

CALIFORNIA COASTAL COMMISSION

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



Th21a

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ADDENDUM

DATE: November 12, 2013
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item Th21a, Application No. 4-06-135-A3 (Goodfriend), Thurs.,
November 14, 2013

The purpose of this addendum is to correct an inadvertent error in Special Condition Three (3) Revegetation and Erosion Control Plan contained in the October 31, 2013 staff report.

The following change shall be made to Special Condition Three (3) Revegetation and Erosion Control Plan, Section (A) Technical Specifications on page 6 of the October 31, 2013 staff report:

Note: ~~Strikethrough~~ indicates text to be deleted from the October 31, 2013 staff report and double underline indicates text to be added to the staff report.

- (1) The Revegetation and Erosion Control Plan shall provide for the stabilization of exposed soils in the project area with native plant species. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence of the completion of proposed grading work. To minimize the need for irrigation all landscaping shall consist of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property.

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Th21a

Filed: 9/27/13
180th Day: 3/26/14
Staff: D. Venegas-V
Staff Report: 10/31/13
Hearing Date: 11/14/13

STAFF REPORT: PERMIT AMENDMENT

Application No.: 4-06-135-A3

Applicant: Marvin Goodfriend

Agent: Judge Robert Thomas

Location: 3925 Malibu Vista Drive, Malibu, Los Angeles County (APN: 4443-003-008 & 4443-003-009)

Description of Amendment: Implement slope remediation activities on an approximately 8,100 sq. ft. area of a descending slope involving excavation and removal of approximately 206 cu. yds. of material and revegetation of the disturbed area. In addition, the amendment includes the revegetation of an area previously required to be restored/revegetated pursuant to the underlying permit that has failed.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed amendment with **6** special conditions as listed on pages 5-9 of the staff report.

The project site is located on a 0.30-acre, non-ocean facing bluff top property on the landward side of Pacific Coast Highway located at 3925 Malibu Vista Drive, within the unincorporated Malibu area of Los Angeles County. The project site is developed with an existing residence and is accessed from Malibu Vista Drive at the northeast corner of the site. The property is surrounded by several existing single family residences, also located within the Sunset Mesa Subdivision, to the north and east; the site borders Pacific Coast Highway to the south; and is approximately 300 feet from undeveloped areas of Topanga State Park and Topanga Creek to the west. Although the existing residence is located on an existing relatively flat pad on the northeastern portion of the site, the

southwestern portion of the site, where the proposed grading for slope remediation would occur, is comprised of moderate to steep slopes ranging from 1.5:1 to 2.5:1 (H:V, horizontal:vertical). Elevations on the property range from 94 to 70 feet above mean sea level from the top of the relatively flat developed area down to the undeveloped portion of the site adjacent to the toe of the slope (Exhibit 3).

The relatively flat area on site is currently developed with an existing single family residence constructed prior to the effective date of the Coastal Act (January 1, 1977) with an attached garage and a pool and patio. In addition, the southeastern portion of the site has been developed with a hillside drainage system, swale, sump pump and high density polyethylene liner, all of which were previously approved pursuant to the underlying permit and subsequent amendments in order to stabilize the steep slopes on site. The steep bluff parcel is located outside of any designated "Significant Watershed" areas in the certified Los Angeles County Land Use Plan (LUP). However, the property is approximately 480 feet east and upslope of Topanga Creek. This tributary is designated as blue-line stream drainage on the U.S Geological Survey (USGS).

The applicant is requesting an amendment to Coastal Development Permit (CDP) No. 4-06-134 to remediate an unstable slope that has resulted from unpermitted grading that occurred on the descending slopes directly below the existing residence. The new proposed grading for slope remediation involves the excavation and removal of approximately 206 cu. yds. of material and the revegetation of the disturbed area. In addition, the amendment includes the revegetation of an area previously revegetated pursuant to Special Condition (3) Three Revegetation and Erosion Control Plan of the underlying permit that has failed.

In addition, between 2012 and 2013, the property owner removed approximately 8,500 sq. ft. of hillside vegetation and performed approximately 78 cu. yds. of unpermitted grading (67 cu. yds. of cut and 11 cu. yds. of fill) in an approximately 8,100 sq. ft. area located on the downslope southwest corner of the project site. According to submitted geotechnical reports, this unpermitted grading resulted in the destabilization of the bluff slope. The applicant's geologic consultant has also determined that the proposed grading for slope remediation is now necessary to stabilize and restore the slope to an approximation of its pre-disturbed condition. Exhibit 4 depicts the changes from the original pre-disturbed topography, unpermitted grading, and the proposed slope remediation topography that trim the slope back from a 1.5:1 gradient to a 2:1 maximum gradient on the southern slope area; and 2) the revegetation of the newly disturbed area. The cross sections in Exhibit 4 show that while the cut slope covers an approximately 8,100 sq. ft. area, the cut is relatively shallow and mimics the natural slope. As such, it does not represent a significant alteration of landform and is necessary to ensure slope stability on site. The project's total disturbed area is approximately 8,500 sq. ft.

To ensure the stability and geotechnical safety of the site as well as to reduce the sediment load that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, **Special Condition Three (3)** requires the applicant to submit and implement a Revegetation and Erosion Control Plan using native plant species that are endemic to the Santa Monica Mountains shall be used to cover all areas temporarily disturbed and where soils are exposed due to as-built slope remediation activities. In addition, Special Condition 3 requires the applicant to install temporary erosion control measures until plantings become established and to implement a five year monitoring program to ensure the success of the replanting. **Special Conditions 1 and 2** require the applicant to incorporate all of the consulting geologist's

recommendations and to assume the risk of development. Finally, **Special Condition 5** requires the applicant to dispose of all excess excavated materials to an appropriate disposal site or to a site that has been approved to accept the material to ensure that excess excavated materials are moved off site so as not to contribute to unnecessary landform alteration. Only as conditioned will the proposed development minimize adverse impacts to water quality and coastal resources as well as ensure project site geologic stability to the maximum extent possible.

The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu – Santa Monica Mountains Land Use Plan (LUP) serve as guidance.

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APPENDICES

Appendix 1 Substantive File Documents

EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Parcel Map
- Exhibit 3. Aerial Photo
- Exhibit 4. Slope Remediation Project Plan
- Exhibit 5. Landscaping/Revegetation Plan
- Exhibit 6. Site Aerial Photographs
- Exhibit 7. CDP No. 4-06-135 & 4-06-135-A1 Permit
- Exhibit 8. CDP No. 4-06-135 Staff Report
- Exhibit 9. CDP No. 4-06-135-A2 Immaterial Amendment Letter

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, dated July 9, 2013.

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-06-135 pursuant to the staff recommendation.

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

Resolution:

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

II. STANDARD AND SPECIAL CONDITIONS

NOTE: Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit 4-06-135 and subsequential amendments remain in effect. In addition, the following six special conditions are hereby imposed as a condition upon the proposed project as amended pursuant to CDP 4-06-135-A3.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this amendment, the applicant agrees to comply with the recommendations contained in all of the geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning grading, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to grading and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Assumption of Risk, Waiver of Liability and Indemnity

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

3. Revegetation and Erosion Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Revegetation and Erosion Control Plan and Monitoring Program, prepared by a licensed Landscape Architect or a qualified Resource Specialist for all areas of the project site temporarily disturbed by excavation and stabilization grading activities and the area proposed for revegetation that was previously revegetated pursuant to the underlying permit that has failed. Within 180 days of issuance of this coastal development permit, the applicant shall commence implementation of the approved Revegetation and Erosion Control Plan. The Executive Director may grant additional time for good cause. The plans shall identify the species, extent, and location of all plant materials to be planted and shall incorporate the following criteria:

A) Technical Specifications

- (1) The Revegetation and Erosion Control Plan shall provide for the stabilization of exposed soils in the project area with native plant species. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property.
- (2) Plantings shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils. Planting shall be maintained in good

growing condition throughout the life of the project and, whenever necessary, shall be replaced with new planting materials to ensure continued compliance with applicable landscape requirements.

- (3) The plan shall include temporary erosion control measures and best management practices that provide temporary erosion control in all disturbed areas until the required plantings become established. Such measure may include, but not be limited to, temporary sediment basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing. The plan shall identify and delineate on the revegetation plan the locations of all temporary erosion control measures. These erosion control measure shall be installed on the project site and maintained until the plantings are established and adequate to stabilize on site soils to minimize erosion and sediment from runoff waters.

B) Monitoring

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

Five years from the date of completion of the proposed development the applicant shall submit for the review and approval of the Executive Director, a revegetation monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the revegetation is in conformance with the Revegetation and Erosion Control Plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the revegetation monitoring report indicates the vegetation on site is not in conformance with or has failed to meet the requirements specified in the revegetation and erosion control plan approved pursuant to this permit, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental revegetation plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental revegetation measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial revegetation plan shall be implemented within 30 days of the date of the final supplemental revegetation plan and remedial measure shall be repeated as necessary to meet the requirements of this condition.

The Permittee shall undertake development in accordance with the final Revegetation and Erosion Control Plan. Any changes to the Coastal Commission approved Revegetation and Erosion Control Plan shall be reported to the Executive Director. No changes to the Coastal Commission approved plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

C) Erosion Control Measures

1. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.
2. The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
3. The plan shall specify that grading shall take place only during the dry season (April 1-October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. Basins shall be sized to handle not less than a 10 year, 6 hour duration rainfall intensity event.
4. The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
5. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing, temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
6. All temporary, construction related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photo-degradable plastics) and must be removed when permanent erosion control measures are in place. Bio-degradable erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.

4. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use

and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

5. Removal of Excavated Material

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

6. Condition Compliance

Within 180 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the expiration of this coastal permit approval and the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. AMENDMENT DESCRIPTION AND BACKGROUND

The applicant is requesting an amendment to Coastal Development Permit (CDP) No. 4-06-134 to implement slope remediation on an approximately 8,100 sq. ft. area of a descending slope involving the excavation and removal of approximately 206 cu. yds. of soil and the revegetation of the disturbed area. In addition, the amendment includes the revegetation of an adjacent area on site (located immediately south of the area where remedial grading is proposed) that was previously revegetated pursuant to Special Condition (3) Three Revegetation and Erosion Control Plan of the underlying permit that has failed (Exhibits 4-5).

In 2013, the applicant removed approximately 8,500 sq. ft. of hillside vegetation and performed 78 cu. yds. of unpermitted grading (67 cu. yds. of cut and 11 cu. yds. of fill) in an approximately 8,100 sq. ft. area located on the downslope southwest corner of the project site without the required coastal development permit. According to submitted geotechnical reports, this unpermitted grading destabilized the bluff top slope and the proposed slope remediation is now required to stabilize and restore the slope to an approximation of its pre-disturbed condition. Exhibit 4 depicts the changes from the original pre-disturbed topography, unpermitted grading, and the proposed slope remediation topography. Thus, the proposed excavation of approximately 206 cu. yds. of soil from the disturbed area will result in the trimming of the slope back from an existing 1.5:1 gradient to a 2:1 maximum gradient on the southern slope area; and the revegetation of the disturbed area with native vegetation is necessary to remediate the slope on site that has become destabilized as a result of the unpermitted grading. As shown in Exhibit 4 under cross sections the proposed cut grading is relatively shallow and mimics the natural slope. As such, it does not represent a significant alteration of landform and will ensure slope stability on site.

On November 14, 2007, the Commission approved CDP No. 4-06-135 for the removal of 274 cu. yds. of demolition debris, removal and recompaction of 358 cu. yds. of soil for slope remediation, and the installation of a hillside drainage system. The slope remediation activities approved pursuant to CDP 4-06-135 were necessary to stabilize the slope on site and resolve the previous unpermitted grading that occurred on site immediately south and adjacent to the area of the site that is the subject of this amendment. The underlying permit was issued on August 19, 2008 and all approved grading and drainage system installation work has been completed. However, the area that was disturbed from the approved grading work that was required to be revegetated pursuant to Special Condition (3) Three Revegetation and Erosion Control Plan of the underlying permit has failed to meet the performance standards specified in the revegetation plan approved pursuant to the underlying permit. Specifically, the applicant did not adequately maintain the revegetation area and thus the plantings did not survive. Furthermore, Special Condition (3) Three states if the vegetation restoration is not in conformance with or has failed to meet the performance standards specified in the revegetation plan approved pursuant to the permit, the applicant, or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. Thus, as stated above, the applicant

is also proposing in this permit amendment to revegetate the previously revegetated area that has failed

The project site is located on a 0.30-acre non-ocean facing bluff top property on the landward side of Pacific Coast Highway located at 3925 Malibu Vista Drive, within the unincorporated Malibu area of Los Angeles County known as the Sunset Mesa Subdivision (APN 4443-003-008 and 4443-003-009) (Exhibits 1-3). The subject property is accessed from Malibu Vista Drive at the northeast corner of the site. The property is located northeast of the intersection of Topanga Canyon Boulevard and Pacific Coast Highway. The property is surrounded by several existing single family residences, also located within the Sunset Mesa Subdivision, to the north and east; borders Pacific Coast Highway to the south; and is approximately 300 feet from undeveloped areas of Topanga State Park and Topanga Creek to the west. Topographically, the proposed development area is located at the top of a steep bluff slope lot that has been previously developed with a single family residence that was constructed prior to the effective date of the Coastal Act (January 1, 1977), attached garage, pool and patio on the relatively flat portion of the site.

