of a water line, and the construction of an access road extending from within the City of Malibu, into unincorporated Los Angeles County, and through multiple lots to the five proposed residences. This review will include all the proposed project elements except the part of the road within the City of Malibu.

The proposed access road within unincorporated Los Angeles County traverses the western side of a north-south oriented, sharp-crested ridge. At the City Limits the proposed road is at an elevation of approximately 835 feet, roughly 100 feet below, and 300 feet west of, the crest of the ridge. The proposed road and the ridgeline rise irregularly to a high point within the project area of approximately 1500 feet over a straight-line distance of approximately 0.53 miles. To the east of the somewhat meandering ridgeline is a very steep slope, marked by vertical cliffs, dropping into Carbon Canyon. To the west, somewhat gentler (but still very steep) slopes descend to Sweetwater Canyon. Several drainages extending from both canyons modify these steep slopes.

The bedrock making up this ridge is primarily layered sedimentary rocks (conglomerates, volcanic breccias, sandstones, siltstones and shales) assigned to The Vaqueros Formation, underlain by sandstones of the Sespe Formation. These rocks are broadly folded and lie on the east limb of syncline, or downwarp, and so primarily dip to the west. The Vaqueros Formation makes up most of the western side of the ridge, and the underlying Sespe Formation makes up most of the eastern side of the ridge. This broad structure is interrupted by many minor folds and inactive faults. Isolated igneous rocks, known as the Conejo Volcanics, were intruded into the sedimentary rocks.

ex. 24
Exhibit 25
CDP 4-10-040 through 4-10-045
Mark Johnsson Memorandum

Proposed Single Family Residences

Of the five proposed residences, only one (Residence 2 - Lunch) is proposed atop a landslide area. However, given the extremely steep topography across the remainder of the Lunch property, there are no other feasible building sites within the bounds of the parcel that are outside landslide areas. Moreover, the submitted geology, geotechnical, and/or soils reports conclude that the Lunch project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent properties. As discussed previously, landslide debris underlies the majority of the Mulryan property. As such, a lot line adjustment is proposed for the Mulryan and Morleigh parcels in order to site the Mulryan residential development outside landslide areas. The submitted geology, geotechnical, and/or soils reports conclude that the proposed Residence 1 - Vera, Residence 3 - Morleigh, Residence 4 - Mulryan, and Residence 5 - Ronan project sites are suitable for the proposed projects based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent properties.

However, each of the proposed home sites (Residences 1 - 5) is situated on or near the ridgeline, with slopes steeply descending to canyons below. The approved fuel modification plan for each of the proposed residences utilizes the standard three zones of vegetation modification, which extend a maximum of 200 feet from the proposed residences. As such, a significant portion of the fuel modification area of each residential structure would extend across steeply sloping terrain below the ridgeline, which has the potential to increase the site's susceptibility to erosion and geologic instability. In addition, the large size of each development area, coupled with the required access drive for each home site and Fire Department requirements for access and staging, would result in a significant area of impervious surfaces along the ridgeline that lies above steep slopes descending to pristine canyons and blue-line streams below. Impervious surfaces have the potential to increase runoff volumes and rates, thereby increasing a site's susceptibility to erosion and geologic instability. There are a number of measures that could be incorporated into the projects that would minimize erosion and ensure geologic stability, such as proper drainage, runoff, and erosion control measures and landscaping of disturbed and graded slopes. Although the proposed residences have been designed to be stable and safe, consistent with Section 30253 of the Coastal Act, all of the development that is required to provide safe access, services, and fire protection and ensure stability for each residence would have significant impacts to coastal resources, particularly ESHA and visual resources, as discussed in the preceding sections. Alternatives exist that would minimize impacts to coastal resources while also assuring safety and stability of residential development. There are discussed in the Alternatives section of this report.

system and the "dog bone" caissons had been deleted. As with the initial design, the caissons would require careful field installation since reinforcing steel for each caisson was designed to be oriented with the direction of the slide. By refining the geologic landslide mapping and using the appropriate parameters during the CSA review process, the applicants' consultants were able to replace the previously proposed dog-bone caissons with cylindrical caissons and reduce the amount and size of the stabilization elements of the access road.

The applicant's structural engineer also examined the option of a tied-back wall rather than a caisson system because such a design was thought to have the potential to further reduce both the caisson diameter and necessary reinforcing steel. However, the assessment of that option found that the tie-back installation would require far more site disturbance than the caissons, since large trenches would need to be excavated downslope of the slide to install the tiebacks. Approximately 1,010 feet of roadway would require slot excavations at least 30 to 60 feet deep to install the tie-back system, extending the site disturbance well beyond the existing roadway footprint. Lesley Ewing has reviewed the alternative design analysis and concurs that a tie-back stabilization system at this site would cause greater site disturbance than the caissons.

Staff has determined that the site geologic hazards, limits of landslides, type of sliding, and depth of the slide planes in the access road corridor have been appropriately characterized and that the structural design of the road will be safe and stable as long as the recommendations provided in the relevant reports are followed. Staff also has determined that because of the steepness of the access road corridor, the ability to devise other designs that would reduce grading and wall heights is limited. The Commission concurs with its staff's conclusions in these respects.

Although the proposed engineering design of the access road is simpler than what was previously proposed, it is still a relatively complex road design that would require a significant amount of grading, retaining walls, large cut/fill slopes, Fire Department staging areas, drainage devices, and an expansive overall footprint. Although the proposed access road has been designed to be stable and safe, consistent with Section 30253 of the Coastal Act, all of the development that is required to provide that safety and stability would have significant impacts to coastal resources, particularly ESHA and visual resources, as discussed in the preceding chapters. Alternatives exist that would minimize impacts to coastal resources while also assuring safety and stability of development. These are discussed in the Alternatives section of this report.

Fire Department Staging Areas and Placement of Excess Excavated Material

Given the remoteness of the area and the length and steepness of the road, the Fire Department has required construction of the three proposed Fire Department staging areas along the access road to accommodate safe emergency vehicle access and staging. Two of the staging areas (approximately 2,800 sq. ft. and 6,200 sq. ft. in size) are adjacent to one another and located where the proposed access road begins within the unincorporated Los Angeles County jurisdiction on the Vera parcel. These two

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

Attachment 6



25 January 2011

GEOTECHNICAL REVIEW MEMORANDUM

To: Deanna Christensen, Coastal Program Analyst
From: Mark Johnsson, Staff Geologist
Re: Sweetwater Mesa Project

In connection with the above-referenced project, I have reviewed the documents listed in Appendix A. In addition, I have attended numerous meetings and teleconferences among the Commission staff, applicants' consultants, and consultants for the Commission over the past two years. I visited the site on 8 April 2009.

Introduction

To summarize very briefly, the project consists of a lot-line adjustment, the construction of five single-family residences, the installation of a water line, and the construction of an access road extending from within the City of Malibu, into unincorporated Los Angeles County, and through multiple lots to the five proposed residences. This review will include all the proposed project elements except the part of the road within the City of Malibu.

The proposed access road within unincorporated Los Angeles County traverses the western side of a north-south oriented, sharp-crested ridge. At the City Limits the proposed road is at an elevation of approximately 835 feet, roughly 100 feet below, and 300 feet west of, the crest of the ridge. The proposed road and the ridgeline rise irregularly to a high point within the project area of approximately 1500 feet over a straight-line distance of approximately 0.53 miles. To the east of the somewhat meandering ridgeline is a very steep slope, marked by vertical cliffs, dropping into Carbon Canyon. To the west, somewhat gentler (but still very steep) slopes descend to Sweetwater Canyon. Several drainages extending from both canyons modify these steep slopes.

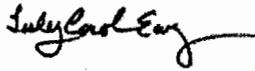
The bedrock making up this ridge is primarily layered sedimentary rocks (conglomerates, volcanic breccias, sandstones, siltstones and shales) assigned to The Vaqueros Formation, underlain by sandstones of the Sespe Formation. These rocks are broadly folded and lie on the east limb of syncline, or downwarp, and so primarily dip to the west. The Vaqueros Formation makes up most of the western side of the ridge, and the underlying Sespe Formation makes up most of the eastern side of the ridge. This broad structure is interrupted by many minor folds and inactive faults. Isolated igneous rocks, known as the Conejo Volcanics, were intruded into the sedimentary rocks.

ex-24
Exhibit 25
CDP 4-10-040 through 4-10-045
Mark Johnsson Memorandum

January 24, 2011

TO: Deanna Christensen
Jack Ainsworth

FROM: Lesley Ewing



SUBJECT: Engineering Review of the Sweetwater Mesa Project

I have been asked to review the engineering aspects of the proposed Sweetwater Mesa Project, including the access road, driveways and building pads. Attachment 1 includes the full list of documents that I have reviewed. In addition to reviewing the submitted materials, I visited the site on 28 January 2010 and have participated in numerous conference calls and meetings with staff, technical consultants, and the applicants' consultants concerning this proposed project.

The proposed project will be located in the Santa Monica Mountains and will include an access road, utilities, and building pads, drive ways, septic systems, and ancillary buildings for 5 separate home sites. The access road is an extension of Sweetwater Mesa Road; part of the road would be in the City of Malibu and part of the road would be in unincorporated Los Angeles County. My review only covers the portion of the road within unincorporated Los Angeles County. This area of the Santa Monica Mountains is quite rugged, and the current roadway is a dirt trail only easily accessible by four-wheel drive. To underscore the steepness of the terrain, during our site visit, the four-wheel drive vehicles could only drive safely on the lower part of the road, and we were only able to get to the steeper, northern (upper) part of the site on foot.

There are several large landslides on the site, and the geologic conditions pose significant engineering challenges to provide safe development, especially for the access road. In addition to the basic access requirements for a road (providing ingress and egress for construction equipment, building residents and guests, fire equipment, etc.), the County will require that, at a minimum, roadway be designed to remain stable in the event of landslide movement. And, it must stabilize the landslide material upslope of the road. During my review of this project, three different structural engineering designs have been developed and proposed for the roadway.

The portion of the access road within the unincorporated County will be 4,883 feet long or approximately 0.9 miles long. It will cross two large landslides, and two sections of the road, one 590 feet long and one 905 feet long, will be supported on caissons to provide for safe access across these slide areas. In addition to the 1,495 feet of caisson-supported roadway, there will be several retaining walls and a significant amount of cut and fill to provide for a level road surface. The civil engineering plans for stabilizing the road would include, in total 5 retaining walls ranging in length from 90 feet to 390 feet and totaling 955 feet of retaining wall. The retaining walls would range in height from averages of 5 to 11 feet and maximum heights of 7.5 to 18 feet. The longest retaining wall, along the right side (or upslope side) of the northern portion of the road, has been designed to be 390 feet long and to have an average height of 11 feet and a

ex. 24

development to be undertaken in a manner that will minimize the risks from the identified geologic hazards. If approved, there should be conditions on this project for the following:

- Any necessary retaining walls should be colored, texturized and possibly vegetated so that they will be visually compatible with the surrounding area
- Final engineering plans should incorporate all recommendations from the CSA letter of January 21, 2011, and outlined on pages 10 and 11
- All road stabilization caissons should be at least 20 feet long, or at the length identified by the structural engineering plans
- All fill slopes and contour grading areas, including the non-structural fill areas, should be properly keyed and benched and designed to control both sub-grade and surface drainage in a non-erosive manner.
- The reinforcing steel for the caissons in the road support system should include a 30 degree uncertainty in the direction of the slide force
- The caissons for the road support system should be checked to insure compliance with the California Building Code for structural loading (Equation 9-7) and guidance by the American Concrete Institute (Section 9.2.1)
- There shall be a geologist on-site during construction of the road support system to inspect each caisson excavation and the orientation of each caisson during installation.

With the above listed modifications, the proposed project should be able to assure stability and structural integrity to a reasonable degree and to minimize risks to life and property, consistent with Coastal Act section 30253.

Please contact me if there are other aspects of this project that you would like to discuss.

February 3, 2011
(Via UPS)

RECEIVED
Feb 7, 2011 BR
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

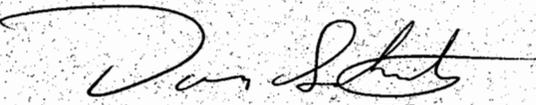
California Coastal Commission
South Central Coast District Office
Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: February 2011 Coastal Commission Hearing – Item Th8a (CDP 4-10-040)
Applicant: Lunch Properties, LLLP
Issue: Fire Safety

Dear Mr. Ainsworth,

For your reference and file, please find enclosed a copy of correspondence that has been transmitted to the California Coastal Commissioners regarding the above-referenced application, as per the requirements of Public Resources Code, sections 30319-30324. If you have any questions or comments, please feel free to contact me at (818) 338-3636. Thank you.

Sincerely,
Schmitz & Associates, Inc.


Donald W. Schmitz, II, AICP
President

Cc: Lunch Properties, LLLP



HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265
TEL: 310.589.0773 FAX: 310.589.0353
EMAIL: INFO@SCHMITZANDASSOCIATES.NET

ex.24
SCHMITZ & ASSOCIATES, INC.
REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301
TEL: 818.338.3636 FAX: 818.338.3423
WEBSITE: WWW.SCHMITZANDASSOCIATES.COM

February 3, 2011
(Via UPS)

Ms. Sara Wan
California Coastal Commissioner, Chair
22350 Carbon Mesa Road
Malibu, CA 90265

Re: February 2011 Coastal Commission Hearing – Item Th8a (CDP 4-10-040)
Applicant: Lunch Properties, LLLP
Issue: Fire Safety

A copy of the enclosed has been forwarded to Coastal Commission Staff and all Commissioners as per Public Resources Code sections 30319-30324

Dear Ms. Wan,

As you may be aware, the above-referenced CDP application is scheduled to go before the Commission on February 10, 2011. We would like to provide the enclosed information to address potential concerns that have been expressed regarding fire safety for the proposed development.