The subject property is comprised of moderate to steep slopes ranging from 1.5:1 to 2.5:1 (H:V, horizontal:vertical). Elevations on the property range from 94 to 70 feet above mean sea level from the top of the relatively flat developed area down to the undeveloped portion of the site adjacent to the toe of the slope. The site is underlain by certified engineered fill and terrace deposits that rest unconformable on marine sedimentary bedrock. An active landslide is mapped at the toe of the slope below the residence and has been the site of frequent slide activity. In 2000, California Department of Transportation (CalTrans) constructed a tieback wall retaining system at the toe of the landslide along Pacific Coast Highway and Topanga Canyon Road. In addition, the southeastern portion of the site has been developed with a hillside drainage system, swale, sump pump and high density polyethylene liner, all of which were previously approved pursuant to the underlying permit and subsequent amendments. Based on a review of the Commission's historical aerial photography, the pool and patio were constructed after January 1, 1977, the effective date of the Coastal Act without the benefit of a coastal development permit or written exemption determination. Some of this development may not have required approval through a coastal development permit, but for the inclusion of grading and being located within 50 feet of a coastal bluff. Commission enforcement staff is investigating this development, conditions on site, and what portions of the development would have required a coastal development permit, if any. At this time, however, the Commission is only reviewing the proposed development as described further above and the conformance of the proposed development with the Chapter three policies of the Coastal Act.

The majority of the undeveloped portion of the site, which was previously disturbed by unpermitted vegetation clearance, consisted of non-native vegetation. The rest of the subject property is sparsely vegetated with some native and non-native vegetation and does not contain any environmentally sensitive habitat due to its location within a densely buildout subdivision. The project site is visible from public parklands to the west of the property however; there are no existing or mapped public trails on or adjacent to the subject property. Additionally, the project site is visible from a very short segment of Pacific Coast Highway (which is designated as a scenic highway pursuant to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP)). However, due to the surrounding development and intervening topography, the location of the proposed development will not be visible from Pacific Coast Highway. Thus, the proposed development will not be visible from any public viewing areas. Additionally, the proposed slope

remediation will mimic the natural slope on site, will not result in significant landform alterations, and all disturbed areas will be revegetated with native vegetation. Therefore, the proposed project will not adversely impact visual resources.

B. PAST COMMISSION ACTION

Coastal Development Permit No. 4-06-135 (Goodfriend) was approved by the Commission on November 14, 2007, for the removal of 274 cu. yds. of demolition debris, removal and recompaction of 358 cu. yds. of soil for slope remediation, and installation of a hillside drainage system. Coastal Development Permit No. 4-06-135 was approved with seven (7) special conditions regarding (1) disposal of excavated material, (2) sampling and potential additional remediation activities, (3) revegetation and erosion control plans, (4) plans conforming to geologic recommendations (5) assumption of risk, (6) deed restriction and (7) condition compliance (Exhibit 7).

On May 7, 2008 Commission staff approved Coastal Development Permit Amendment No. 4-06-0135-A1 requesting to modify the language of Special Condition Five (5) "Assumption of Risk" and Special Condition Six (6) "Deed Restriction" to clarify that although the project will occur on a subject site consisting of four separate parcels with two different landowners, the applicant, on his own, is assuming the risks related to the project over all areas of the project site (including all four parcels) and that the applicant is responsible for complying with all conditions and requirements of the coastal development permit, including the recordation of a deed restriction only on property he owns (Exhibit 8).

On March 8, 2012, Commission staff approved a second amendment request, Coastal Development Permit Amendment No. 4-06-135-A2, to revise the grading plan that depicted the correct location of the debris field, closer to toe of slope, relocation of sump pump and associated electric and plumbing lines from 3929 Malibu Vista Drive to 3925 Malibu Vista Drive, addition of swale, use of a dual sump pump and high density polyethylene liner for bowl area, and revised Landscaping Plan (Exhibit 9).

Additionally, in 1998, the applicant Mr. Goodfriend submitted an application (4-98-289) for demolition of the existing house and the construction of a new residence. However the application was deemed incomplete by Commission staff and was later withdrawn by the applicant. In 2005, the applicant applied for an Exemption Determination (4-05-069-X) for remediation of debris on the subject lots. Commission staff, in a letter dated July 25, 2005, informed Mr. Goodfriend that the remediation is not exempt from coastal development permit requirements under any section of the Coastal Act.

The underlying Coastal Development Permit No. 4-06-135 approved development on two properties, 3925 and 3929 Malibu Vista Road, however, the subject amendment that is the subject of this staff report only pertains to proposed development on the property located at 3925 Malibu Vista Road which is owned by the applicant, Mr. Marvin Goodfriend.

C. HAZARDS AND GEOLOGIC STABILITY

Section 30253 of the Coastal Act states, in pertinent part, that new development shall:

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

The proposed development is located on the top of a steep bluff top lot in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, slope instability, flooding and wild fire. The site is underlain by certified engineered fill and terrace deposits that rest unconformable on marine sedimentary bedrock. An active landslide is mapped at the toe of the slope below the residence and has been the site of frequent slide activity. The applicant is requesting to amend the underlying permit to include slope remediation which involves remedial grading (206 cu. yds. of cut and 206 cu. yds. of export) to remediate unpermitted grading on descending slopes directly below the existing residence. In addition, the applicant is also proposing the revegetation of the newly disturbed area and the revegetation of an area previously revegetated pursuant to the underlying permit that has failed. The applicant has submitted a Geotechnical Report Addendum prepared by Schick Geotechnical, Inc., dated August 25, 2013, and a Response Letter, also prepared by Schick Geotechnical, Inc., dated October 22, 2013 for the subject site evaluating the geologic stability of the site in relation to the unpermitted grading that has occurred on site and proposed remediation plan. Specifically, their response letter dated October 22, 2013, states:

... the unpermitted grading work done in January 2013 destabilized the slope and decreased the factor of safety and in order to restore the factor of safety that existed on site prior to the January 2013 unpermitted work, the restoration plan, as submitted, needs to be performed.

The geotechnical consultants recommend that disturbed slope should be trimmed back to a 2:1 gradient and the disturbed areas shall be revegetated. Both the geotechnical addendum and response letter contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, project site, and the adjacent properties. Specifically, the applicant's geotechnical consultant has indicated that failure to implement the remedial grading plan may result in increased erosion on site which may affect the stability of residential development on site and on the neighboring properties. To ensure stability and structural integrity and to protect the site and the surrounding sites, the Commission, as specified in **Special Condition No. One (1)**, requires the applicant to comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of those plans prior to the commencement of construction.

Additionally, the Commission finds that, for the project to ensure geologic stability and avoid contributing significantly to erosion, all slopes and disturbed areas of the project site must be landscaped with native plants, to stabilize disturbed soils and reduce erosion resulting from the development. Therefore, the Commission finds it necessary to impose **Special Condition No. Three (3)**, which requires the applicant to submit a Revegetation and Erosion Control Plan,

prepared by a licensed Landscape Architect or qualified Resource Specialist, for all areas of the project site temporarily disturbed by slope remediation grading activities and proposed removal of unpermitted erosion control measures and the area proposed for revegetation that was previously revegetated pursuant to the underlying permit that has failed. The plan must incorporate native plants of local genetic stock, consistent with the fuel modification requirements of the Los Angeles County Fire Department. **Special Condition Three (3)** also specifies that the applicant shall commence implementation of the approved Revegetation Erosion Control Plan within 180 days of the issuance of this coastal development permit.

Although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from natural hazards, including erosion and slope instability, those risks remain substantial here. If the applicant nevertheless chooses to proceed with the project, the Commission requires the applicant, pursuant to **Special Condition Two (2)**, to assume the liability from these associated risks. Through the assumption of risk condition, the applicant acknowledges the nature of the geologic hazard that exists on the site and that may affect the safety of both existing and proposed development.

In addition, to ensure that excess excavated materials are moved off site so as not to contribute to unnecessary landform alteration, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept the material, as specified in **Special Condition Five (5)**.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30253 of the Coastal Act and as a response to the risks associated with the project:

- Special Condition 1: Plans Conforming to Geotechnical Engineer's Recommendations
- Special Condition 2: Assumption of Risk, Waiver of Liability and Indemnity
- Special Condition 3: Revegetation and Erosion Control Plans
- Special Condition 5: Disposal of Excavated Material

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

D. WATER QUALITY

Section 30231 of the Coastal Act states that:

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

encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

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

The subject property is not located within any “Significant Watershed” areas, as designated by the certified Malibu/Santa Monica Mountains Land Use Plan. However the property is approximately 480 feet upslope and to the east of Topanga Creek. This tributary is designated as blue-line stream drainage on the U.S Geological Survey (USGS). The applicant is requesting to amend the underlying permit to include slope remediation which involves 206 cu. yds. of excavation to remediate an unstable slope that has resulted from unpermitted grading that occurred on the descending slopes directly below the existing residence. In addition, the applicant is also proposing the revegetation of the newly disturbed area and the revegetation of an area previously revegetated pursuant to the underlying permit that has failed. Although the proposed development will not result in impervious surfaces, it will modify the natural slope and result in bare soils and disturbed areas which could lead to an increase in the volume and velocity of stormwater runoff and sediment load that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to minimize the potential for such adverse impacts to water quality and aquatic resources resulting from runoff both during the post-development stage, the Commission requires the revegetation of all graded and disturbed areas with primarily native landscaping, **Special Condition No. Three (3)** requires the applicant to submit and implement a Revegetation and Erosion Control Plan, prepared by a licensed Landscape Architect or qualified Resource Specialist, for the review and approval of the Executive Director. Native plant species that are endemic to the Santa Monica Mountains shall be used to cover all areas temporarily disturbed and where soils are exposed. In addition, Special Condition Three (3) requires the applicant to install temporary erosion control measures until plantings become established and to implement a five year monitoring program to ensure the success of the replanting. Interim erosion control measures implemented during post-development revegetation will serve to minimize the potential for adverse impacts to water quality resulting from onsite stormwater and sediment load runoff. Therefore, the Commission finds that Special Condition No. Three (3) is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Additionally, the Commission requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30231 of the Coastal Act:

Special Condition 3: Revegetation and Erosion Control Plans

Special Condition 4: Deed Restriction

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit. The unpermitted development includes: 1) landform alteration which involves 78 cu. yds of grading (67 cu. yds. of cut and 11 cu. yds. of fill) on the downslope southwest corner of the subject property, 2) removal of vegetation in the area of unpermitted grading, and 3) the placement of temporary erosion control measures. This amendment application includes slope remediation of the unpermitted grading, revegetation of the newly disturbed area and the removal of the unpermitted temporary erosion control measures. Additionally, the amendment includes the revegetation of an area previously revegetated pursuant to the underlying permit that has failed.

As discussed in Section A. Project Description and Background, additional unpermitted development has occurred on the property which includes the construction of a pool and patio after the effective date of the Coastal Act. Commission enforcement staff will evaluate further actions to address this matter.. The subject amendment application, however, pertains only to the 206 cu. yds. of grading to remediate the unpermitted 78 cu. yds. of grading at 3925 Malibu Vista Road.

In order to ensure that the unpermitted development component of this application is resolved in a timely manner, the Commission finds it necessary to require the applicant to fulfill all of the Special Conditions that are a prerequisite to the issuance of this permit, within 180 days of Commission action. The following special condition is required to assure the project's consistency with all applicable Chapter 3 policies of the Coastal Act:

Special Condition 6. Condition Compliance

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. The Commission's enforcement division will evaluate further actions to address this matter.

F. LOCAL COASTAL PROGRAM (LCP) PREPARATION

Section 30604(a) of the Coastal Act states that:

a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit, or permit amendment, only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed projects will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed development will avoid or minimize adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. The following special conditions are required to assure the project's consistency with Section 30604 of the Coastal Act:

Special Conditions 1 through 6

Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

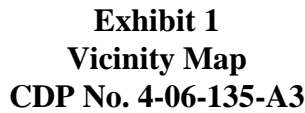
Special Conditions 1 through 6

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX 1

Substantive File Documents

Certified Malibu/Santa Monica Mountains Land Use Plan; The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; Geotechnical Addendum 3925 Malibu Vista Drive, prepared by Schick Geotechnical Inc., dated August 25, 2013, Response Letter for 3925 Malibu Vista Drive, prepared by Schick Geotechnical Inc., dated October 22, 2013; Coastal Development Permit 4-98-289 (Goodfriend); Exemption Request 4-05-069-X (Goodfriend), Coastal Development Permit 4-06-135 (Goodfriend), Coastal Development Permit 4-06-135-A1(Goodfriend) and Coastal Development Permit 4-06-135-A2 (Goodfriend).



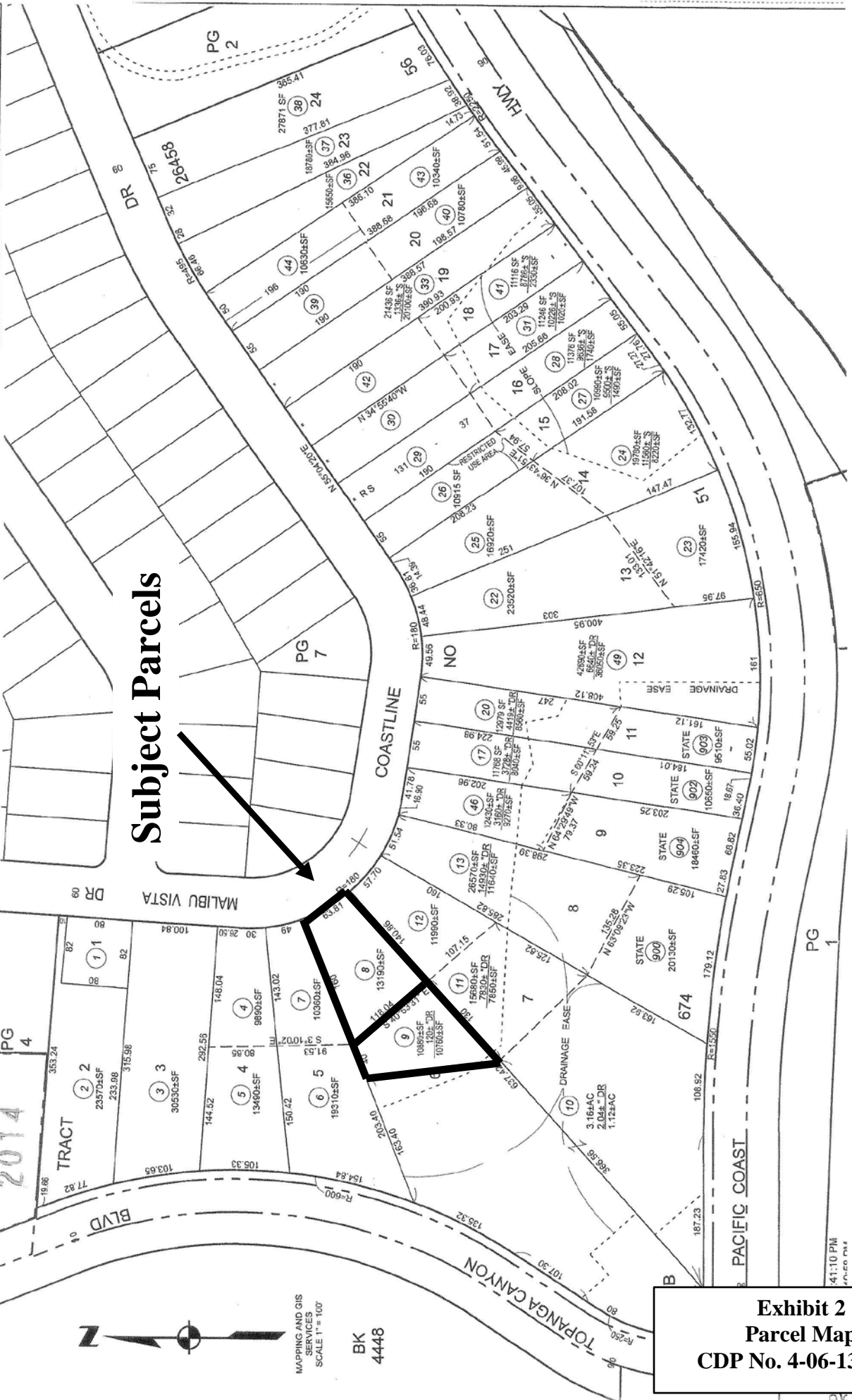
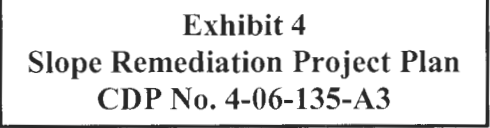
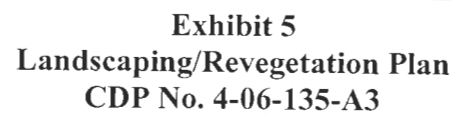


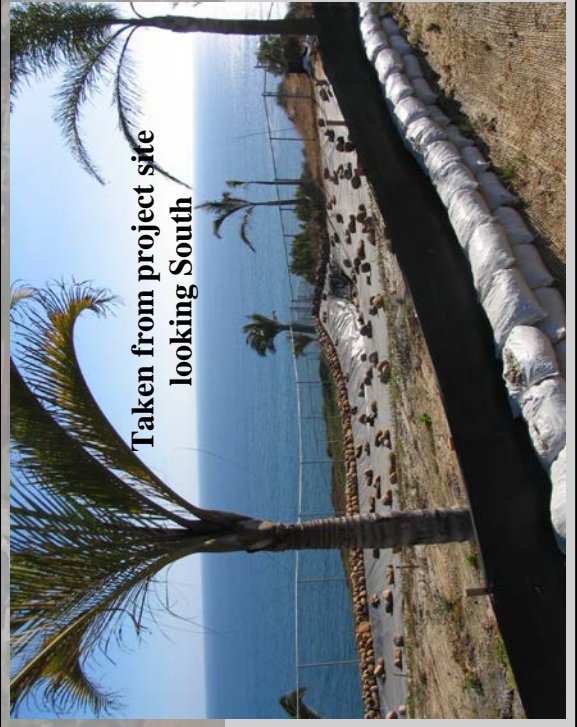
Exhibit 2
Parcel Map
CDP No. 4-06-135-A3



Exhibit 3
Aerial Photo
CDP No. 4-06-135-A3







Taken from project site
looking South

Exhibit 6
Site Aerial Photographs
CDP No. 4-06-135-A3

CALIFORNIA COASTAL COMMISSION

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



Page 1 of 6

Date: August 19, 2008

Permit Application No. 4-06-135 & 4-06-135-A1

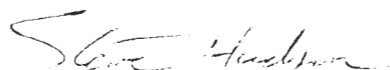
COASTAL DEVELOPMENT PERMIT
(AS AMENDED BY 4-06-035-A1)

On November 14, 2007, the California Coastal Commission granted to Marvin Goodfriend, permit 4-06-135, subject to the attached Standard and Special Conditions, for development consisting of: The removal of 274 cu. yd. of demolition debris, regrading of 358 cu. yds. of soil, and installation of a hillside drainage system. AMENDED TO ON MAY 7, 2008 to: Modify the language of Special Condition Five (5) "Assumption of Risk" and Special Condition Six (6) "Deed Restriction". This permit is more specifically described in the application on file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 3925 and 3929 Malibu Vista Drive, Malibu.

Issued on behalf of the California Coastal Commission by,

PETER DOUGLAS
Executive Director


Steven M. Hudson
District Manager

ACKNOWLEDGMENT:

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

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

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

Date

Permittee

Exhibit 7
CDP No. 4-06-135 &
4-06-135-A1 Permit
CDP No. 4-06-135-A3

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **Disposal of Excavated Material**

Prior to the issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill and/or hazardous material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

2. **Sampling and Potential Additional Remediation Activities**

Following excavation of the approximately 274 cu. yds of debris, as authorized under this permit, the applicant shall submit a report to the Executive Director outlining the following:

- a. Amount and nature of debris removed;
- b. Results of the proposed visual inspection for additional debris or contaminants underneath the removed debris;
- c. Results of soil sampling under the removed debris, analysis of concentrations of metals and asbestos found, if any, and the significance of these findings, including comparison to state and federal standards; and
- d. Analysis of additional excavation or remediation activities outside of the scope of this permit, if any, that are recommended.

If contaminated soils are encountered, the applicant shall backfill the site, transport any excavated contaminated soils offsite to an approved disposal facility, and work with Los Angeles

County Public Works on a remediation plan. Should additional remediation activities be necessary outside the scope of those permitted under this permit, the applicant will be required to apply for an amendment to this coastal development permit or new coastal development permit, unless the Executive Director determines that no new permit is needed.

3. Revegetation and Erosion Control Plan

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a detailed Revegetation and Erosion Control Plan and Monitoring Program, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for all areas of the project site temporarily disturbed by excavation, stabilization grading, and drainage improvement activities. The plans shall identify the species, extent, and location of all plant materials to be planted and shall incorporate the following criteria:

A.. Landscaping Plan

The Revegetation and Erosion Control Plan shall provide for the stabilization of exposed soils in the project area with native plant species that are appropriate for use within the fuel modification zone required by the fire department for the neighboring residences. Within 30 days of the completion of remediation activities, the applicant shall commence implementation of the approved revegetation portion of the plan. The Executive Director may grant additional time for good cause. The disturbed site shall be replanted with native plant species which are endemic to the Santa Monica Mountains, as listed by the California Native Plant Society - Santa Monica Mountains Chapter in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated 2007. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.

The revegetation area shall be delineated on a site plan. All invasive and non-native plant species shall be removed from the revegetation area. The plan shall include detailed documentation of conditions on site prior to the approved construction activity (including photographs taken from pre-designated sites annotated to a copy of the site plans) and specify restoration goals and specific performance standards to judge the success of the restoration effort.

Site restoration shall be deemed successful if the revegetation of native plant species on site is adequate to provide 90% coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation. The plan shall also include a detailed description of the process, materials, and methods to be used to meet the approved goals and performance standards and specify the preferable time of year to carry out restoration activities and describe the interim supplemental watering requirements that will be necessary.

B. Monitoring Program

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

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

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

C. Erosion Control Measures

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

geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

4. Plans Conforming to Geologic Recommendations

By acceptance of this permit, the landowners agree to comply with the recommendations contained in the "Geotechnical Evaluations, Proposed removal of Construction Debris at 3925 and 3929 Malibu Vista Drive" and "Response to California Coastal Commission Comments" prepared by R.T. Frankian & Associates on June 1, 2006 and February 21, 2007 respectively. These recommendations, including recommendations concerning grading, revegetation, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to grading, revegetation, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

5. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site (consisting of Assessor Parcel Numbers 4443-003-008 and 009 at 3925 Malibu Vista Drive and Assessor Parcel Numbers 4443-003-011 and 012 at 3929 Malibu Vista Drive) may be subject to hazards from erosion, landslide, and slope failure; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement.

6. Deed Restriction

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director, for review and approval, documentation demonstrating that the applicant has executed and recorded against parcel(s) with Assessor's Parcel Numbers 4443-003-008 and 009 (hereinafter "burdened parcel(s)") a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the site, as defined in the prior condition, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the burdened parcel(s). The deed restriction shall include a legal description of the parcels with Assessor's Parcel Numbers 4443-003-008 and 009. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any

reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such time as the Executive Director may grant for good cause, the applicant and landowners shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions Chapter 9 of the Coastal Act.

CALIFORNIA COASTAL COMMISSION

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



Item W 11f

DATE: November 9, 2007

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item 11f, Wednesday, November 14, 2007, Permit Application No. 4-06-135 (Goodfriend)

The purpose of this addendum is to present two comment letters that have been received concerning the project and report other permitting activity associated with one of the properties that is the subject of application 4-06-135.

Note: ~~Strikethrough~~ indicates text to be deleted from the October 31, 2007 staff report and underline indicates text to be added to the October 31, 2007 staff report.