The Santa Monica Mountains are located in a Class 4 fire zone. The applicant is acutely aware of this and has gone to great lengths to ensure maximum fire safety. Fire protection measures include:

1. Connection to Las Virgenes Municipal Water District's municipal water system
 - a. Required by the Los Angeles County Fire Department
(Attachments 1 and 2)
2. Landscape/Fuel Modification Plan approved by LA County Fire Department Forestry Division (Attachment 3)
3. Active fire suppression sprinkler system that provides 75 ft. radius of fire protection in case of wildfire. (Attachment 4a, 4b, 4c, and 4d)
4. Two Fire Department staging areas along proposed access driveway. (Attachment 5a and 5b)
5. Fire Hydrant located near main residence to provides sufficient available water supply for firefighting. (Attachment 6)
6. Utilization of fire resistant materials such as concrete, steel, and glass. (Attachment 7)



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HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265
TEL: 310.589.0773 FAX: 310.589.0353
EMAIL: INFO@SCHMITZANDASSOCIATES.NET

SCHMITZ & ASSOCIATES, INC. ex. 24
REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301
TEL: 818.338.3636 FAX: 818.338.3423
WEBSITE: WWW.SCHMITZANDASSOCIATES.COM

As evidenced by the foregoing and attached, the applicant has incorporated numerous fire protection and emergency access provisions to maximize fire safety and to minimize potential hazards associated with wildfire, consistent with Section 30253 of the Coastal Act.

If you have any questions or comments, please do not hesitate to contact me at (818) 338-3636.

Sincerely,
Schmitz & Associates, Inc.



Donald W. Schmitz, II, AICP
President

Cc: Lunch Properties, LLLP



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

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

RECEIVED
Jan 5 - 2008

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

COASTAL DEVELOPMENT (213) 890-4125
SOUTH CENTRAL COAST DISTRICT

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, 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:

- | | | | | | | | |
|-------------|-----------|------------------|----------------------|-----------|----------------------|-----------------------|------------------|
| GOURA HILLS | BRADBURY | CUDAHY | HAWTHORNE | LA HABRA | LYNWOOD | PICO RIVERA | SIGNAL HILL |
| RTESIA | CALABASAS | DIAMOND BAR | HIDDEN HILLS | LA MIRADA | MALIBU | POMONA | SOUTH EL MONTE |
| ZUSA | CARSON | DUARTE | HUNTINGTON PARK | LA PUENTE | MAYWOOD | RANCHO PALOS VERDES | SOUTH GATE |
| ALDWIN PARK | CERRITOS | EL MONTE | INDUSTRY | LAKELAND | NORWALK | ROLLING HILLS | TEMPLE CITY |
| ELL | CLAREMONT | GARDENA | INGLEWOOD | LANCASTER | PALMDALE | ROLLING HILLS ESTATES | WALNUT |
| ELL GARDENS | COMMERCE | GLEN DORA | IRVINDALE | LAWNDALE | PALOS VERDES ESTATES | ROSEMEAD | WEST HOLLYWOOD |
| ELLFLOWER | COVINA | HAWAIIAN GARDENS | LA CANADA FLINTRIDGE | LOMITA | PARAMOUNT | SAN DIMAS | WESTLAKE VILLAGE |
| | | | | | | SANTA CLARITA | WHITTIER |



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

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

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 | POMONA | SOUTH EL MONTE |
| AZUSA | CARSON | DUARTE | HUNTINGTON PARK | LA PUENTE | MAYWOOD | RANCHO PALOS VERDES | SOUTH GATE |
| BALDWIN PARK | CERRITOS | EL MONTE | INDUSTRY | LAKELWOOD | NORWALK | ROLLING HILLS | TEMPLE CITY |
| BELL | CLAREMONT | GARDENA | INGLEWOOD | LANCASTER | PALMDALE | ROLLING HILLS ESTATES | WALNUT |
| BELL GARDENS | COMMERCE | GLEN DORA | IRVINDALE | LAWNDALE | PALOS VERDES ESTATES | ROSEMEAD | WEST HOLLYWOOD |
| BELLFLOWER | COVINA | HAWAIIAN GARDENS | LA CANADA FLINTRIDGE | LOMITA | PARAMOUNT | SAN DIMAS | WESTLAKE VILLAGE |
| | | | | | | SANTA CLARITA | WHITTIER |

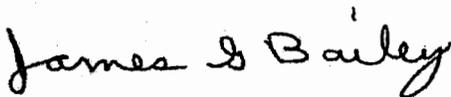
ex 24

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.

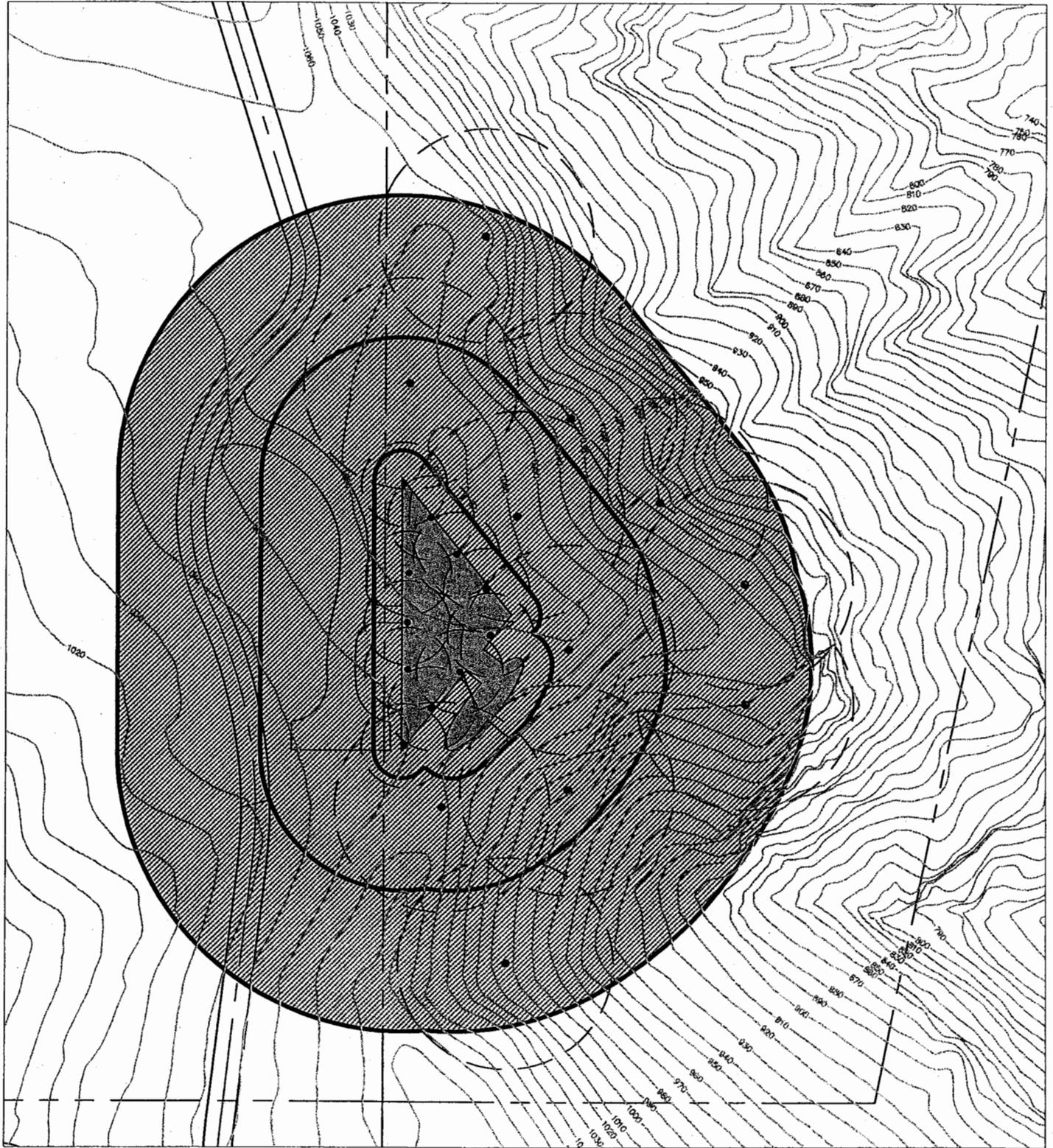
Sincerely,



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

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

Attachment 4a - CDP 4-10-040 Wildfire Suppression/Sprinkler System



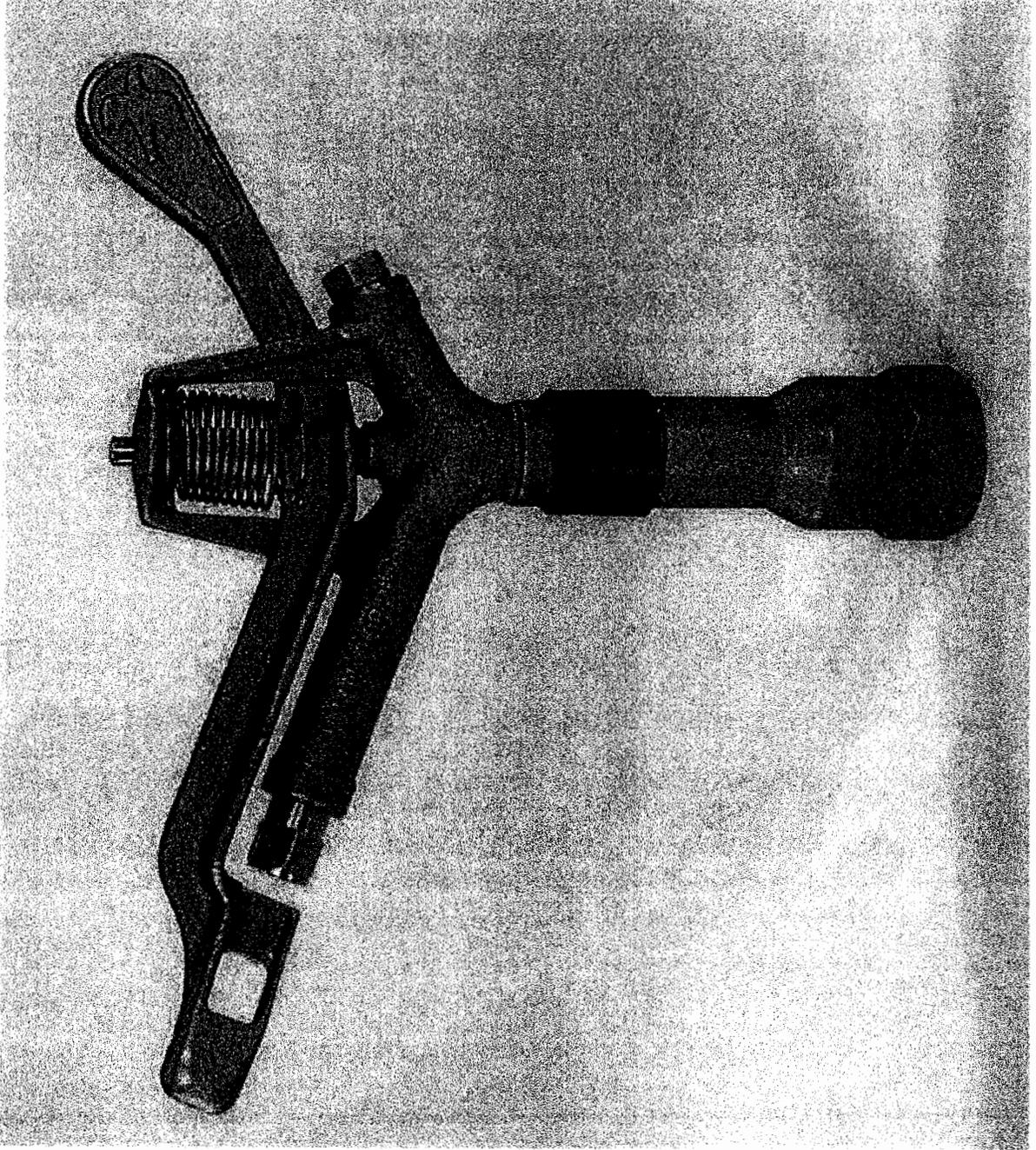
Not to Scale

LEGEND:

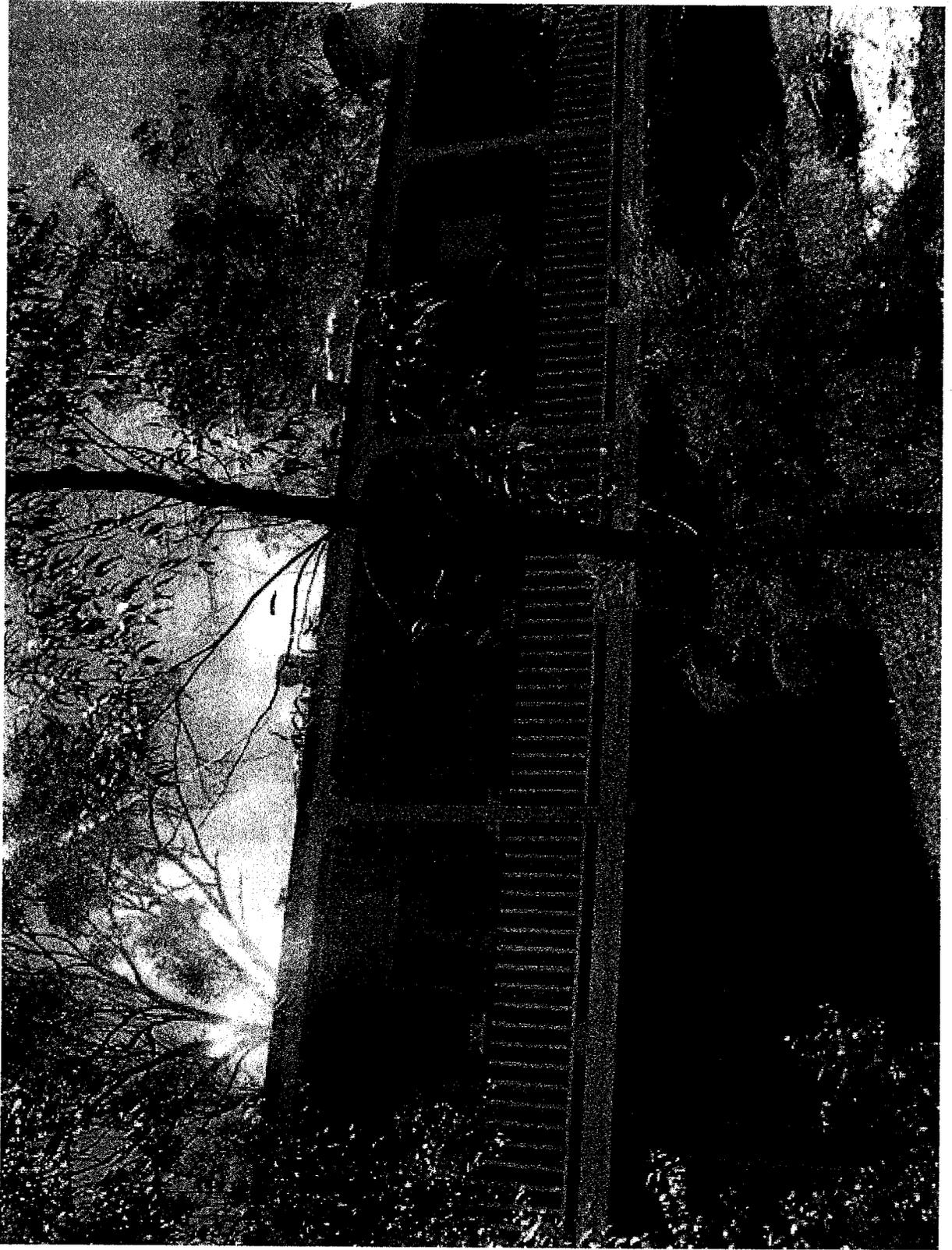
-  Fuel Modification Zone A
-  Fuel Modification Zone B
-  Fuel Modification Zone C
-  Fire Suppression Sprinklers



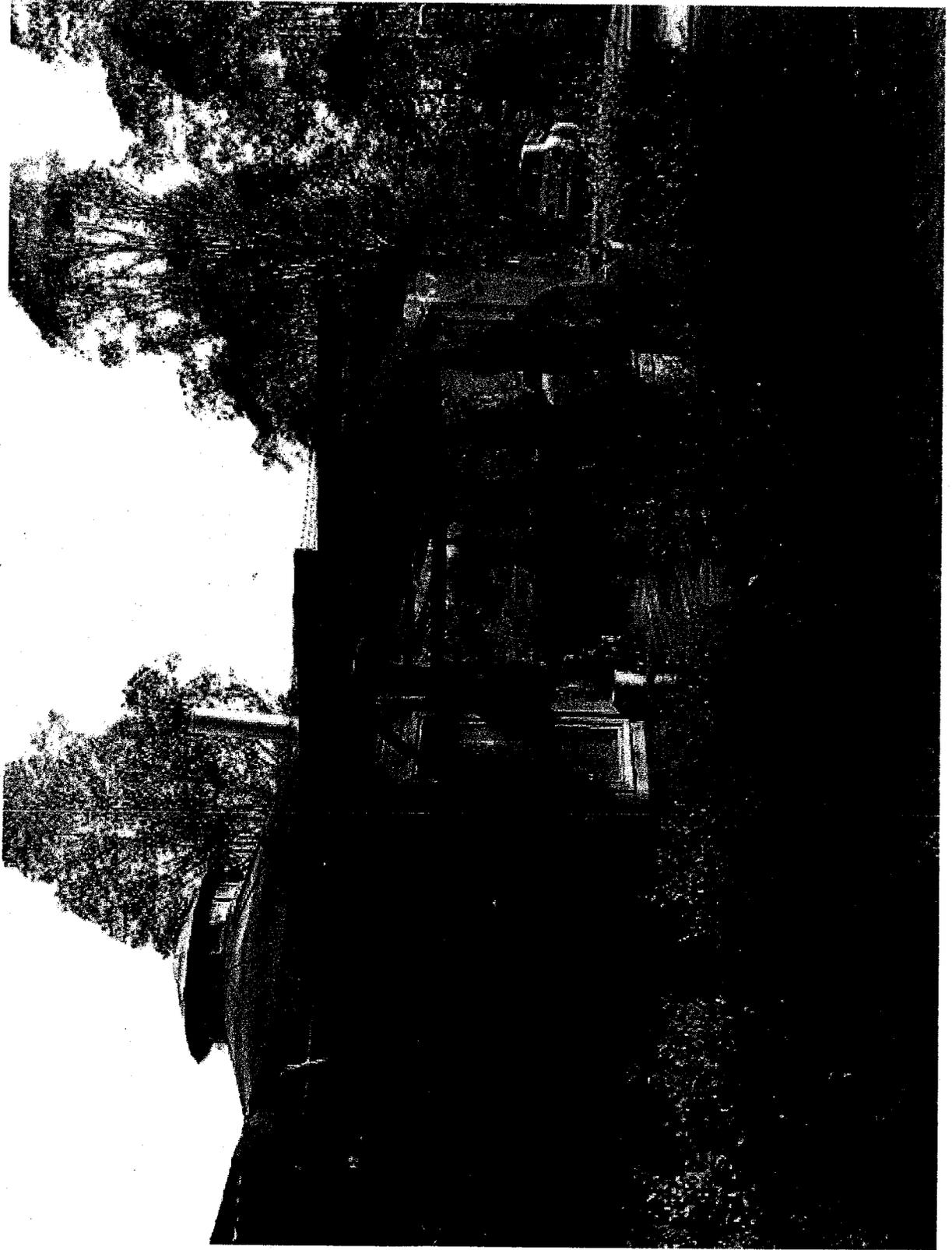
Attachment 4b – Wildfire Suppression Sprinkler for Proposed Residence



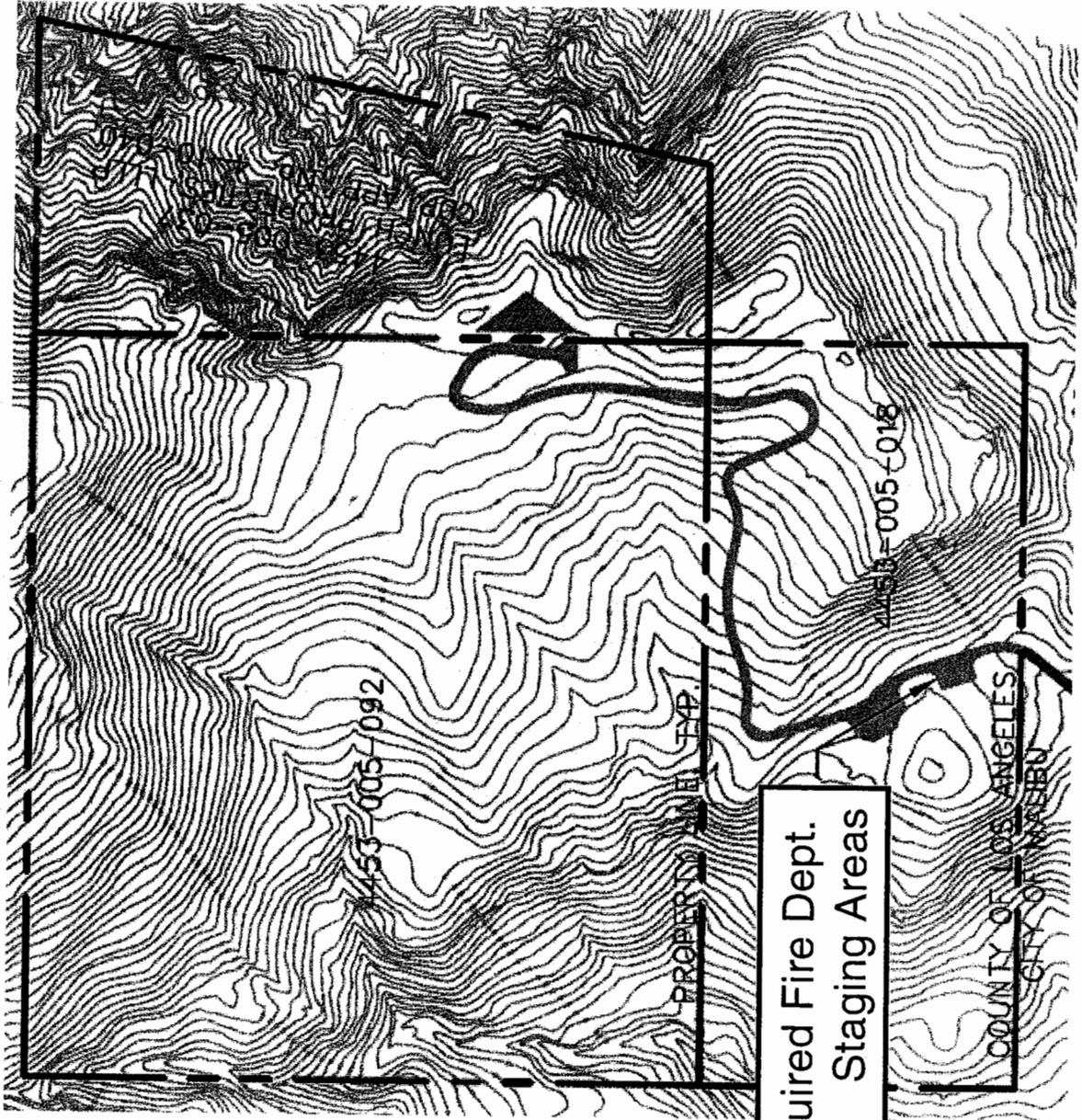
Attachment 4c – Wildfire Suppression System for Proposed Residence