1) Two comment letters have been received to date concerning the project. Both are attached as exhibits to this addendum. One dated is from Pat Foley of BP West Coast Products. BP West Coast Products owns the property southwest of the project and the letter voices support for the applicant. The second letter is from Natasha Roit who owns two of the properties that are the subject of this application. Ms. Roit is not a co-applicant to CDP application 4-06-135, but has given permission for the project. Ms. Roit's letter requests clarification in the Commission staff report that Mr Goodfriend was responsible for construction of a pool and patio on the subject property, not a previous landowner. Whether or not Mr. Goodfriend constructed the pool and patio or a previous landowner, it is now Mr. Goodfriend's responsibility as owner of the property at 2925 Malibu Vista Road to resolve any potential violations of the Coastal Act that may be associated with his property. In response to these comments, Section B., Page 8 of the October 31, 2007 staff report shall be modified as follows:

The single family residence at 3925 Malibu Vista Road was also built in 1962. According to aerial photos, the site has been developed since 1977 with the existing single family residence and small viewing platform west of the residence. Between 1977 and 1986 it appears that ~~the previous owner of the residence constructed a~~ pool and patio area was constructed directly south of the residence.

2) Commission staff note the receipt of an exemption request 4-07-077-X from Marvin Goodfriend on October 25, 2007 for after-the-fact approval of a 407 sq. ft. addition and remodel at 3925 Malibu Vista Drive, Malibu. Commission staff are in the process of reviewing this application to determine how close the addition is to the top of the coastal bluff on the property.

Exhibit 8
CDP No. 4-06-135 Staff Report
CDP No. 4-06-135-A3



BP WEST COAST PRODUCTS, LLC
a Delaware limited liability company



RECEIVED
NOV 09 2007

COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

PATRICIA H. FOLEY
Area Development Manager
4 Centrepark Dr.
La Brea, CA 90639
949-379-4626

November 8, 2007


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

RE: Permit Number 4-06-135

To Whom It May Concern:

This letter is written in support of our neighbor Marvin Goodfriend's permit application to remove debris and install a hillside drainage system as indicated in Permit Number 4-06-135. I have been to the property several times and I have not seen any construction debris dumped on our property during the term of our lease which began ten years ago. Mr. Goodfriend is a good neighbor and we appreciate his efforts resolve this matter.

Sincerely,



Pat Foley
Area Development Manager
BP West Coast Products

Addendum
CDP 4-06-135

Exhibit 1

Foley Comment Letter

LAW OFFICES OF NATASHA ROIT

3929 MALIBU VISTA DRIVE, MALIBU, CALIFORNIA 90265
TELEPHONE (310) 657-7871 FACSIMILE (310) 657-3026
E-MAIL NatashaRoit@yahoo.com

November 9, 2007

VIA FAX NO. (805) 641-1732

Ms. Melissa Hetrick, Planner
California Costal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: 3925 Malibu Vista Drive; Application No. 4-06-135

Dear Ms. Hetrick:

Thank you so much for forwarding to us the Staff Report and for yours and the Commission's hard work on this project.

Our only comment at this time is that the Staff Report seems to indicate that the construction of the pool and deck on the Goodfriend Property without Coastal approval was done by a prior owner (Section B, page 8):

Between 1977 and 1986 it appears that the previous owner of the residence constructed a pool and patio area directly south of the residence.

However, that work was done during Mr. Goodfriend's ownership of the property and by Mr. Goodfriend. I am attaching herewith an excerpt from Mr. Goodfriend's deposition wherein he admits the same (p. 605, lines 20-24)

It is also our understanding that at the time of applying for the pool permit, Mr. Goodfriend requested a permit for importation of fill on his property which request was rejected. Photographs within our possession demonstrate that the Goodfriend property used to have an upper level, a down slope, and a lower level, much like our adjoining property, which visibly is not the case today leading to the conclusion that fill was brought in at that time. I am attaching herewith another excerpt from Mr. Goodfriend's deposition wherein he admits to putting in the deck, doing grading at the same time, and attempting to level the property (p. 369 line 6 to 371 line 23).

Further, I am attaching a drawing submitted at that time (the stamp on the back of the drawing seems to reflect the date of September 1, 1978) by Mr. Goodfriend to the Department of Public Works in conjunction with pulling permits, which depicts the slope as it existed at that time. the

Addendum
CDP 4-06-135

Exhibit 2

Roit Comment Letter

LAW OFFICES OF NATASHA ROIT

Page Two

Re: *3925 Malibu Vista Drive; Application No. 4-06-135*

November 9, 2007

then existing dwelling without the current addition, and the garage without the currently existing workroom and guesthouse.

Thank you again and we look forward to the hearing on November 14, 2007.

Very truly yours,

/s/

NATASHA ROIT

NR/wp

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Exhibit 2

Roit Comment Letter

1 MY ADVICE IS RELATIVE TO MY CLIENT.

2 BUT WE'LL GO AHEAD AND ANSWER THIS
3 QUESTION, UNDERSTANDING THAT WE'RE NOT GOING TO
4 ALLOW COUNSEL TO GO FAR AFIELD AND UNDULY HARASS YOU
5 WITH RESPECT TO INFORMATION THAT'S NOT RELEVANT TO
6 THIS LAWSUIT.

7 THE WITNESS: IT APPEARS THAT THIS DRAWING
8 IS ABOUT 25 YEARS AGO, AND I DON'T RECOLLECT
9 SPECIFICALLY WHAT WAS DONE 25 YEARS AGO.

10 BY MS. ROIT:

11 Q. THAT WASN'T MY QUESTION, SIR,

12 MY QUESTION -- I KNOW THERE WAS A LOT OF
13 COLLOQUY IN BETWEEN MY QUESTION AND YOUR ANSWER, SO
14 LET ME ASSIST YOU WITH RECALLING WHAT MY QUESTION
15 WAS.

16 YOU TESTIFIED THAT THERE WERE EIGHT OR TEN
17 STEPS, AND YOU PLACED THEM FOR ME.

18 MY QUESTION TO YOU IS, WHEN WERE THOSE
19 STEPS PUT IN?

20 A. I BELIEVE THEY WERE PUT IN AT THE SAME TIME
21 THAT THE SWIMMING POOL WAS PUT IN, AROUND 1979.

22 Q. AND YOU DID THAT; RIGHT? YOU HAD THE
23 SWIMMING POOL PUT IN?

24 A. YES.

25 Q. AND I JUST WANT TO MAKE ABSOLUTELY CERTAIN

1 A. No.

2 Q. If you don't have a purged schedule, can
3 you think of any reason at all that you would not have
4 maintained this document?

5 A. I cannot give you a reason.

6 Q. Did you do any grading when you were
7 doing your deck construction?

8 A. Yes, I believe we did.

9 Q. Where did you do this grading?

10 A. We did the grading on the upper property
11 leading to the lower property.

12 Q. Where your deck presently sits at the
13 edge that is closest to the ocean side, from that edge
14 going down downhill, can you estimate for me -- first of
15 all, was any grading done in that area?

16 A. Not to my recollection.

17 Q. If we took the area of the deck from the
18 edge of it that's closer to the ocean, tell me in
19 relation to that where you did the grading.

20 A. The grading was done below that.

21 Q. Below the deck?

22 A. Yes.

23 Q. What was below the deck before the
24 grading was done?

25 A. Ivy.

Addendum
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Exhibit 2

Roit Comment Letter

1 Q. Anything else?

2 A. Perhaps some ice plant.

3 Q. Was it essentially level ground? In
4 other words, what were you doing in terms of grading
5 down below the deck?

6 A. When we built the deck, we also re-did
7 the landscaping in the backyard and put in a new lawn
8 and palm trees and ice plant and tried to level the
9 property to some extent.

10 Q. When you say tried to level it, what did
11 you do to try to level the property to some extent
12 during that time?

13 A. I don't remember the specifics. I just
14 don't remember.

15 Q. Did you bring dirt in?

16 A. We might have. I don't remember.

17 Q. Can you give me an explanation, sir, or
18 visual as to when you say you "tried to level the
19 property," did you raise it in points an inch, two
20 inches, feet? Give me a sense.

21 A. I remember that after building the deck
22 sometime in '89 that we moved earth and planted new ice
23 plant below the deck and some palm trees and a path.
24 That's all I remember.

25 Q. Respectfully, sir, that's not what I'm

Addendum
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Exhibit 2

Roit Comment Letter

1 asking you. I'm asking you in terms of dirt
2 importation. When I said earlier did you bring in dirt,
3 last time in your session you indicated you did not. In
4 this session you indicated you may have. I'm following
5 up on what the circumstances are.

6 So in relation to the time that you put
7 in the deck, did you bring in dirt in order to do some
8 leveling of your property?

9 A. I don't remember.

10 Q. When you say earlier you did some
11 grading, did you lower the higher portions of your
12 property as opposed to raise the lower portions of your
13 property?

14 A. I don't remember.

15 Q. Let me divide the question. Did you
16 lower any portions of your property, in other words,
17 take dirt out?

18 A. I don't remember.

19 Q. Did you raise any portions of your
20 property with dirt?

21 A. I don't remember.

22 Q. Who did that work for you?

23 A. I don't even remember who built the deck
24 for us.

25 Q. When you say you did some leveling and

Addendum
CDP 4-06-135

Exhibit 2

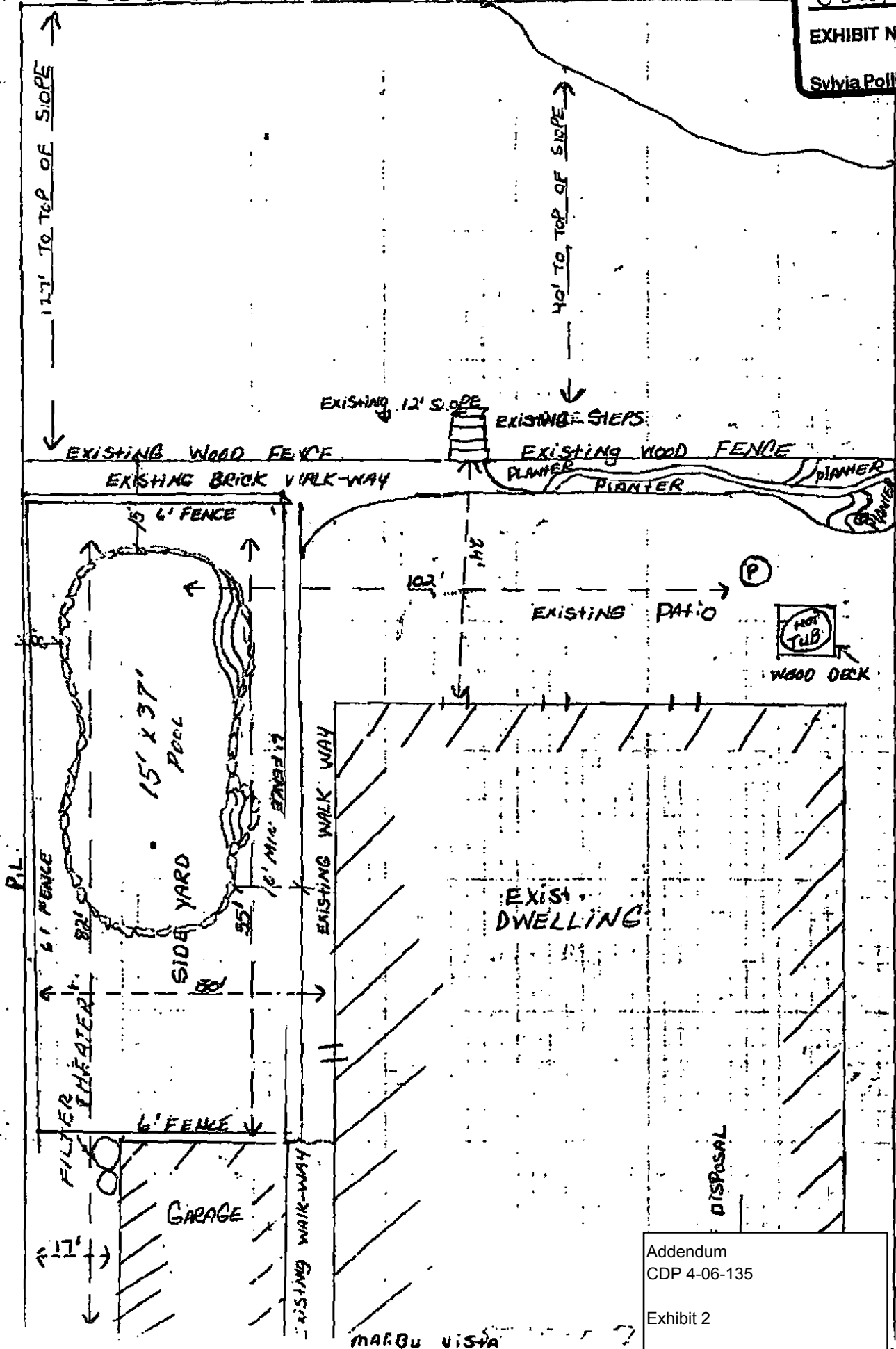
Roit Comment Letter

EDGE OF SLOPE P.L.

Goodman

EXHIBIT NO. 45

Sylvia Pollick



Addendum
CDP 4-06-135

Exhibit 2

Roit Comment Letter

45

DIVISION OF BUILDING AND SAFETY
 Department of County Engineer
APPROVED
 UNDER ORDINANCE NO. 2225 N.B.
 BY
 SEP 1 1977

This set of plans and specifications MUST be kept
 on the job at all times and it is understood that
 no changes or alterations can be made without the
 written permission of the Division of Building
 and Safety, County of Los Angeles.
 The changing of this plan and specifications
 SHALL NOT be a condition to be an ap-
 proved of the work or to be an ap-
 County Ordinance or State Law.

Addendum
 CDP 4-06-135
 Exhibit 2
 Roit Comment Letter

45.2

CALIFORNIA COASTAL COMMISSION

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



W 11f

Filed: 5/25/07
180th Day: 11/21/07
Staff: Melissa Hetrick
Staff Report: 10/31/07
Hearing Date: 11/14/07

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-06-135

APPLICANT: Marvin Goodfriend

PROJECT LOCATION: 3925 and 3929 Malibu Vista Drive, Santa Monica Mountains, Los Angeles County (APN 4443-003-008, 009, 011, 012)

PROJECT DESCRIPTION: The applicant is requesting approval for the removal of 274 cu. yds. of demolition debris, regrading of 358 cy. yds of soil, and installation of a hillside drainage system.

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning Approval in Concept R007-01198

SUBSTANTIVE FILE DOCUMENTS: “Geotechnical Evaluations, Proposed removal of Construction Debris at 3925 and 3929 Malibu Vista Drive” and “Response to California Coastal Commission Comments” prepared by R.T. Frankian & Associates on June 1, 2006 and February 21, 2007 respectively; “Peizometer Installation Report” prepared by Steven Viani, P.E., October 2006; Final Judgment Order Case No. SC 081696 of the Superior Court of the State of California for the County of Los Angeles, May 17, 2004; “Analytic Testing Results,” AmeriSci Los Angeles, July 2007; and California Coastal Commission Exemption Determination 4-05-069-X.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project with **SEVEN (7) SPECIAL CONDITIONS** regarding (1) disposal of excavated material, (2) sampling and potential additional remediation activities, (3) revegetation and erosion control plans, (4) plans conforming to geologic recommendations (5) assumption of risk (6) deed restriction, (7) condition compliance.

The applicant proposes to remediate debris and soil along 3,600 sq. ft. on portions of four bluff top lots northeast of the intersection of Topanga Road and Pacific Coast Highway. The remediation includes removal of 274 cu. yds of construction debris

dumped by the applicant, Marvin Goodfriend, in 2001 without the required authorization or permit from the Coastal Commission. Following excavation of the debris, the applicant is also proposing to test soils under the debris, recompact 358 cu. yds of soil into eight inch lifts, and install a drainage system to pump water from the remediation area up to a storm drain in Malibu Vista Road. The debris are located in open ground cracks at the headscarp (or top) of an active landslide located approximately 50-150 southwest of single family residences located on two of the subject lots. The applicant's geotechnical consultant has concluded that the project, as conditioned, is not likely to negatively impact the stability of the project site and surrounding areas. Commission staff geologist, Dr. Mark Johnson, has reviewed and concurred with the recommendations and conclusions of the applicant's geologist.

The standard of review for the proposed permit application is the Chapter Three policies of the Coastal Act. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-06-135 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or

authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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

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

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

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

III. SPECIAL CONDITIONS

1. Disposal of Excavated Material

Prior to the issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill and/or hazardous material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

2. Sampling and Potential Additional Remediation Activities

Following excavation of the approximately 274 cu. yds of debris, as authorized under this permit, the applicant shall submit a report to the Executive Director outlining the following:

- a. Amount and nature of debris removed;
- b. Results of the proposed visual inspection for additional debris or contaminants underneath the removed debris;
- c. Results of soil sampling under the removed debris, analysis of concentrations of metals and asbestos found, if any, and the significance of these findings, including comparison to state and federal standards; and
- d. Analysis of additional excavation or remediation activities outside of the scope of this permit, if any, that are recommended.

If contaminated soils are encountered, the applicant shall backfill the site, transport any excavated contaminated soils offsite to an approved disposal facility, and work with Los Angeles County Public Works on a remediation plan. Should additional remediation activities be necessary outside the scope of those permitted under this permit, the applicant will be required to apply for an amendment to this coastal development permit or new coastal development permit, unless the Executive Director determines that no new permit is needed.

3. Revegetation and Erosion Control Plan

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a detailed Revegetation and Erosion Control Plan and Monitoring Program, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for all areas of the project site temporarily disturbed by excavation, stabilization grading, and drainage improvement activities. The plans shall identify the species, extent, and location of all plant materials to be planted and shall incorporate the following criteria:

A.. Landscaping Plan

The Revegetation and Erosion Control Plan shall provide for the stabilization of exposed soils in the project area with native plant species that are appropriate for use within the fuel modification zone required by the fire department for the neighboring residences. Within 30 days of the completion of remediation activities, the applicant shall commence implementation of the approved revegetation portion of the plan. The Executive Director may grant additional time for good cause. The disturbed site shall be replanted with native plant species which are endemic to the Santa Monica Mountains, as listed by the California Native Plant Society - Santa Monica Mountains Chapter in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated 2007. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.

The revegetation area shall be delineated on a site plan. All invasive and non-native plant species shall be removed from the revegetation area. The plan shall include detailed documentation of conditions on site prior to the approved construction activity (including photographs taken from pre-designated sites annotated to a copy of the site plans) and specify restoration goals and specific performance standards to judge the success of the restoration effort.

Site restoration shall be deemed successful if the revegetation of native plant species on site is adequate to provide 90% coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental

irrigation. The plan shall also include a detailed description of the process, materials, and methods to be used to meet the approved goals and performance standards and specify the preferable time of year to carry out restoration activities and describe the interim supplemental watering requirements that will be necessary.

B. Monitoring Program

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

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

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

C. Erosion Control Measures

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These

erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.

- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

4. Plans Conforming to Geologic Recommendations

By acceptance of this permit, the landowners agree to comply with the recommendations contained in the "Geotechnical Evaluations, Proposed removal of Construction Debris at 3925 and 3929 Malibu Vista Drive" and "Response to California Coastal Commission Comments" prepared by R.T. Frankian & Associates on June 1, 2006 and February 21, 2007 respectively. These recommendations, including recommendations concerning grading, revegetation, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to grading, revegetation, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

5. Assumption of Risk

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

6. Deed Restriction

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director, for review and approval, documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such time as the Executive Director may grant for good cause, the applicant and landowners shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions Chapter 9 of the Coastal Act.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Project Area

The applicant is requesting approval for the remediation of debris and soil along an approximately 3,600 sq. ft. area southwest of Malibu Vista Road and northeast of the intersection of Topanga Road and Pacific Coast Highway in the Santa Monica Mountains in Los Angeles County (**Exhibits 1 and 5**). The remediation will occur on portions of four bluff top lots owned by Marvin Goodfriend (APN 4443-003-008 and 009; 3925 Malibu Vista Drive) and Rebecca Rickley and Natasha Roit (APN 4443-003-011 and 012; 3929 Malibu Vista Drive). Two single family residences are currently developed on the two easternmost lots adjacent to Malibu Vista Drive. The westernmost lots have landscaping and fencing, but are devoid of structures and steeply slope to the south. The two easternmost lots and portions of the westernmost lots are covered in non-native vegetation that has been disturbed and cleared. The areas surrounding the project area to the west include undeveloped areas of Topanga State Park and Topanga Creek. The areas to the north, east, and south of the project

area are densely developed with single family residences. An active landslide is mapped at the toe of the slope below the residences and has been the site of frequent slide activity. In 2000, Caltrans constructed a tieback wall retaining system at the toe of the landslide along Pacific Coast Highway and Topanga Road.

The proposed remediation would include the removal of 274 cu. yds. of demolition debris that was dumped in the rear yards of both residences by Mr. Goodfriend in 2001 (**Exhibit 2**). The demolition debris includes vegetation, topsoil, concrete, reinforcement, stucco, roofing tile, etc. Testing of the project site has shown no "toxic materials" although traces of asbestos and lead that are non-friable have been found (Superior Court of California Findings of January 17, 2006 on Rickley vs. Goodfriend SC0844). The debris is located in open ground cracks at the headscarp area (or top) of the active landslide approximately 50-150 feet from the residences onsite. Upon completion of the excavation of construction debris, including debris in the fissures onsite, the site will be inspected to verify that all debris and have been removed from the properties. Soil samples will also be taken and analyzed for metals and asbestos and a report with analytical results will be produced. Once the debris is removed and testing completed, the applicant is proposing to excavate the upper 3 feet of soil (approximately 358 cu. yds) and recompact the soil in 8 inch moisture conditioned lifts using small or hand held equipment. In addition, the applicant is proposing to install a drainage system, including an automatic sump pump and piping, along the remediation area to convey runoff to a drain at the top of the hill in the storm drainage system at Malibu Vista Drive. The site will also be graded in order to provide appropriate drainage into this system.

B. Background

The single family residence at 3929 Malibu Vista Road includes a main house, patios, landscaping, and a small rear secondary structure. This house was built in 1962 and has remained relatively unchanged since that time with the exception of changes to the landscaping, patios, and secondary structure in the rear yard. No coastal permits are on file for this residence. Commission enforcement staff are investigating whether any of the development that occurred on the lot since the effective date of the Coastal Act required a coastal development permit.

The single family residence at 3925 Malibu Vista Road was also built in 1962. According to aerial photos, the site has been developed since 1977 with the existing single family residence and small viewing platform west of the residence. Between 1977 and 1986 it appears that the previous owner of the residence constructed a pool and patio area directly south of the residence. In 2001, Marvin Goodfriend, the current owner of the property, constructed an addition to the main residence. It was during the construction of this addition that approximately 274 cu. yds of demolition debris was dumped at the four lots that are the subject of this application. Following this activity, the owners of two of the lots, Rebecca Rickley and Natasha Roit, sued Marvin Goodfriend. On September 6, 2005 the Superior Court of the State of California for the County of Los Angeles ordered (Case SC 081696) Marvin Goodfriend to remove and remediate 274 cu. yds. of debris on the lots (**Exhibits 4a and 4b**). The subject

application has been filed by Marvin Goodfriend to satisfy the requirements of the court order.

Commission staff notes that no permits or authorizations from the Commission are on file for the construction of the addition or pool at 3925 Malibu Vista Road. In 1998, Mr. Goodfriend submitted an application 4-98-289 for demolition of the existing house on the property and construction of a new residence. However the application was deemed incomplete by staff and was later withdrawn by the applicant. Mr. Goodfriend has submitted evidence that on September 27, 2007 he applied for after-the-fact approval in concept from Los Angeles County for the 2001 addition and remodel to the house. However, no CDP applications or exemption requests have been received from Mr. Goodfriend to date for after-the-fact approval of the addition or pool. Mr. Goodfriend has stated that he is putting together an exemption determination application and will be submitting it shortly to Commission staff. Without complete information on the addition, pool, and topography of the bluff, Commission staff have not been able to determine whether the previous addition and pool needed a coastal development permit. Commission staff has determined, however, that the disposal of debris associated with the addition occurred within 50 feet of the coastal bluff west of the residence. According to Section 13250 of the California Code of Regulations, the original placement and proposed remediation of this debris, therefore, require a coastal development permit. In 2005, the applicant applied for an Exemption Determination (4-05-069-X) for remediation of debris on the subject lots. Commission staff, in a letter dated July 25, 2005, informed Mr. Goodfriend that the remediation is not exempt from coastal permit requirements under any section of the Coastal Act.

C. Comment Letters

Several letters dated March 1, March 9, and June 11, 2007 (**Exhibits 3a and 3c**) have been received by Commission staff by Natasha Roit, one of the owners of two of the lots that are a subject of this application. In these letters, Ms. Roit clarifies that she is not a co-applicant for application 4-06-135, but does give permission to proceed with permitting for the project. She also discusses several issues concerning the previous court proceedings with Mr. Goodfriend, Mr. Goodfriend's past actions, geotechnical conditions onsite, water levels onsite, potential additional debris onsite, the toxicity of debris, and the limited scope of the proposed project. Also enclosed as **Exhibit 3b** is a letter dated March 8 from James N. Procter II, Mr. Goodfriend's attorney, which responds to the aforementioned letters from Ms. Roit. Section D. Geology and Hazards responds to the concerns of Ms. Roit regarding the geologic stability and water levels of the site. Section E. Water Quality responds to concerns regarding toxicity of the site.