Attachment 4d – Wildfire Suppression System for Proposed Residence

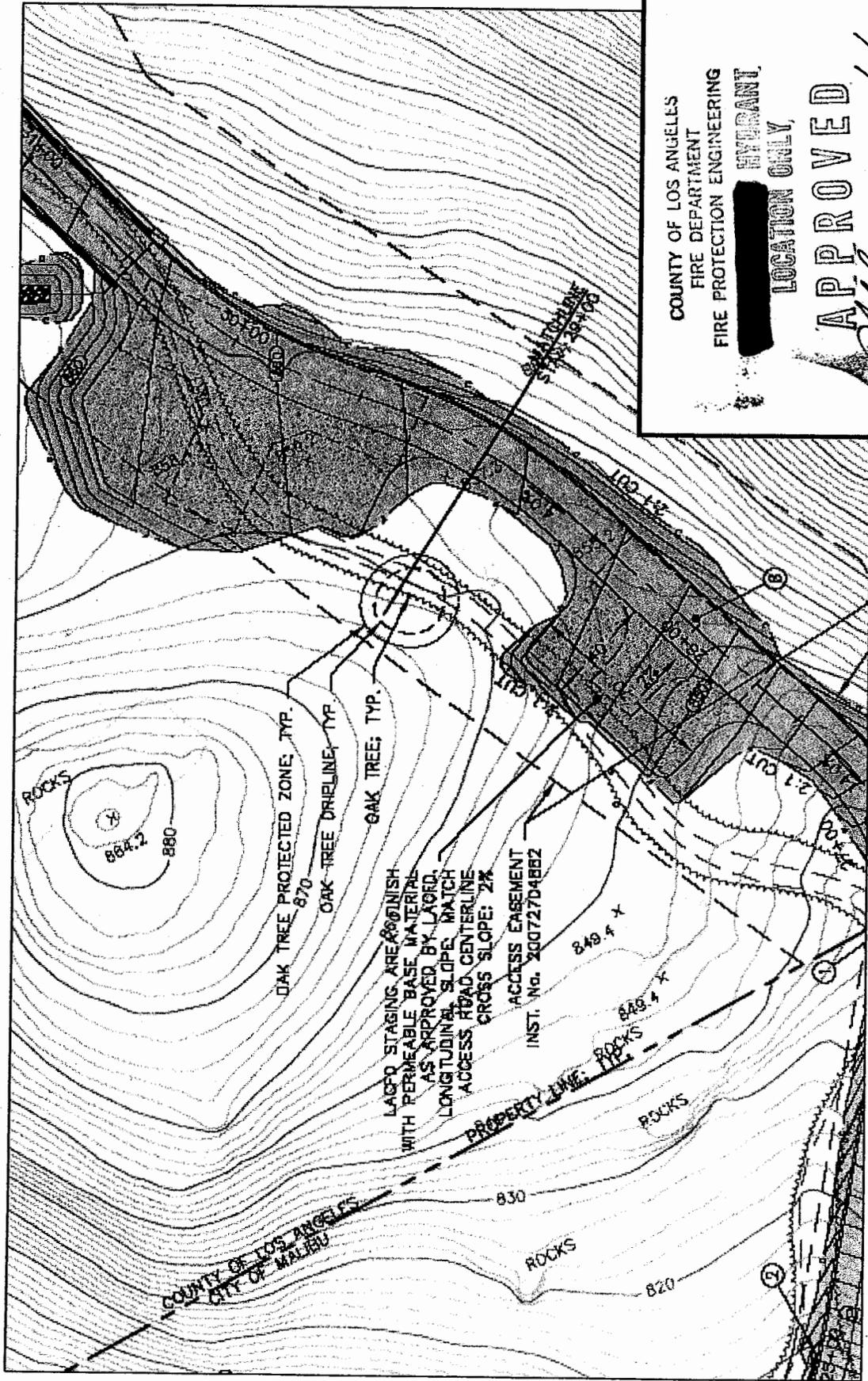


Attachment 5a – Required Fire Department Staging Areas



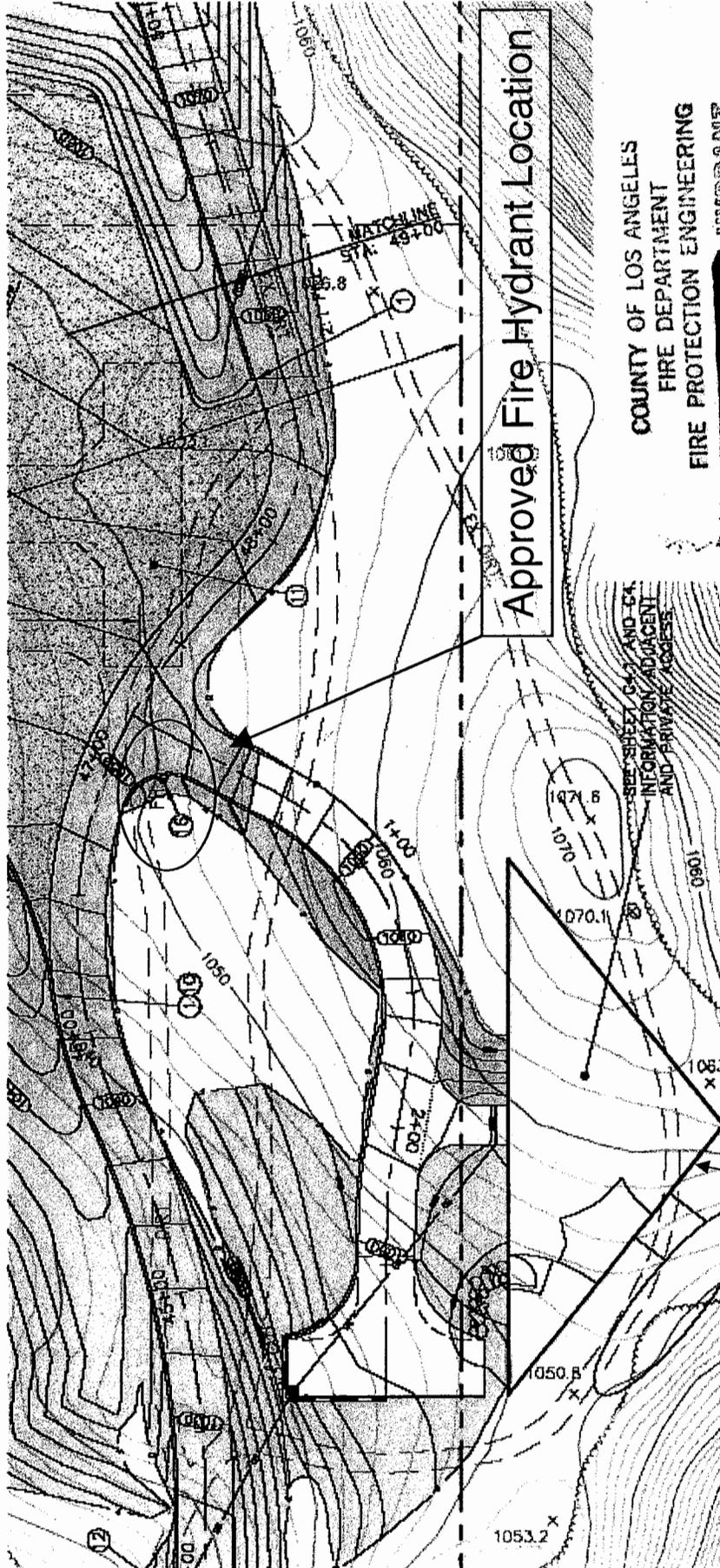
Required Fire Dept.
Staging Areas

Attachment 5b - Required Fire Department Staging Areas



COUNTY OF LOS ANGELES
 FIRE DEPARTMENT
 FIRE PROTECTION ENGINEERING
 [REDACTED] HYDRANT
 LOCATION ONLY,
APPROVED
 BY *[Signature]* Date 12/2/09

Attachment 6 – Approved Fire Hydrant Location Near Proposed Residence



Approved Fire Hydrant Location

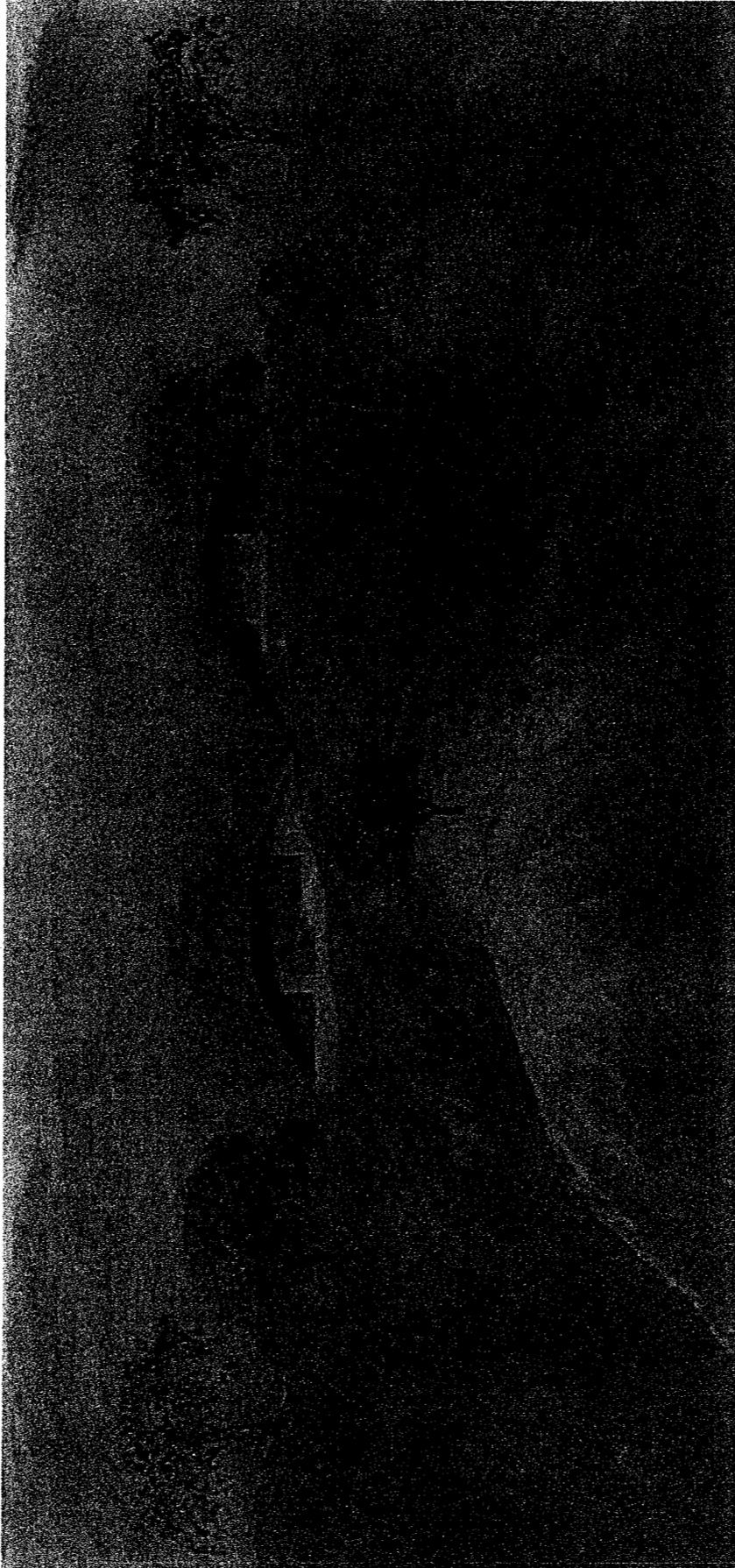
COUNTY OF LOS ANGELES
FIRE DEPARTMENT
FIRE PROTECTION ENGINEERING
HYDRANT, LOCATION ONLY,

APPROVED

BY *[Signature]* Date 12/2/09

Proposed Residence – CDP 4-10-040

Attachment 7 – Proposed Residence – Fire Safe Building Materials



February 4, 2011
(Via UPS)

RECEIVED
FEB 7 2011 BR

California Coastal Commission
South Central Coast District Office
Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: February 2011 Coastal Commission Hearing - Item Th8c (CDP 4-10-042)
Applicant: Mulryan Properties, LLLP
Issue: "Unity of Ownership"

Dear Mr. Ainsworth,

For your reference and file, please find enclosed a copy of correspondence that has been transmitted to the California Coastal Commissioners regarding the above-referenced application, as per the requirements of Public Resources Code, sections 30319-30324. If you have any questions or comments, please feel free to contact me at (818) 338-3636. Thank you.

Sincerely,
Schmitz & Associates, Inc.



Donald W. Schmitz, II, AICP
President

Cc: Mulryan Properties, LLLP



PROVIDERS OF LAND USE PLANNING
FOR A BETTER COMMUNITY

HEADQUARTERS - MALIBU OFFICE	REGIO
29350 PACIFIC COAST HWY., SUITE 12	5234
MALIBU, CA 90265	AGOU
TEL: 310.589.0773 FAX: 310.589.0353	TEL: (
EMAIL: INFO@SCHMITZANDASSOCIATES.NET	WEBSIT

ex. 24

February 4, 2011
(Via UPS)

Ms. Sara Wan
California Coastal Commissioner, Chair
22350 Carbon Mesa Road
Malibu, CA 90265

Re: February 2011 Coastal Commission Hearing – Item Th8c (CDP 4-10-042)
Applicant: Mulryan Properties, LLLP
Issue: “Unity of Ownership”

A copy of the enclosed has been forwarded to Coastal Commission Staff as per Public Resources Code sections 30319-30324

Dear Ms. Wan,

The above-referenced CDP application is scheduled to go before the California Coastal Commission on February 10, 2011. The Staff Report recommended denial of the above-referenced application, based almost entirely upon a theory of “unity of ownership” between the owner of the subject property and neighboring property owner(s). Staff’s theory is espoused in large part by speculation pertaining to purported past social relationships, decade-old business interactions, newspaper articles, and internet postings.

Staff’s conclusions are entirely unprecedented. This is most clearly evidenced by the Commission’s deliberation leading to the approval of six Coastal Development Permits (CDPs) for six single-family residences in the Santa Monica Mountains approximately ten years ago. The parallels between the Commission’s previous approval of these permits and the circumstances surrounding the subject application are strikingly similar.

1. The previously approved residences and subject property are located in close proximity to one another and in similar proximity to the coastline. **(Attachment 1)**
2. The previously approved residences and the subject application both propose a single-family residence on a legal parcel. **(Attachment 2)**
3. The approved development included an access road that was 13,500 ft. long, which is significantly longer than the access driveway proposed by the applicant. **(Attachment 3)**
4. Site characteristics such as topography and vegetation are substantially similar between the approved development and the subject application. **(Attachment 4 and 5)**



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

REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301
TEL: 818.338.3636 FAX: 818.338.3423

ex-24
SCHMITZ & ASSOCIATES, INC.

During the Coastal Commission hearing for six homes, Commissioner Madeline Glickfeld asked Chief Counsel Ralph Faust whether the Commission could deny the CDPs based upon "unity of ownership" because the same family allegedly owned all of the ownership entities. 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 Solistice 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 off the lots –

Chief Counsel 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) *(Emphasis added)*

Mr. Faust clearly stated 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 the Chapter 3 policies of the Coastal Act. Following this admonishment, the Commission approved the six CDP applications.

The Commission recently reaffirmed its decision on September 8, 2010, when it extended the above-referenced CDPs with written findings confirming that there are no changed circumstances affecting the proposed project's consistency with the Coastal Act. Merely four months later, Staff has now taken a position that is completely at odds with this

determination. Clearly, the six homes that were previously approved were considered on a lot-by-lot basis under Constitutional law. Those same principles apply to any legal lot, including the subject property.

Therefore, Staff's recommended alternative, which is the basis for denial, is entirely flawed and unfounded. Based upon the foregoing, we respectfully request that the Commission approve the pending Coastal Development Permit.

For additional information pertaining to this issue, please refer to the October 18, 2010 letter prepared by Cox, Castle & Nicholson, which is located under Exhibit 24 of the Staff Report. If you have any questions or comments, please do not hesitate to contact me at (818) 338-3636.

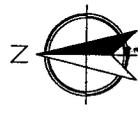
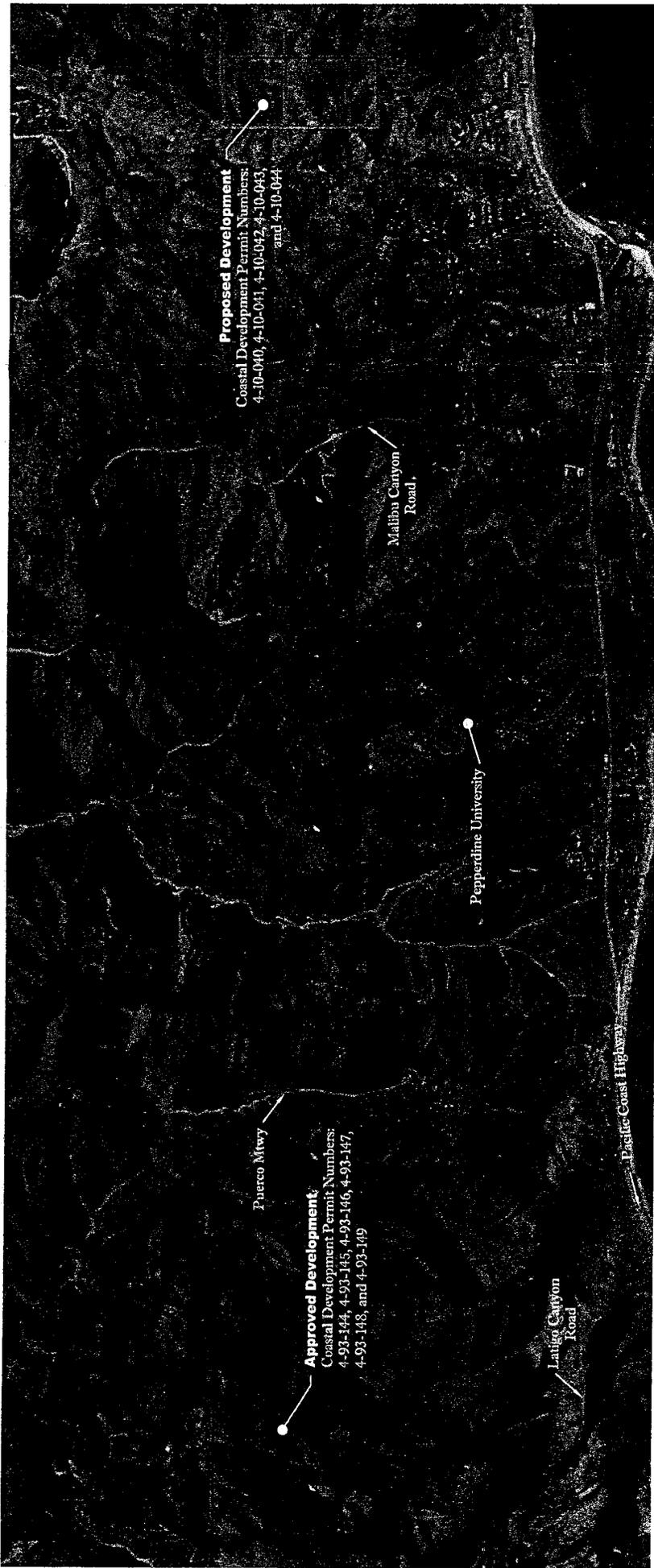
Sincerely,
Schmitz & Associates, Inc.

A handwritten signature in black ink, appearing to read "Don Schmitz", with a long horizontal flourish extending to the right.

Donald W. Schmitz, II, AICP
President

Cc: Mulryan Properties, LLLP

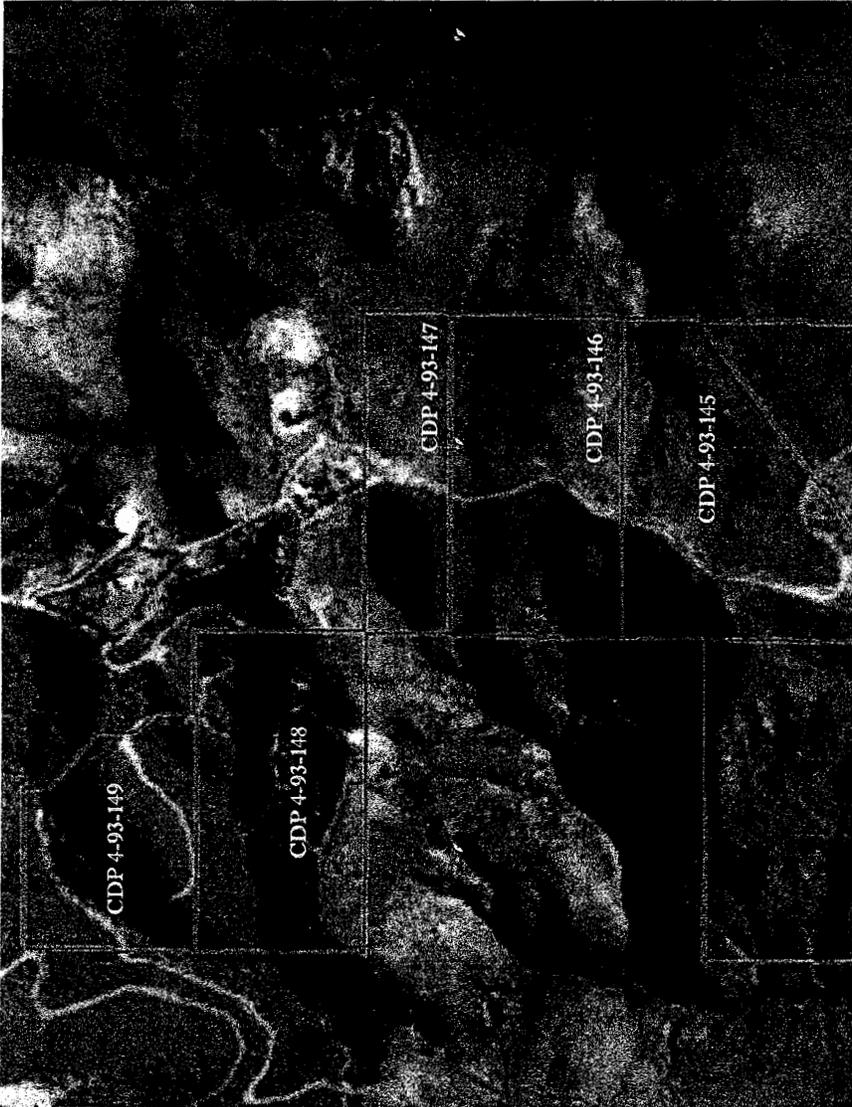
Attachment 1 Vicinity Map



Scale: NTS



Attachment 2 - Approved Development Project Description



CDP 4-93-144

Applicant: World Wide Resources

Agent: Alan Robert Block, Esq.

Project Description: Construction of a single-family residence with attached garage, swimming pool, water well, septic system, and access drive.

CDP 4-93-145

Applicant: World Wide Resources

Agent: Alan Robert Block, Esq.

Project Description: Construction of a single-family residence with attached garage, guest house, swimming pool, water well, septic system, and access drive.

CDP 4-93-146

Applicant: Vinetta E. Lough

Agent: Alan Robert Block, Esq.

Project Description: Construction of a single-family residence with detached garage, swimming pool, water well, septic system, and access drive.

CDP 4-93-147

Applicant: Rodger Lough

Agent: Alan Robert Block, Esq.

Project Description: Construction of a single-family residence with attached garage, swimming pool, water well, septic system, and access drive.

CDP 4-93-148

Applicant: Richard & Rodger Lough

Agent: Alan Robert Block, Esq.

Project Description: Construction of a single-family residence with attached garage, guest house, swimming pool, water well, septic system, and access drive.

CDP 4-93-149

Applicant: Rodger & Richard Lough

Agent: Alan Robert Block, Esq.

Project Description: Construction of a single-family residence with detached garage, guest house, swimming pool, water well, septic system, and access drive.

Attachment 2 - Proposed Development Project Description



CDP 4-10-040

Applicant: Lunch Properties, LLLP
Project Description: Construction of a single-family residence with attached garage, basement, swimming pool, driveway, septic system, and 2 Fire Dept. staging areas.

CDP 4-10-041

Applicant: Vera Properties, LLLP
Project Description: Construction of a single-family residence with detached garage, basement, swimming pool, septic system, driveway, and extension of water line down to the subject property.

CDP 4-10-042

Applicant: Mulryan Properties, LLLP
Project Description: Construction of a single-family residence with attached garage, swimming pool, septic system, access drive, one Fire Dept. staging area, and contour grading native plant restoration area.

CDP 4-10-043

Applicant: Morleigh Properties, LLLP
Project Description: Construction of a single-family residence with attached garage, daylight basement, swimming pool, septic system, and access drive.

CDP 4-10-044

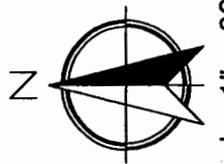
Applicant: Ronan Properties, LLLP
Project Description: Construction of a single-family residence with detached garage, basement, septic system, and access drive.



Scale: NTS



Attachment 3 - Approved Development Topographic Map and Access Road



Scale: 1" = 800'