Ms. Roit also has voiced concerns that additional demolition debris outside of that proposed for remediation at this time, may be present on the site and should be considered as part of this application. Additionally, Ms. Roit asks the Commission to consider previous actions by Mr. Goodfriend, including remodel and expansion of the residence that she believes were unpermitted. Commission staff note, as described above, that development has occurred at the subject lots since the effective date of the

Coastal Act and that no permits or authorizations from the Commission have been issued for this development. Commission enforcement staff is investigating this development, conditions onsite, and what portions of the development would have required a coastal development permit, if any. At this time, however, the Commission is only reviewing the remediation of soils and debris as described above in Section A. Project Description and the conformance of this proposed development with the Chapter 3 policies of the Coastal Act. This staff report, therefore, will not analyze in detail whether additional debris may be present onsite and whether additional unpermitted activities have occurred at the project site. It should be noted, however, that **Special Condition Two (2)** of this permit requires the applicant to report to the Executive Director the results of analytical testing of soils following excavation that will show whether additional debris or toxic materials are located in the project area. Should additional remediation and removal activities be required outside the scope of this application, the applicant shall be required to obtain an amendment to this coastal development permit or a new coastal development permit for the additional work.

D. Geology and Hazards

Coastal Act Section 30253 states in part:

New development shall:

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

Section 30253 of the Coastal Act mandates that development be sited and designed to provide geologic stability and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted the following reports for the proposed development: "Geotechnical Evaluations, Proposed removal of Construction Debris at 3925 and 3929 Malibu Vista Drive" and "Response to California Coastal Commission Comments" prepared by R.T. Frankian & Associates on June 1, 2006 and February 21, 2007 respectively.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, wildfire, and flooding. The project site is located at the top of a steep (1.5:1 to 2.5:1 slope) coastal bluff, directly below two existing single family residences. The site is underlain by certified engineered fill and terrace deposits that rest unconformable on marine sedimentary bedrock. In 2001, the applicant dumped demolition and

construction debris into fissures at the headscarp of an active landslide that extends down the coastal bluff to Pacific Coast Highway and Topanga Canyon Blvd. As discussed in the submitted geologic reports, this landslide is a complex and deep-seated rotational failure that extends 550 feet along Pacific Coast Highway and involves most of the descending slope (approximately 180 feet in height). Caltrans has reported reactivation and movement of the slide on several occasions from the 1930's to present day. The episodes seem to correspond to periods of heavy rainfall or ground motion (earthquakes) in the region. According to the geologic reports, several areas of perched groundwater and surface seeps have also been mapped in and around the landslide area. Groundwater levels play an important role with respect to gross stability of the landslide. In 2000, Cal Trans constructed a waler/tieback wall retaining system at the toe of the slope/landslide at the intersection of Pacific Coast Highway and Topanga Canyon Blvd. The retaining system was designed to increase the factor of safety of the slide mass and prevent further shoulder and pavement distress to Pacific Coast Highway. CalTrans continues to monitor the landslide and groundwater in the area.

The applicant is currently proposing to remove 274 cu. yds of demolition debris, remove and recompact approximately 358 cu. yds. of soil into conditioned lifts, and install a drainage system to pump runoff from the area up to a storm drainage system at 3925 and 3929 Malibu Vista Road. As discussed above in Section C. Comment Letters, one of the landowners of the subject properties, Natasha Roit, has voiced concerns regarding the high water levels at the site and the potential of the project to impact stability of the site. The geotechnical reports submitted for the project by R.T. Frankian and Associates address the potential for the project to impact geologic stability of the site and groundwater levels onsite. Specifically, their memo of February 21, 2007 states:

...the weight of the construction debris is small compared to the total weight of the slide mass. The affect of the placement of construction debris on a stability analysis performed on a 50-scale cross section is like adding a thick pencil line in the area where the debris was placed. The additional weight is almost negligible. The construction debris likely had a small negative affect on gross stability of the slide, but the affect is so small as to be within the accuracy and precision of the analytical technique used to perform the analysis. So too, removal of the construction debris will likely have a small positive affect on gross stability of the slide.

Provided the recommendations in our June 1, 2006 report are followed, removal of the construction debris, processing in-place of the upper three feet of native soil, and installation of a piezometer will not adversely impact the existing stability of the landslide and will not create a hazard to the safety of the subject property or neighboring properties.

The geotechnical reports for the project contain several recommendations to be incorporated into the project design and construction to ensure the stability and geologic safety for the proposed project site and adjacent properties. These recommendations include guidance for removal of construction debris, site preparation, recompaction, groundwater levels, revegetation and irrigation of the site, among other things. The

Commission's staff geologist, Dr. Mark Johnson, has reviewed the proposed plans and recommendations of the geotechnical consultant and has found the conclusions and recommendations of the consultant to be protective of stability and safety of the project site and surrounding area. To ensure that the recommendations of the consultant are incorporated into all proposed project activities, the Commission, as specified in **Special Condition Four (4)**, requires the applicant to comply with and incorporate the recommendations contained in the submitted geologic reports into all final design and construction, and to obtain the approval of the geotechnical consultants prior to commencement of the remediation.

The applicant is proposing, as part of this application, to sample soils and conduct a visual inspection following excavation of the debris, in order to ensure that no additional work is needed. Additionally, comments received by Ms. Natasha Roit (**Exhibit 3a and 3c**) concerning the project site refer to the potential that additional debris may be onsite and additional future work may be needed onsite. The geotechnical analysis conducted by the applicant's consultant only covers the limited remediation work currently proposed in this application. In order to ensure that any additional work proposed onsite undergoes geologic and coastal review and is in conformance with Section 30253 of the Coastal Act, **Special Condition Two (2)** requires the applicant to submit the results of all inspections and sampling onsite and to report to the Executive Director on the need for any additional work. Should additional work be needed, the applicant shall be required to apply for an amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no new permit is needed.

The Commission finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to plant all disturbed areas of the site with native plants. Further, in past permit actions, the Commission has found that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foilage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize steep slopes, such as the slopes on the subject site, and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foilage weight but also by their low irrigation and maintenance requirements. Therefore, in order to ensure the stability and geotechnical safety of the site, **Special Condition Three (3)** specifically requires the applicant to submit erosion control and revegetation plans for all disturbed areas on the project site.

In addition, to ensure that excess excavated materials are moved off site so as not to contribute to unnecessary landform alteration, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a

site that has been approved to accept the material, as specified in **Special Condition One (1)**.

Further, the proposed project, as conditioned to ensure that the disturbed site slopes are revegetated with native vegetation, has been designed to ensure slope stability on site to the maximum extent feasible. However, the Coastal Act recognizes that certain development projects located in geologically hazardous areas, such as the subject site, still involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the foreseen possibility of erosion and slope failure, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition Five (5)** requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Special Condition No. Six (6) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as a restriction on the use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restriction are imposed on the subject property.

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

E. Water Quality

Section 30231 of the Coastal Act states:

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

Sections 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The Commission recognizes that remediation and construction activities in the Santa Monica Mountains have the potential to adversely impact coastal water quality through the removal of native vegetation, increase of erosion and sedimentation, and introduction of pollutants such as petroleum and other pollutant sources. Pollutants commonly found in runoff associated with residential uses and construction activities include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint; dirt; and vegetation. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

The applicant requests approval for the removal of construction debris, recompaction and grading of soils, and installation of a drainage system within an approximately 3,600 sq. ft. area southwest of Malibu Vista Road and northeast of the intersection of Topanga Road and Pacific Coast Highway. The purpose of the project is to remediate an area where debris was dumped on the site from the remodel and addition to a single family residence located on one of the subject properties. The project site is located in the Topanga Canyon watershed. While no development is proposed in drainages onsite, the proposed project is located approximately 1,000 feet above Topanga Canyon Creek in an area containing areas of perched groundwater and seeps. Additionally, the applicant is proposing to install a drainage system that would pump water from the bottom of the remediation area up to storm drains in Malibu Vista Road that lead directly to the coastal waters offshore of the site.

Should the project site contain debris or soils contaminated with pollutants, it is possible that remediation of the area could lead to increased availability of these pollutants to runoff and coastal waters, particularly during grading and removal activities. The debris to be removed from the site include construction debris from a remodel of the single family residence onsite and include roofing tiles, concrete, stucco, etc. Analytical tests of the remediation site have found trace quantities of asbestos and lead in the debris and soil in the area. According to the Superior Court of California Findings of January 17, 2006 on Rickley vs. Goodfriend (see Section B. Background) these debris have not been found to contain "toxic materials." According to this document, all asbestos and lead found on the site was in a non-friable state. However, in order to ensure that all excess excavated debris and materials are moved off site so as not to contribute to landform alternation and potential pollutant sources onsite, the Commission finds it necessary to require the applicants to dispose of the materials at an appropriate

disposal site or to a site that has been approved to accept the material, as specified in **Special Condition One (1)**.

Additionally, the applicant is proposing to test the soils underneath the excavated construction debris for heavy metals and asbestos in order to ensure that all debris is removed and that contaminated soils, if any, are not left on the site. **Special Condition Two (2)** requires the applicant to complete this testing and report the results to the Executive Director following excavation of the site. Should contaminants or additional debris be found on the site and additional remediation work needed, the applicant shall be required to submit an amendment to this coastal development permit or a new coastal development permit for the work, unless the Executive Director determines that no new permit is needed.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. The Commission also notes that removal of vegetation, grading, and exposure of on-site soils can increase erosion on site and would subsequently result in a potential increase in the sedimentation of the downslope Topanga Canyon Creek. The Commission finds that the minimization of site erosion will minimize the project's potential individual and cumulative contribution to adversely affect the adjacent watershed and stream. Erosion can best be minimized by requiring the applicant to revegetate all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore, to ensure that revegetation and erosion control of the remediated slope is successful to minimize increased erosion and sedimentation of nearby sensitive habitat, **Special Condition Three (3)** requires the applicant to submit a Revegetation and Erosion Control Plan, prepared by a biologist or environmental resource specialist, for the review and approval of the Executive Director. Native plant species that are appropriate for site's mixed coast sage scrub and chaparral plant community shall be used to cover all areas along the outboard slope where chaparral vegetation has been temporarily disturbed or removed and soils are exposed due to as-built roadside slope stabilization activities. The disturbed site shall be replanted with native plant species which are endemic to the Santa Monica Mountains. In addition, **Special Condition Three (3)** also requires the applicant to implement a five year monitoring program to ensure the success of the replanting.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30231 of the Coastal Act.

F. Unpermitted Development

Development has occurred on the subject site without the required coastal development permits, including, but not limited to, dumping of construction debris within 50 feet of a coastal bluff west of the single family residence at 3925 Malibu Vista Road in the Santa Monica Mountains. As discussed in Section B. Background, additional unpermitted

development may have occurred on the properties associated with this permit. Commission enforcement staff is investigating the development that has occurred on the subject parcels to determine if coastal development permits would have been required. The subject application, however, pertains only to the removal of 274 cu. yds. of debris dumped behind the residence at 3925 Malibu Vista Road in 2001 by Mr. Marvin Goodfriend.

The applicant is proposing to remove 274 cu yds. of construction debris, recompact and regrade the hillside in the area of the debris, and install a drainage system to direct runoff away from a landslide on the properties. In order to ensure that the components of this application involving unpermitted development are resolved in a timely manner, **Special Condition Six (6)** requires that the applicants satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 90 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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

G. Local Coastal Program

Section 30604 of the Coastal Act states:

a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and are accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

H. California Environmental Quality Act

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

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



Exhibit 1

CDP 4-06-135

Project Vicinity

Project Area

Goodfriend Property 3925 Malibu Vista Drive

Legend

— = Property Line

— = Brush Line (Non-Native)

— = Contour Line

x189.5 = Spot Elevation

All Removal/Restoration/Compaction
by Small or Hand Held Mechanical
Equipment. Work To be performed
as described in June 1, 2006
Geotechnical Report Prepared by RTFA.