ex. 24

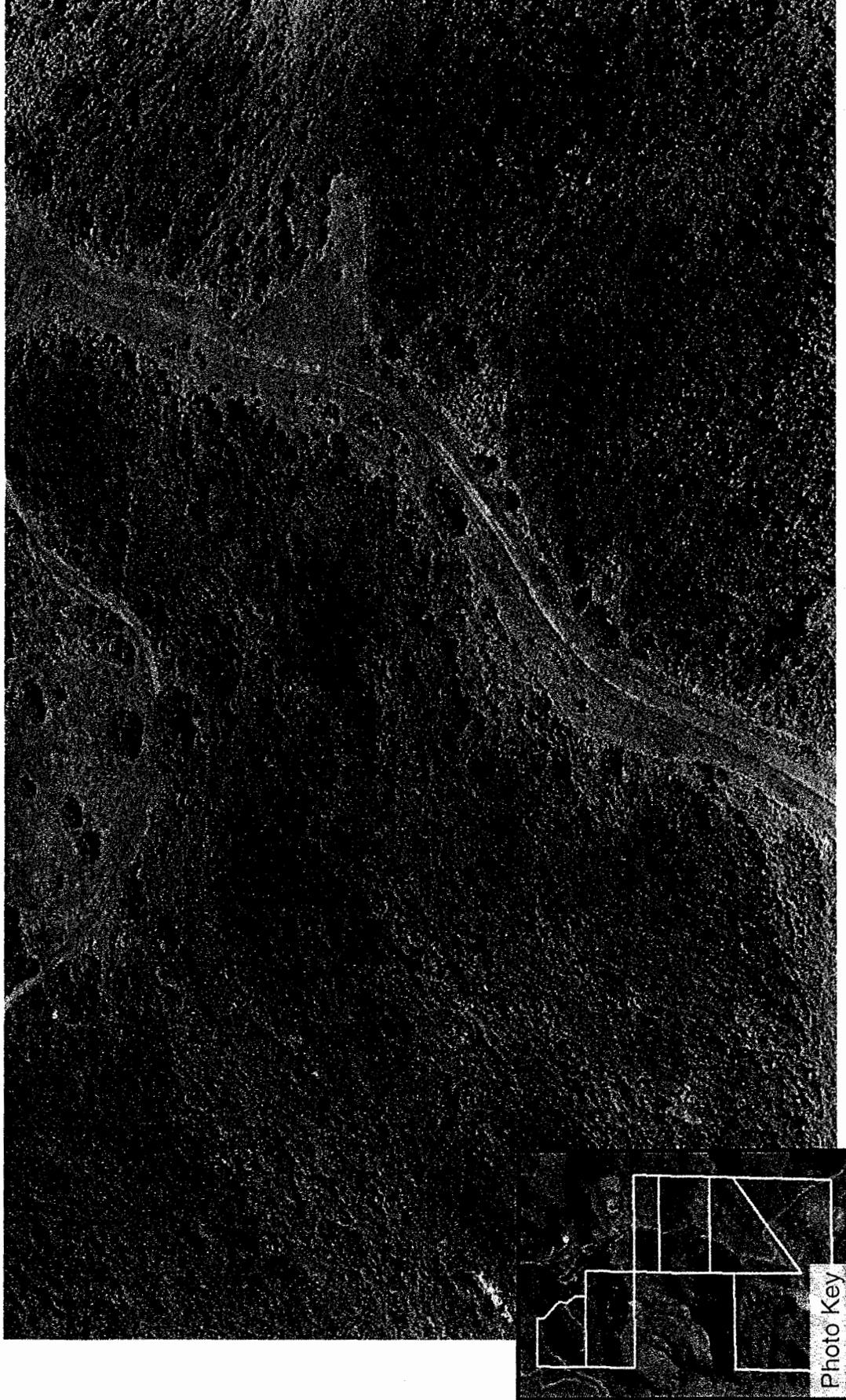


Attachment 4
Approved Development
Site Photographs

Prepared:
February 3, 2011

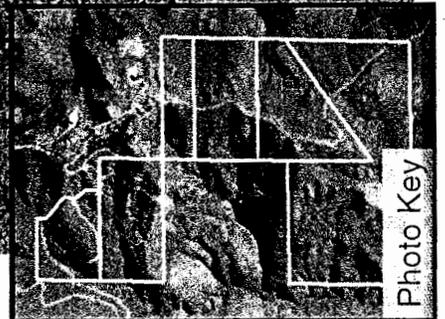
APN 4461-007-037

View South



APN 4461-007-036

View North



APN 4461-042-008

View West

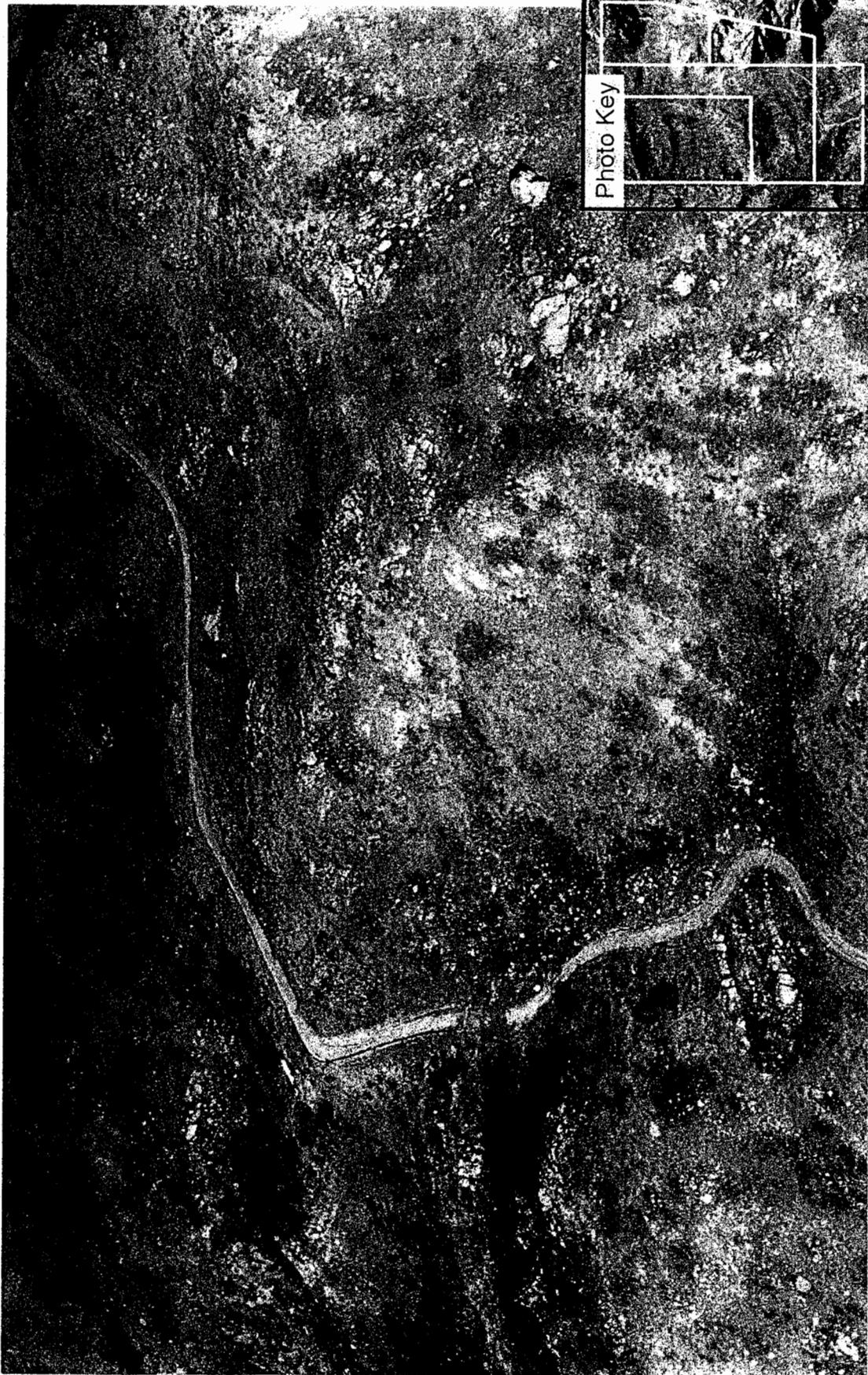


**Attachment 5
Proposed Development
Site Photographs**

**Prepared:
February 3, 2011**

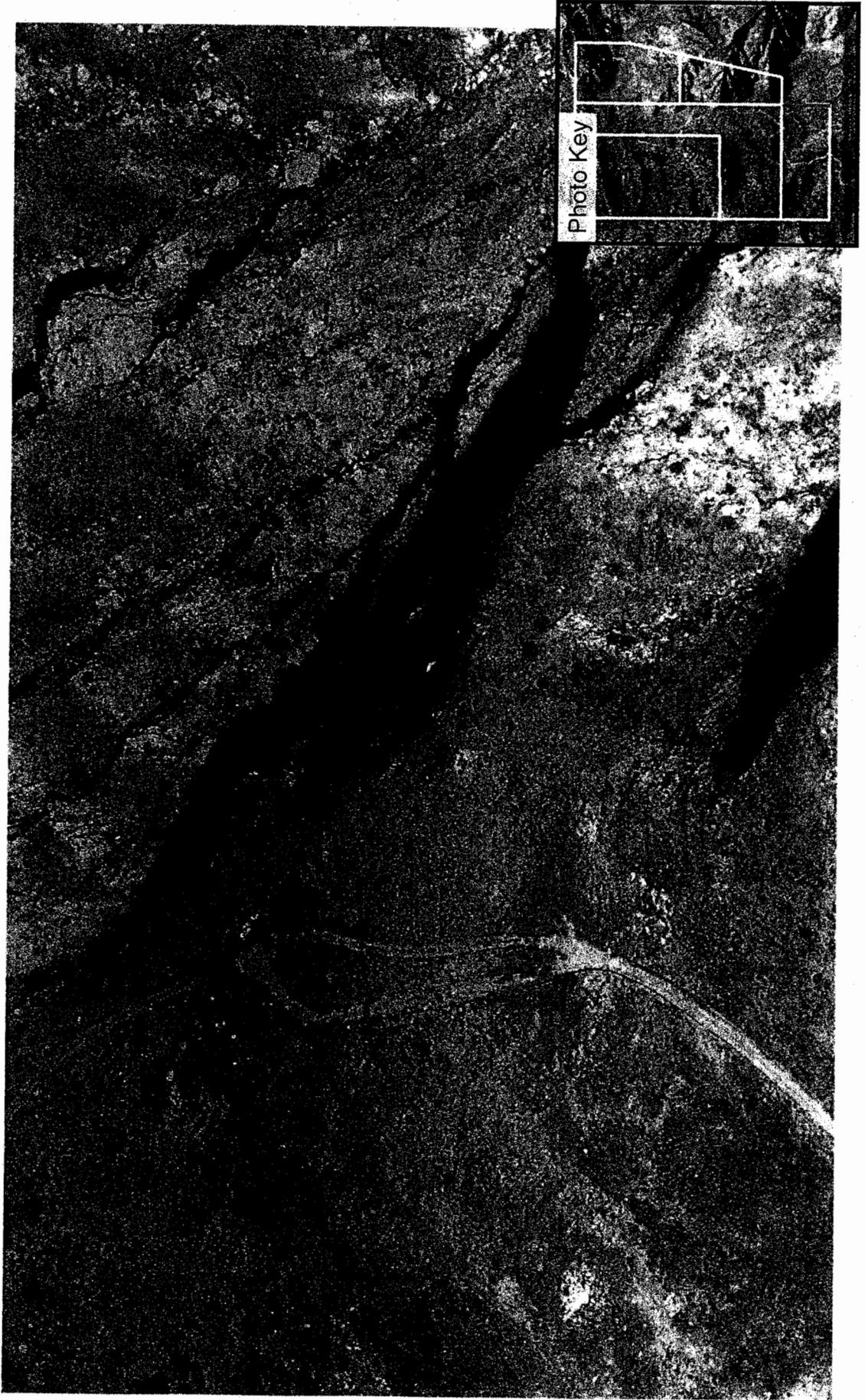
APN: 4453-005-018

View North



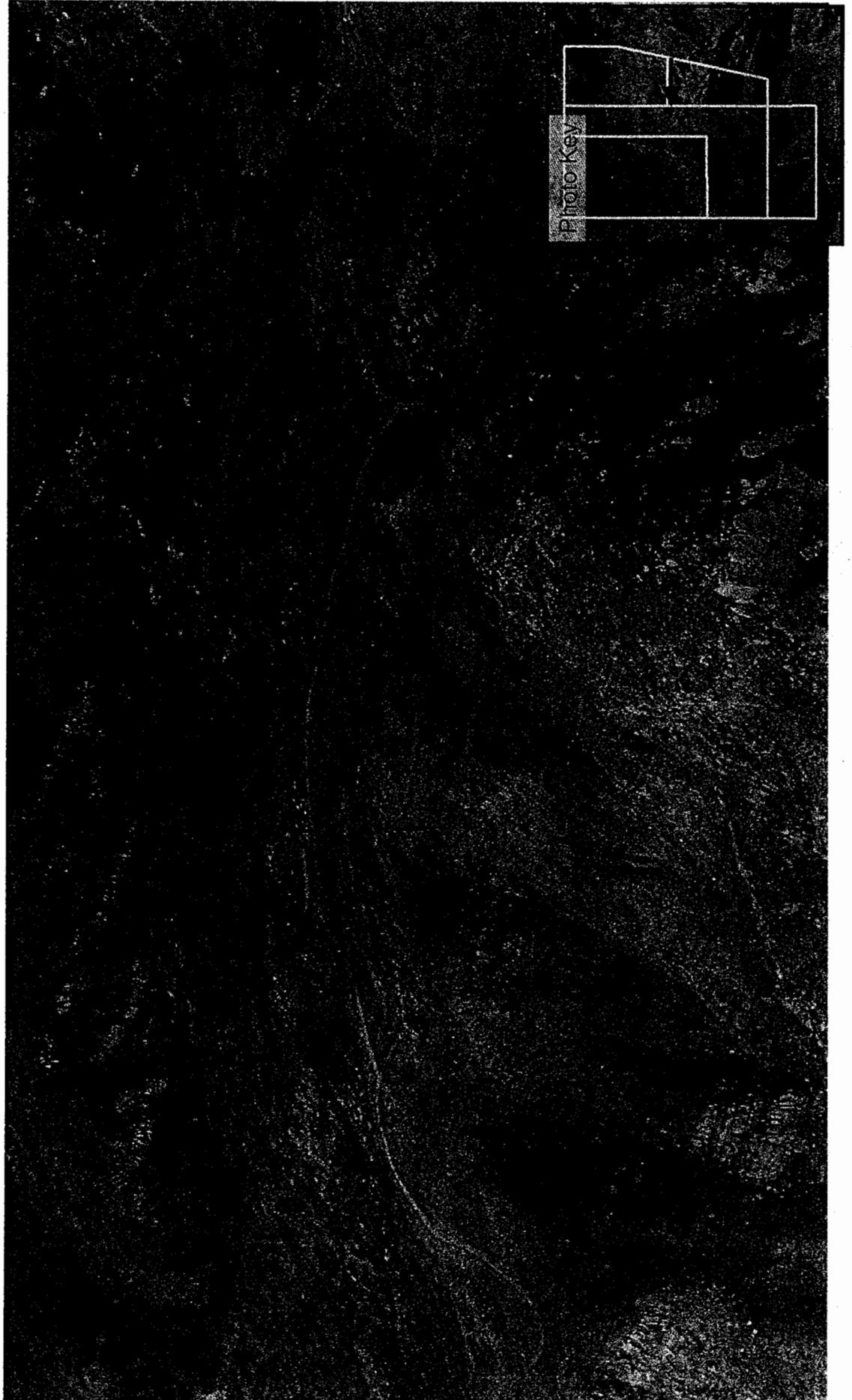
APN: 4453-005-037

View North



APN: 4453-005-092

View West



APN: 4453-005-038

View South



February 5, 2011
(Via UPS)

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FEB 8 2011

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

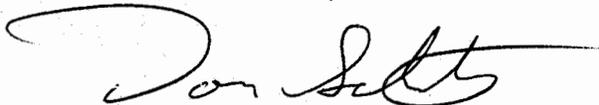
California Coastal Commission
South Central Coast District Office
Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: February 2011 Coastal Commission Hearing – Item Th8a (CDP 4-10-040)
Applicant: Lunch Properties, LLLP
Issue: Environmentally Sensitive Habitat Area/Sensitive Resources

Dear Mr. Ainsworth,

For your reference and file, please find enclosed a copy of correspondence that has been transmitted to the California Coastal Commissioners regarding the above-referenced application, as per the requirements of Public Resources Code, sections 30319-30324. If you have any questions or comments, please feel free to contact me at (818) 338-3636. Thank you.

Sincerely,
Schmitz & Associates, Inc.



Donald W. Schmitz, II, AICP
President

Cc: Lunch Properties, LLLP

ex.24



PROVIDERS OF LAND USE PLANNING
FOR A BETTER COMMUNITY

SCHMITZ & ASSOCIATES, INC.

HEADQUARTERS - MALIBU OFFICE
29350 PACIFIC COAST HWY., SUITE 12
MALIBU, CA 90265

TEL: 310.589.0773 FAX: 310.589.0353

EMAIL: INFO@SCHMITZANDASSOCIATES.NET

REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301

TEL: 818.338.3636 FAX: 818.338.3423

WEBSITE: WWW.SCHMITZANDASSOCIATES.COM

February 5, 2011
(Via UPS)

Ms. Sara Wan
California Coastal Commissioner, Chair
22350 Carbon Mesa Road
Malibu, CA 90265

Re: February 2011 Coastal Commission Hearing – Item Th8a (CDP 4-10-040)
Applicant: Lunch Properties, LLLP
Issue: Environmentally Sensitive Habitat Area/Sensitive Resources

A copy of the enclosed has been forwarded to Coastal Commission Staff and all Commissioners as per Public Resources Code sections 30319-30324

Dear Ms. Wan,

The above-referenced CDP application is scheduled to go before the Coastal Commission on February 10, 2011. This application proposes a single-family residence and driveway on a 20 acre legal lot. We would like to provide the enclosed information to address the concerns expressed in the Staff Report regarding purported impacts to Environmentally Sensitive Habitat Area and Sensitive Resources.

1. The subject property is not mapped as a Sensitive Environmental Resource of any kind in the Coastal Commission certified Los Angeles County Malibu Land Use Plan (LUP) (**Attachment 1**).
 - a. No Significant Watersheds, Oak Woodlands, Wildlife Migration Corridors, or Environmentally Sensitive Habitat Areas (ESHA)
 - i. No County Environmental Review Board review required
 - b. It is apparent by the adoption of the plan that the Coastal Commission considers this area as a lower environmental perspective based on the resources on the ground. Property owners have the right to rely on the plan adopted by the Coastal Commission.
2. The applicant has sited proposed development (including the access driveway) in an area that has been historically disturbed for many years to minimize potential impacts to native vegetation. (**Attachment 2**)
 - a. The siting of the residence eliminates direct impacts to native habitat and minimizes impacts associated with fuel modification required by the Fire Dept. (**Attachment 3**)
3. The subject property is not mapped as a Sensitive Environmental Resource Area and the residence is sited in a historically disturbed area. However, the applicant is proposing a residence that is compliant with the strictest environmental standards set forth in the LUP for sensitive resource areas.
 - a. Less than 10,000 sq. ft. development area (1% of the 20-acre parcel) and on-site access driveway less than 300 ft. (**Attachment 4**)



ex. 24
SCHMITZ & ASSOCIATES, INC.