SP Viani & Associates

Debris & Topographic Features

Goodfriend Property
3925 Malibu Vista Drive
Malibu, California 90265-5610

Scale: 1" = 30'

Drawn: KDB

Checked: SPV

Figure 2

File: 07-008

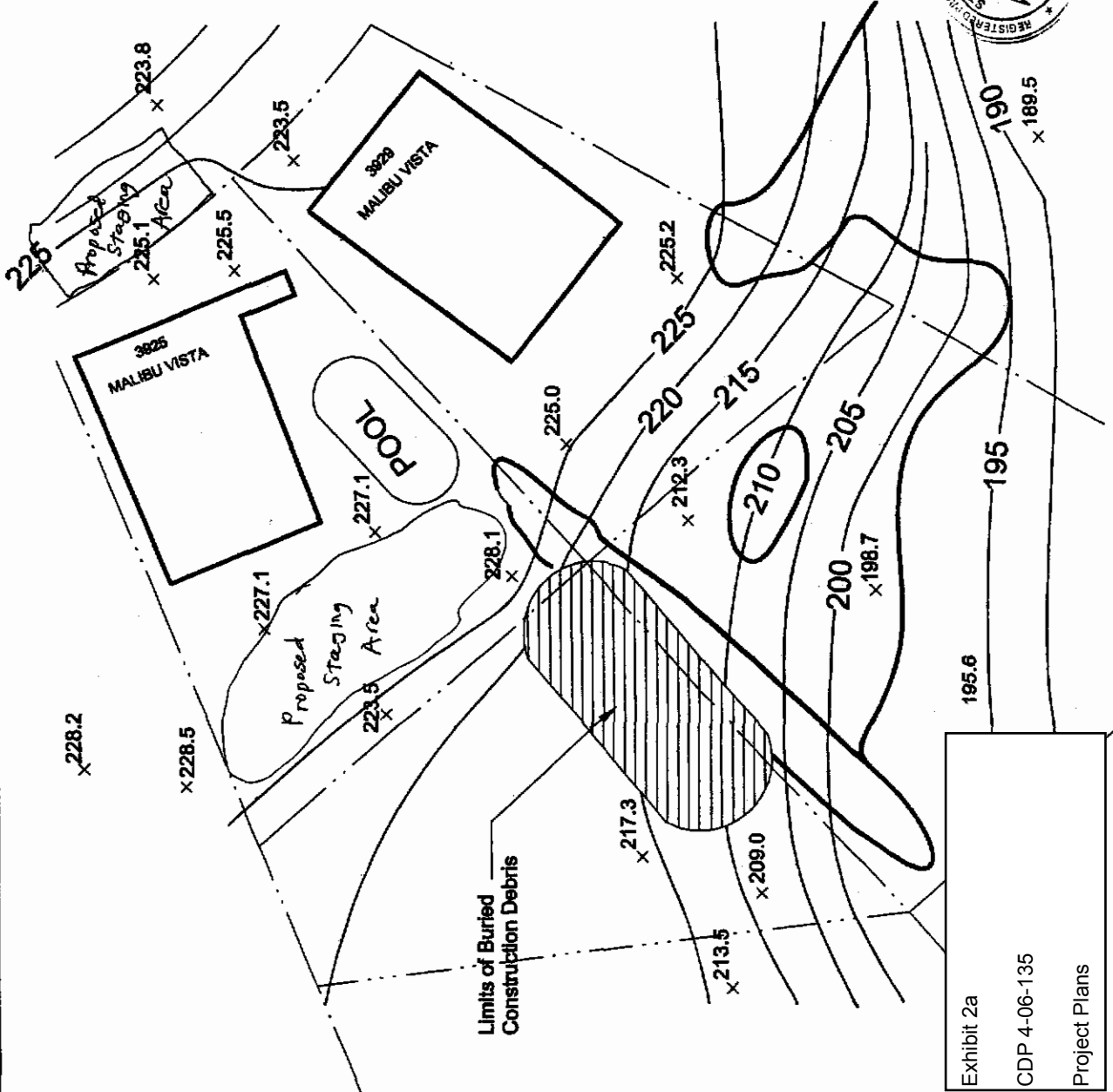
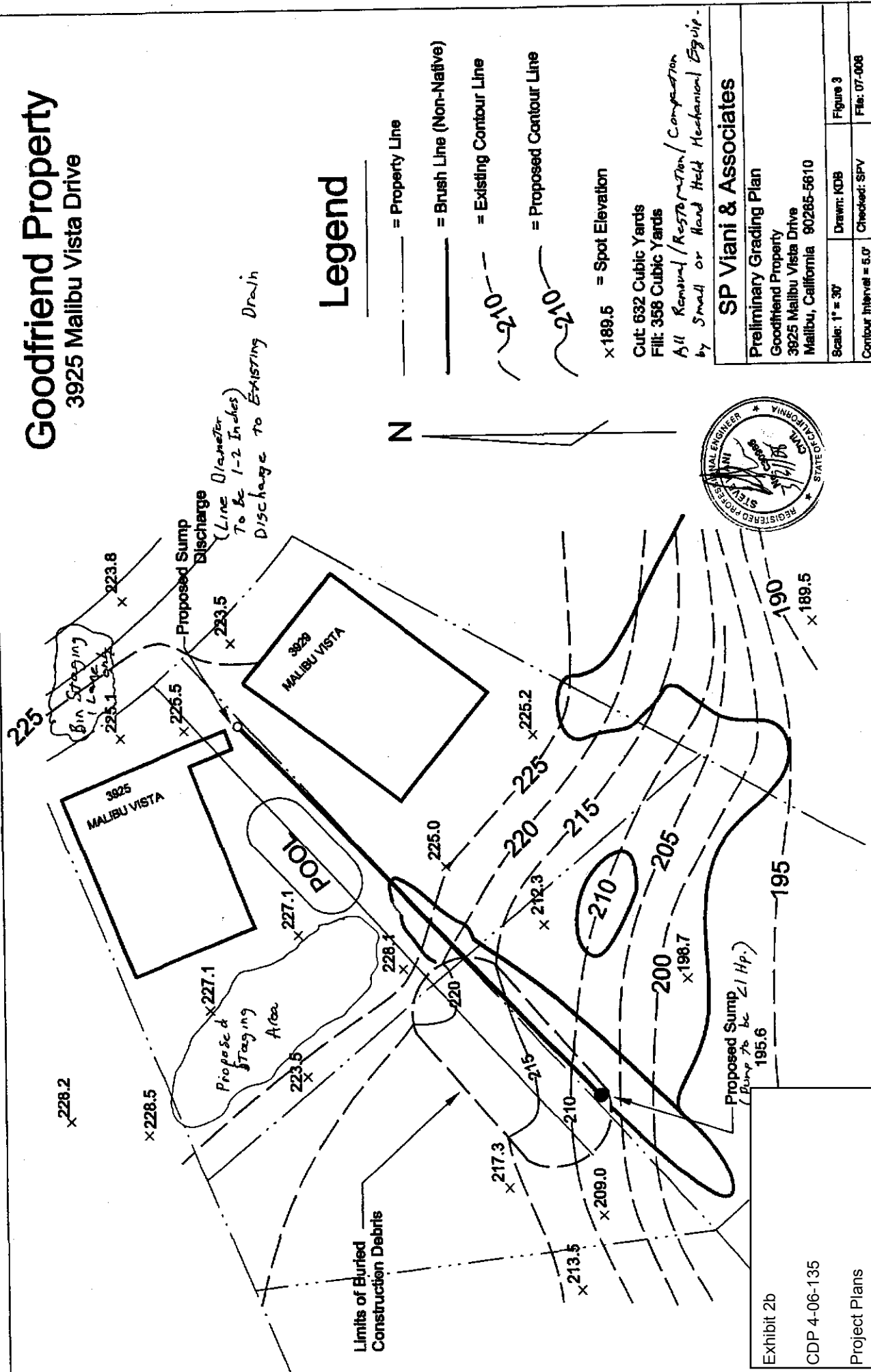


Exhibit 2a

CDP 4-06-135

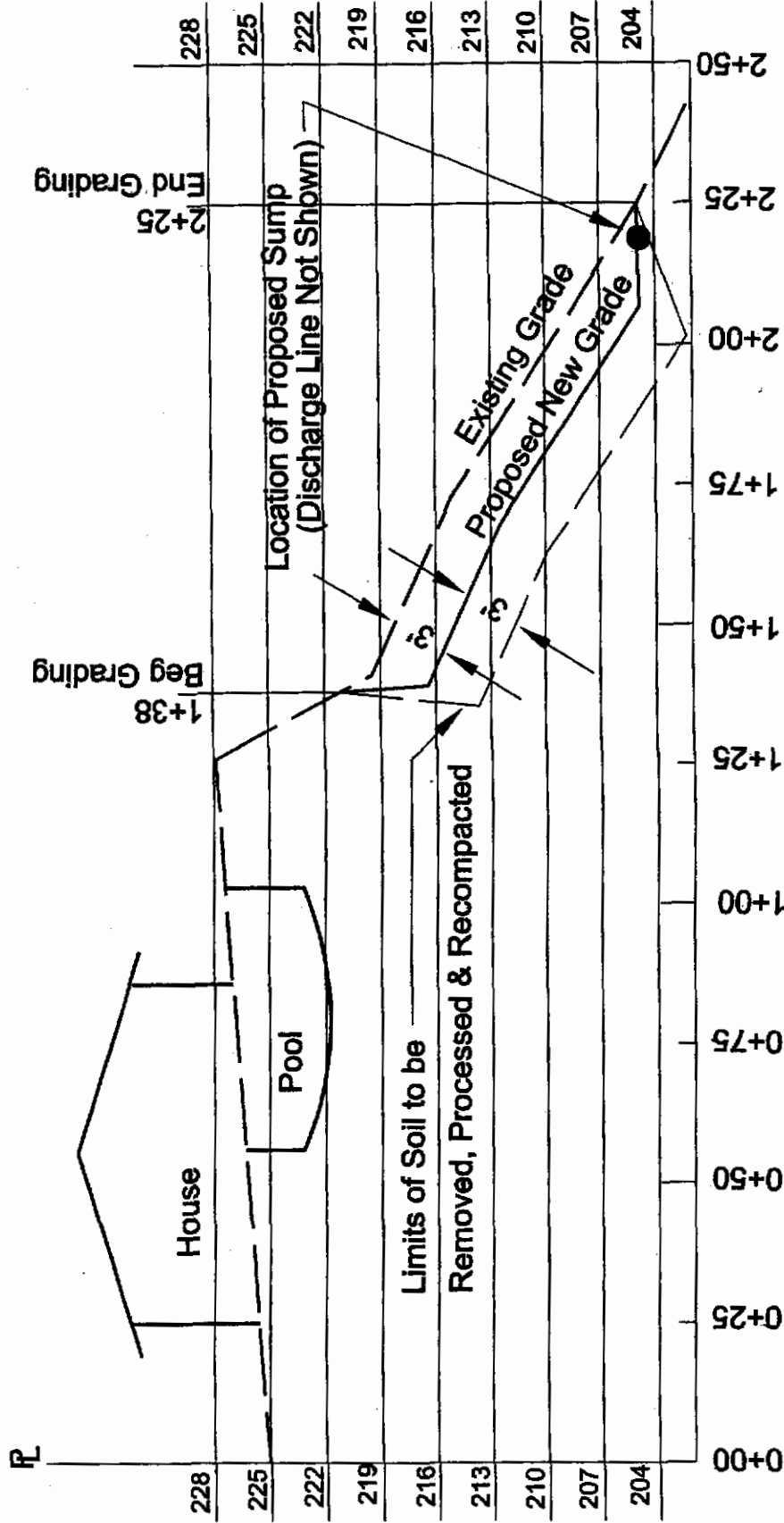
Project Plans

Goodfriend Property
3925 Malibu Vista Drive



Goodfriend Property

3925 Malibu Vista Drive



Horiz. Scale: 1"=20'
Vert. Scale: 1"=6'

SP Viani & Associates

Cross Section of Proposed Grading

Goodfriend Property
3925 Malibu Vista Drive
Malibu, California 90265-5810

Scale: 1"=20'	Drawn: KDB	Figure 4
Contour Interval = N/A	Checked: SPV	File: 07-006

LAW OFFICES OF NATASHA ROIT

3929 MALIBU VISTA DRIVE, MALIBU, CALIFORNIA 90265
TELEPHONE (310) 657-7871 FACSIMILE (310) 657-3026
E-MAIL NatashaRoit@yahoo.com

March 1, 2007

VIA FAX NO. (805) 641-1732

Ms. Melissa Hetrick, Planner
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

RECEIVED
MAR 01 2007

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: 3925 Malibu Vista Drive; Application No. 4-06-135

Dear Ms. Hetrick:

This letter pertains to the project at 3925 Malibu Vista Drive and 3929 Malibu Vista Drive, which is presently pending before the Coastal Commission. This letter is in addition to previous letters I have generated and supporting documentation I have provided to your office pertaining to the 3925 property and the subject debris dumping.