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

REGIONAL - CONEJO VALLEY OFFICE
5234 CHESEBRO ROAD, SUITE 200
AGOURA HILLS, CA 91301
TEL: 818.338.3636 FAX: 818.338.3423

Despite the tremendous efforts the applicant has made to minimize potential impacts to native habitat, Staff is recommending denial of the proposed single-family residence with findings that it is not consistent with Section 30240 of the Coastal Act as it pertains to environmental protection. Additionally, the Staff Report states, as an alternative, that a residential development pad area of 5,000 to 8,000 sq. ft. would result in substantial reductions in impacts to what it considers to be ESHA. This is a massive departure from any type of precedent that has been set for residences situated on parcels of this size or even smaller in the Santa Monica Mountains. In August, 2010 the Commission approved CDP 4-07-143, which included a development area of 9,992 sq. ft. on a 9-acre parcel in the Santa Monica Mountains. Staff determined that there would be significant, unavoidable impacts to ESHA. Page 28 of the Staff Report for that approved project states that,

“In past permit actions, the Commission has allowed up to 10,000 sq. ft. of development area for a residence on a parcel zoned for residential development in this area of the Santa Monica Mountains to avoid a taking of the property.”
(*Emphasis added*) (Attachment 5)

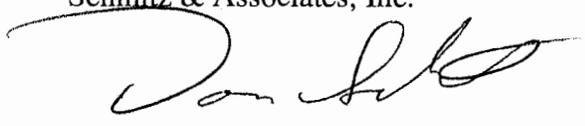
Therefore, it is clear that Staff’s recommendation for smaller pads in the subject application than the minimum allowed “to avoid a taking of the property” is unprecedented and does not present a fair alternative to the subject property owner. It follows logically, that if 10,000 sq. ft. is what the Commission has determined is the minimum allowable development area to “avoid a taking”, then Staff’s recommendation for an even smaller development area on a significantly larger parcel at a minimum, raises significant legal questions.

This is but one example of the many of approvals where the Commission has permitted 10,000 sq. ft. development areas. Additional examples are readily available and will be provided under separate cover if and when requested.

Based upon the siting/design and site characteristics, the proposed development does in fact minimize potential environmental impacts to the greatest extent feasible. Additionally, Staff does not provide a viable alternative that is consistent with the Commission’s past permit actions. Since potential impacts are minimized to the greatest extent feasible and there are no viable alternatives to further minimize potential impacts, the project is consistent with Section 30240 of the Coastal Act and we respectfully request that the Commission approve the application.

If you have any questions or comments, please do not hesitate to contact me at (818) 338-3636.

Sincerely,
Schmitz & Associates, Inc.



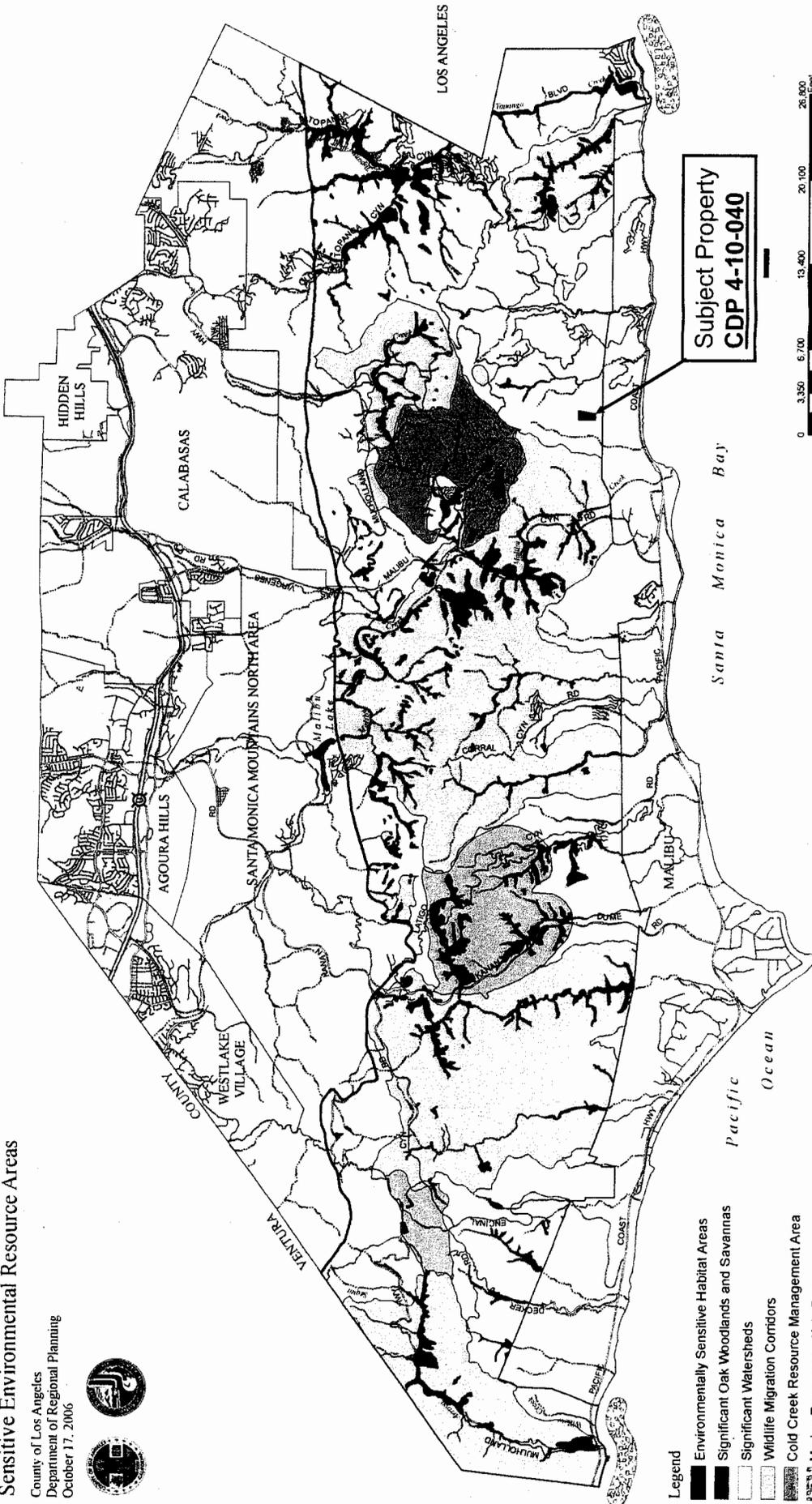
Donald W. Schmitz, II, AICP
President

Cc: Lunch Properties, LLLP

SANTA MONICA MOUNTAINS LOCAL COASTAL PROGRAM

1986 Malibu Land Use Plan
Sensitive Environmental Resource Areas

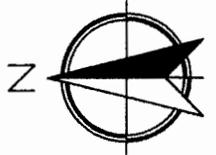
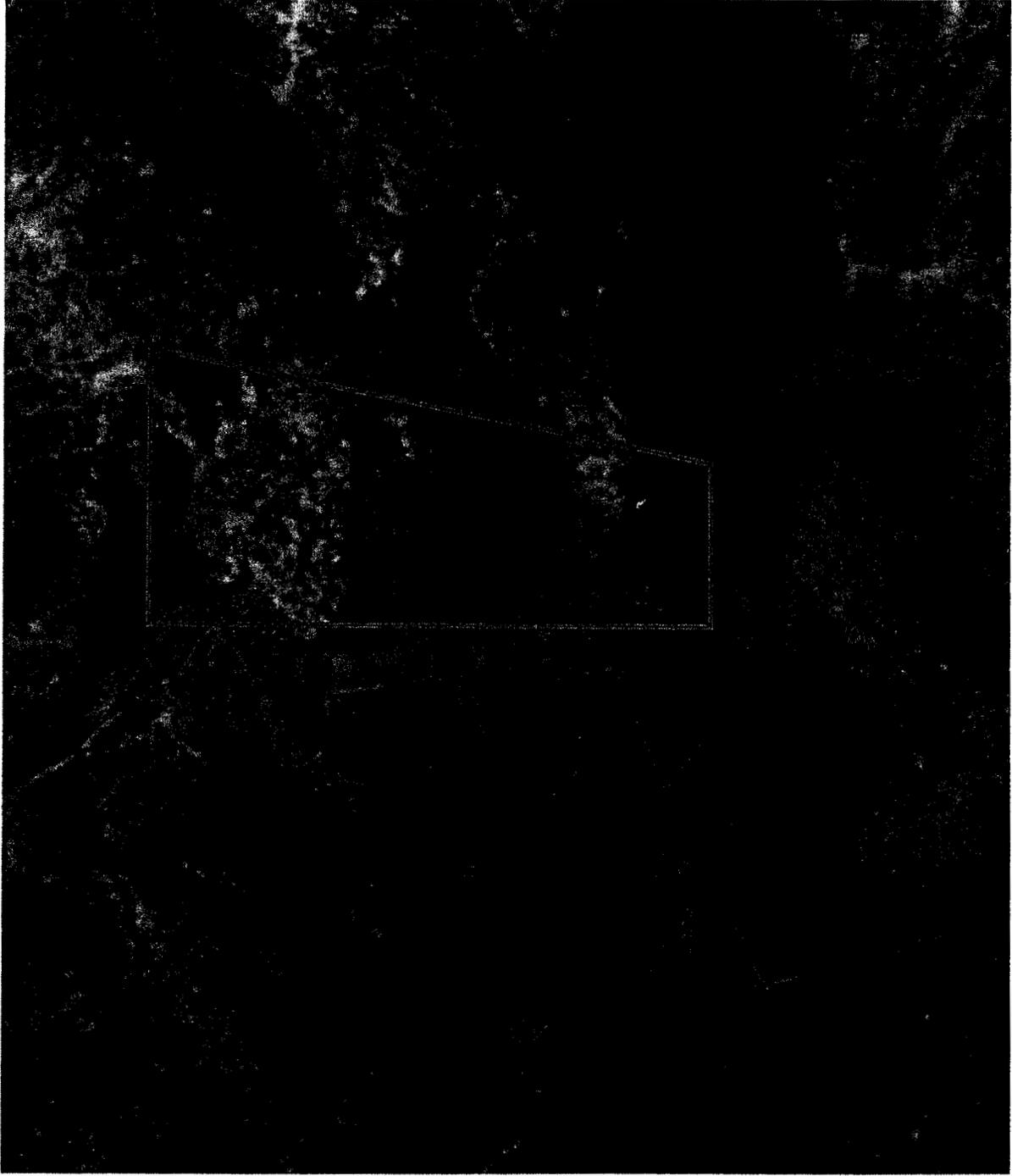
County of Los Angeles
Department of Regional Planning
October 17, 2006



- Legend
- Environmentally Sensitive Habitat Areas
 - Significant Oak Woodlands and Savannas
 - Significant Watersheds
 - Wildlife Migration Corridors
 - Cold Creek Resource Management Area
 - Marine Resources - Kelp Beds
 - Coastal Zone Boundary
 - Streams



**Attachment 2 - 1968 Aerial Photograph
CDP 4-10-040 - Historically Disturbed**

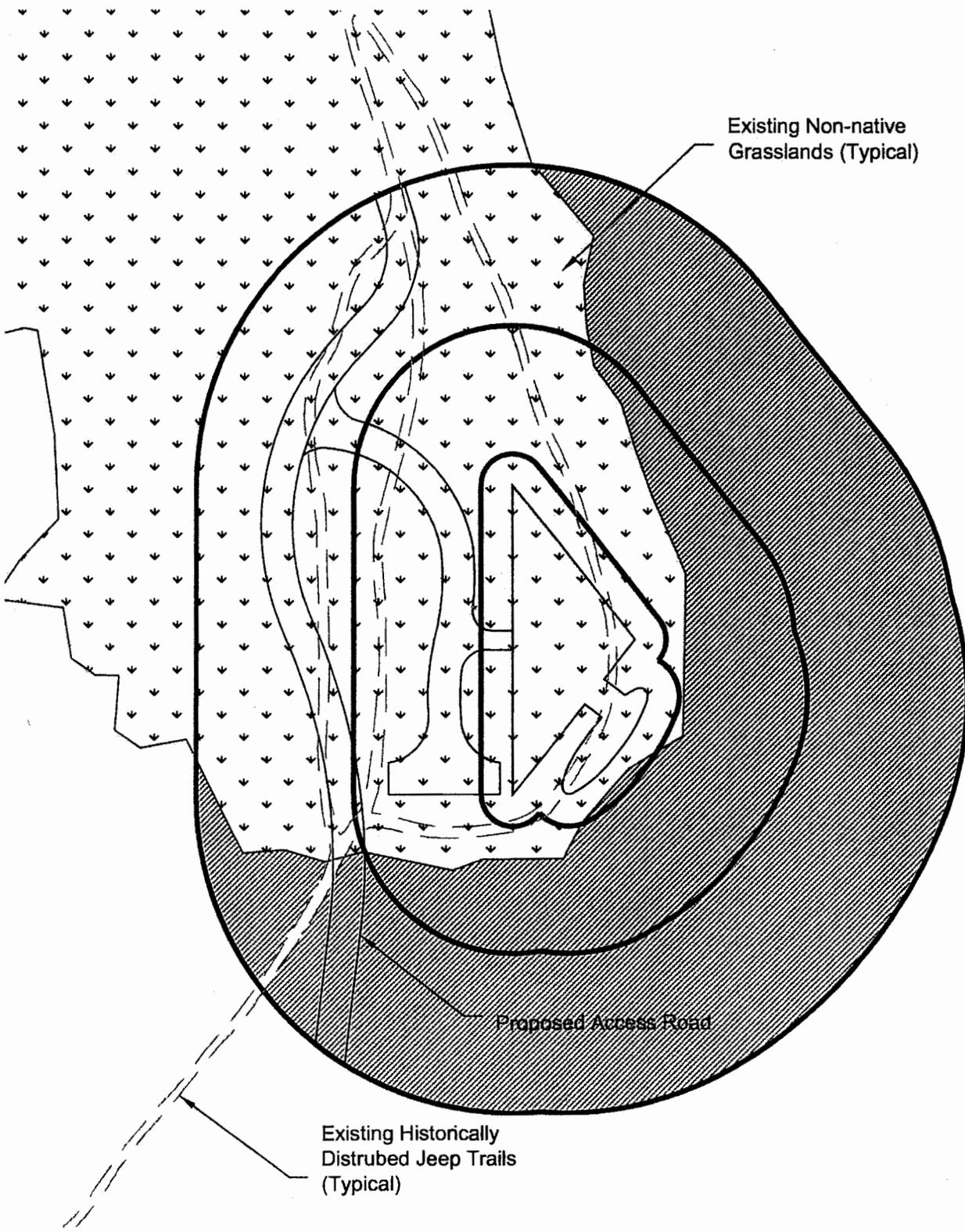


Scale: NTS

ex. 24

Attachment 3

CDP 4-10-040 - Previously Disturbed Habitat



Existing Non-native Grasslands (Typical)

Proposed Access Road

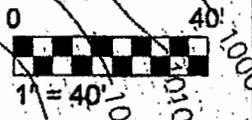
Existing Historically Disturbed Jeep Trails (Typical)



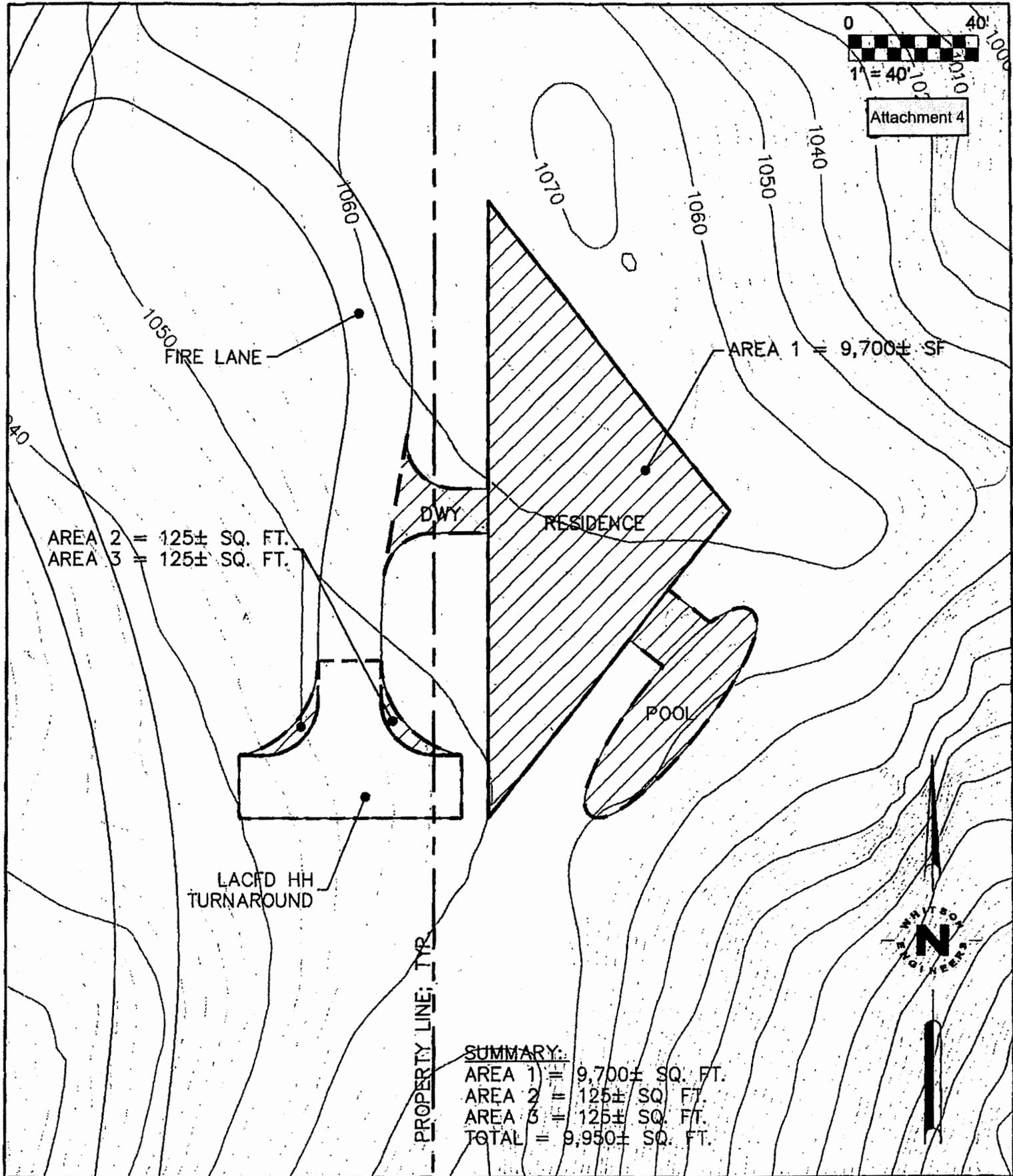
- LEGEND:**
- Fuel Modification Zone A
 - Fuel Modification Zone B
 - Fuel Modification Zone C

ex. 24





Attachment 4



AREA 2 = 125± SQ. FT.
 AREA 3 = 125± SQ. FT.

AREA 1 = 9,700± SF

PROPERTY LINE: TYR

SUMMARY:
 AREA 1 = 9,700± SQ. FT.
 AREA 2 = 125± SQ. FT.
 AREA 3 = 125± SQ. FT.
 TOTAL = 9,950± SQ. FT.



LUNCH LLLP

LOS ANGELES COUNTY

CALIFORNIA

DISTURBED AREA EXHIBIT

DRAWING PATH: DA-LUNCH-7.dwg

DATE:	JULY 7, 2009
SCALE:	1" = 40'
DRAWN:	MB
CHECKED:	MJ
PROJECT #:	1817.02

SHEET
ex. 24
1
 OF 1

Obviously, the construction of residential development, including vegetation removal for both the development area as well as required fuel modification, grading, construction of a residence and accessory structures, and the use of the development by residents will result in unavoidable loss of ESHA. The development can be sited and designed to minimize ESHA impacts by measures that include but are not limited to: limiting the size of structures, limiting the number of accessory structures and uses, clustering structures, siting development in any existing disturbed habitat areas rather than undisturbed habitat areas, locating development as close to existing roads and public services as feasible, and locating structures near other residences in order to minimize additional fuel modification.

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. In past permit actions, the Commission has allowed up to 10,000 sq. ft. of development area for a residence on a parcel zoned for residential development in this area of the Santa Monica Mountains to avoid a taking of property. As detailed above, the proposed development area conforms to the maximum development area of 10,000 sq. ft. All proposed structures are located within this development area. Although a smaller development area would reduce the ESHA loss somewhat, the reduction would not be significant. Nor are there other resources such as streams, riparian areas, or visual resources that would be protected by a smaller development area. As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible. The Commission also finds that the proposed development area provides a reasonable economic use.

5. Open Space Conservation

This project is inconsistent with Section 30240 of the Coastal Act, and is only being allowed to avoid a taking of private property for public use. The Commission finds that for the project to be consistent with Section 30240 to the maximum extent feasible, while providing a reasonable economic use, this project must constitute the maximum amount of ESHA destruction on the site and the remaining ESHA on the property must be preserved in perpetuity.

The Commission finds that the most effective way to assure ESHA preservation on the site is the granting of an open space conservation easement to the Mountains Recreation and Conservation Authority (a joint powers authority) that prohibits development on the remainder of the site now and in the future. The Mountains Recreation and Conservation Authority (MRCA) is a public agency that represents a partnership between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District, and the Rancho Simi Recreation and Park District. The MRCA is dedicated to the preservation and management of open space, parkland, watershed lands, trails, and wildlife habitat. The MRCA manages and provides ranger services for almost 50,000 acres of public lands and parks that it owns or that are owned by the Santa Monica Mountains Conservancy. In the course of its normal duties, the MRCA park rangers and other staff are better able to monitor open space areas to ensure that the restrictions are followed than Commission staff. Further, an easement will be

California Coastal Commission-040
89 South California Street
Ventura, California 93001

7 February 2011

Project 4-10-040 to 045
Agenda Item 8 A-F
Thursday 11-9-11

Dear Sirs:

We were notified by mail 2/6/11 of the Coastal Commission meeting in Chula Vista on 2/9/11. Below is a brief background of our access road (the jeep road) which crosses through the Evans project. It has been stated that the road is believed to have not existed before 1977 (Coastal Commission Staff Report, page 38-39); however, that is not true.

The road did exist and does so today-up to and on to our five acres. Our access over the jeep trail has not been addressed along with our input.

A jeep road beginning both at Sweetwater Canyon and Sweetwater Mesa has been described and used to access our five acres, APN#4453-5-54, since before Steven Vernon purchased land, which included our property, from Joseph De Bell. De Bell created the right for use over a wandering easement to access his remaining land when he sold his southern acreage, called the Meadowlands, to Mr. Gordon. Part of the DeBell land is now the Evans project.

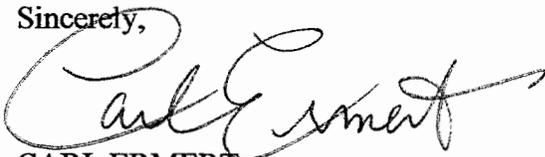
In 1963, Vernon did an illegal land subdivision of our five acres and, also, bladed the existing jeep road across the Evans project in order to access the five acres that he sold to Mary Kubik. My wife and I drove with the Kubiks to visit their land several times after 1967. We purchased the five acres from the Kubiks in 1986 and have used the jeep road ever since that time except for a period when Gordon locked the entrance gate when his illegal project was red-tagged by the Coastal Commission.

In 1993, we drove to our property with a surveyor and we, also, have included a picture of us up the jeep road at our property before and after the Malibu 1993 fire.

Enclosed is a copy of our 1987 letter to Mr. Vernon indicating his recent reblading of the road.

In view of the complexity of this situation, I will forward aerial photos showing the jeep road and more back-up material including misrepresentation in court about our road under a separate mailing. This access road across the Evans project, 4010-040 to 045, must be addressed in your assessment of the Evans project.

Sincerely,



CARL ERMERT
P.O. Box 1749
Twain Harte, Ca. 95383
Telephone: 1-209-586-3519



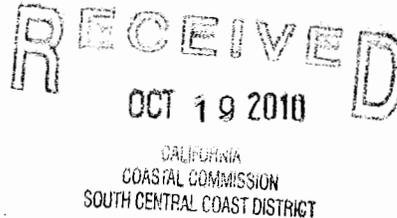
Cox, Castle & Nicholson LLP
2049 Century Park East, 28th Floor
Los Angeles, California 90067-3284
P 310.277.4222 F 310.277.7889

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



File No. 51037

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 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

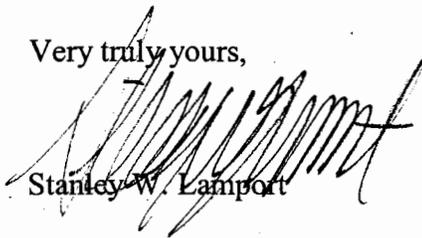
- Site characteristics such as topography and vegetation are substantially similar between the approved development and the proposed development.

California Coastal Commission
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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. Lamport

SWL/JRR/rsl

51037\4027936v4

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

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BR
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

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.

Jack Ainsworth
November 9, 2010
Page 3

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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

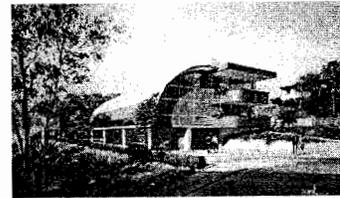
cc: Chantal O’Sullivan

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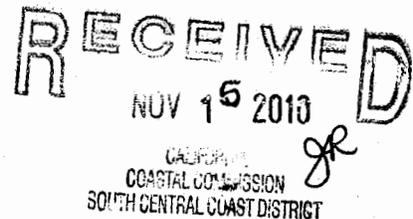
ex. 24

PAUL J. WEINBERG
ATTORNEY AT LAW

Suite 1160
18201 Von Karman Avenue
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.

Telephone (949) 553-0500
Facsimile (949) 474-0529
e-mail address: office@pjwmediation.com
Website address: www.pjwmediation.com

ex.24

Mr. Jack Ainsworth
November 11, 2010
Page 2 of 3

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

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;

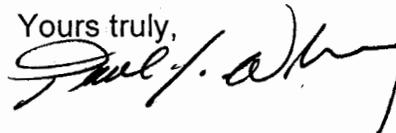
- the aerial photos show just how close the two sets of lots are located in relation to each other, and also;
- that the topography is nearly identical,
- access, view, density and environmental conditions are essentially identical.

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