Ms. Rickley and I are the owners of the property at 3929 Malibu Vista Drive, and were the Plaintiffs in the *Rickley v. Goodfriend* matter which resulted in the Judgment against Mr. Goodfriend and an order of abatement pertaining to his construction debris dump. We have reviewed the correspondence and the documents exchanged between you and Mr. Procter (Mr. Goodfriend's counsel) and Mr. Viani (the Court appointed supervising engineer), and, as it appears that our input is being sought at this time, including by Mr. Procter, we provide it below.

1. LOCATIONS OF THE PROPERTIES ON A LANDSLIDE. The subject residences are located on top of the hillside directly over PCH, and Mr. Goodfriend's property is directly above the property owned by Thrifty Oil and the gas station on the corner of PCH and Topanga, which is currently closed but, from our understanding, slated to reopen. This is also the hillside wherein Cal Trans performed the multi million dollar tie back project, installed hydraugers to drain water from the hillside, and built a multi-tiered wall. We know your Commission is familiar with the Cal Trans project, as permission had to be sought and obtained from you as well as the CTC for the same. The Goodfriend property is also ten houses from the landslide of two years ago that closed PCH, required a specialty crane brought in from out of state, court orders to enter private land to repair the damage, one lane through traffic for PCH for weeks, and significant government funds for the fix.

2. PREVIOUS GEOTECHNICAL REQUIREMENTS BY COUNTY AND COASTAL. In 1998 Mr. Goodfriend applied to the Coastal Commission ("Coastal") and to the Department of Building and Safety (B & S) for permission to perform an extensive remodel/expansion of his property at 3925 Malibu Vista Drive. As a result of our precarious landslide-prone

Exhibit 3a

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Natasha Roit

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S provided Mr. Goodfriend with an extensive check list which had to be fulfilled before consideration of a permit, and Coastal, in a letter dated November 25, 1998, refused to consider authorization until, among other items, these geotechnical issues were addressed and met. Copies of both are attached hereto as Exhibit "A".

3. GOODFRIEND'S ILLEGAL REMODEL AND EXPANSION WHILE IGNORING GEOTECHNICALS. Ignoring both B & S and Coastal requirements, and without permits or approval from B & S or Coastal, in 2001 Mr. Goodfriend performed the extensive remodel and expansion of his property, costing more than a million dollars and lasting more than a year. Mr. Goodfriend gutted his entire house, rebuilt it anew, and, most importantly, expanded his property beyond the original footprint in both square footage and height, expanding to the rear, the front, and enclosing a center atrium. This is the second such expansion on his property since this home was originally built in 1960. When, during this massive construction, an inspector from B & S stopped by to inquire, he was advised that minor termite-related work was being performed, and an unlicensed worker was sent to B & S to pull these limited faux permits under the guise of owner-builder.

4. ILLEGAL DEBRIS DUMPING, INCLUDING INSIDE FISSURES. In the process of this illegal construction, Mr. Goodfriend, instead of properly dumping the construction debris, dumped it indiscriminately on the hillside and covered it with dirt. While we were out of town on vacation, Mr. Goodfriend also utilized a portion of our hillside as the dumping ground. Mr. Goodfriend himself ultimately described the location of the debris dumping as, in part, inside a *fissure* on his property and extending onto ours, the size of which he described as 20-30 feet long, 1-3 feet wide, and 9 feet deep to the point that he could visually observe, and that it was his intent and instruction to his workers to fill all fissures on his property with this debris.

5. DISCOVERY AND EXTENT OF DEBRIS DUMPING. When we discovered the debris while moving the fence on the lower lot of our property and asked Mr. Goodfriend to remove it, he refused. Litigation ensued. During the litigation, we obtained permission from the Court to do a one day property inspection on Mr. Goodfriend's property to determine the extent of the debris dumping. Through a series of tests in the one area that was examined, our expert probed the debris field and ascertained that at, minimum, buried there were 274 cubic yards, the equivalent of approximately 40 dump trucks, and that a number of samples tested positive for toxins.

6. HIGH WATER LEVEL FINDINGS. A year and a half passed from the time the lawsuit was filed in May 2004 to the time it came up for trial. During that time, experts were retained, including the renown local geologist, E.D. Michael whom we hired. Mr. Michael immediately recognized the non-compacted nature of the debris field that Mr. Goodfriend had created, and had great concerns with the fact that fissures had not been properly sealed, but had been filled with debris. To that end, he investigated water levels in the two inclinometers on our

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property, found high water levels in both, substantiated that the inclinometer casings were not water tight and, indeed, did leak. Given the serious nature of these findings, and our desire to protect the hillside, we immediately provided this information to Mr. Goodfriend and his counsel, and requested that they take steps to cover the debris field and comply with NPDES standards. They refused. After months of attempts through the courts, the trial of this matter, and indeed only with a post trial court order, did Mr. Goodfriend finally tarp the hillside even though his own experts conceded that the debris was an uncompacted fill site and thereby exacerbated and allowed the intrusion of water.

7. GOODFRIEND'S MISREPRESENTATIONS TO B & S AND COASTAL. In an attempt to circumvent a court order of removal and the proper removal process, shortly before trial Mr. Goodfriend's representatives applied to B & S and Coastal for exemptions from permits. To that end, they represented to B & S that less than 50 cubic yards were buried and, therefore, no grading or any other permit was required to do the work notwithstanding the landslide issues on this hillside. Despite our presentation to B & S of the true nature of the dump site, they shirked their responsibilities, and, at that time, issued Mr. Goodfriend an exemption from permits. Fortunately, your Commission took its responsibilities seriously and rejected an exemption application.

8. COURT JUDGMENT IN FEBRUARY 2006. When the case went to trial, which took 30 days, and after the presentation of all evidence, the Honorable Judge Sarmiento rejected Mr. Goodfriend's unfounded claims, and found, among other things, that there was indeed 274 cubic yards of debris, that it constituted a nuisance, that all debris had to be removed, including the debris located inside the fissure(s), and that all appropriate permits had to be obtained and paid for by Mr. Goodfriend. The Court also appointed our expert, Steven Viani, to supervise the project. Additionally, the Court found that Mr. Goodfriend trespassed onto our property by burying debris on our land as well.

9. THE RECENT INSTALLATION OF THE PIEZOMETER AND FINDINGS.

Considering the critical importance of the water levels on this hillside, we had sought Mr. Goodfriend and his counsel voluntary compliance in placing a piezometer on the Goodfriend property to obtain accurate water readings. These requests were rejected. We sought the same order from the Court and it was granted post judgment. The intent was to put a 3-tiered piezometer to the depth of approximately 80 feet. The depth was never attained as significant water was encountered.

The boring, which was placed directly adjacent to the debris dump, began to cave in, and further drilling had to be abandoned. It is noteworthy that, prior to Cal Trans embarking on its multi million dollar tie back project, they were required to drill 8 inclinometer borings, the records of

Exhibit 3a

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Comments Letter from
Natasha Roit

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which are available, and, although those borings were at least 2-3 times deeper, none of them were abandoned due to water intrusion nor did they encounter the significant waters that have now been found on the Goodfriend property. Further, the Cal Trans project, to our understanding, did not factor into its design such high water levels. Also notable is the fact that the hydraugers that Cal Trans had previously installed became non-functioning and were repaired subsequent to the drilling of the inclinometers. Those hydraugers, by visual observation, are now operational, and yet have not been able to deal with the water levels demonstrated on the Goodfriend property.

Further, the drilling of the piezometer was initiated beyond the Goodfriend's property line on Thrifty Oil property. That drilling was immediately aborted and relocated to the Goodfriend property, but, as we understand it, during that drill additional debris was encountered. As we were advised during a recent visit by B & S, that debris remains above ground on the Goodfriend property, and Mr. Goodfriend was instructed to dispose of it. However, as a result of the same, it would seem appropriate and prudent to seek the approval of Thrifty Oil for this project as well, as it will impact their property both directly and indirectly.

10. ADDITIONAL DEBRIS FIELD AND ISSUES ON THE GOODFRIEND PROPERTY NOT ADDRESSED. It has further come to our attention after removal of a wall on the upper level of our property, that, beyond the debris field that we were aware of during litigation, that there is **additional debris, two feet in height, which is not accounted for or dealt with in the current remediation orders from the Court.** We have again asked Mr. Goodfriend to address this subject, and have received the same non-response, with his current claim being that someone other than himself, the original builder of the property, must have created a debris field that is remarkably similar to the one discovered on the lower lot. Further, we have photographic evidence that the Goodfriend property, when it came under his ownership, had an upper lot, a downhill slope, and a lower lot, similar to other properties on the ocean side. Currently, his property has been filled to eliminate that downhill slope and create one contiguous lot.

Additionally, there was a large stack of debris that Mr. Goodfriend had stored under his deck which was the product of what was originally unearthed from our property during the fence relocation on the lower lot. That stack has remained for years, but has now disappeared without us ever observing a construction bin that would denote proper disposal, thereby causing ongoing concern that what has been unearthed has been re-buried at a new location.

11. EXAMINING THE ISSUES IN TOTALITY. We strongly believe that this project has to be looked at in totality, and not via parsing portions thereof. The high water levels, the involved fissures, the expansions of the Goodfriend house, the additional load of that along with the extra debris uncovered on the upper lot, Thrifty's adjoining lot, the importing of soil by Goodfriend to

Exhibit 3a

CDP 4-06-135

Comments Letter from
Natasha Roit

LAW OFFICES OF NATASHA ROIT

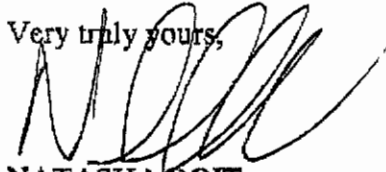
Page Five

Re: 3925 and 3929 Malibu Vista Drive, Malibu; Application No. 4-06-135

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level out his property, along with all the issues enumerated above, in our view, should be considered carefully and as a unit.

Very truly yours,



NATASHA ROIT

NR/wp

cc: Steve Viani, James Procter, Vernon Roske (via fax)
Building and Safety representatives, Thrifty & Arco (via e-mail)

Exhibit 3a

CDP 4-06-135

Comments Letter from
Natasha Roit

EXHIBIT "A"

Exhibit 3a

CDP 4-06-135

Comments Letter from
Natasha Roit

Sheet 1 of 2

Los Angeles County Department of Public Works
MATERIALS ENGINEERING DIVISION
GEOLOGIC REVIEW SHEET

Dist. Office 9.1F 2 DP

REVIEWERS CALLING HOURS:

8:00-9:00AM & 3:00-4:00PM MON-THURS

900 S. Fremont Ave., Alhambra, CA 91803

TEL (626) 458-4925

DISTRIBUTION

Thomas Guide

Tract/PM TR 26458 Lot(s) 6Parent Tract Location Site Address 3925 Malibu VistaGeologist Hakimian Engineering Developer/owner GoodfriendGeotechnical Engineer Hakimian EngineeringEngineer/Arch. Leishman

RECEIVED
 DEC 24 1998

- 2 District Office
1 Geologist
1 Geotechnical Eng.
1 Section File
 Grading Section
 Process Center
 Supervisor

Review of:

 Grading P.C. No. ☒ Misc. P.C. No. 9812010002 For: New SFR
 Geologic Report(s) Dated
 Geotechnical Engineering Report(s) Dated
☒ Geology and Geotechnical Engineering Report(s) Dated 5/14/98

Action:

The subject property is located in a geologically hazardous area. There is insufficient data to evaluate the building site. A comprehensive geotechnical report will be required prior to building or grading plan approval. The report must include the following:

1. The Geotechnical Engineering Unit's approval is attached, ☒ requirements attached, conditions of approval are attached, approval is required (Review is dated 12/16/98).
2. The ☒ geologist ☒ geotechnical engineer, must make a finding in accordance with Section 111 of the Los Angeles County Building Code. The statement must be substantiated with data and discussions.
3. Provide this office with a detailed geologic map. The geologic map must not only include all structural and stratigraphic information collected on site but also information collected by OTHERS in the area. Please extend the topographic and geologic maps eastward so as to show the entire active landslide. Please incorporate ALL geologic data contained in geotechnical files at this office. Provide complete geologic mapping west of, east of and south of the proposed development.
4. Provide this office with a series of DETAILED geologic cross sections showing the geologic structure and stratigraphy and the limits of the mapped landslide. The geologic cross sections must include a complete interpretation of the subsurface conditions. The limits and depth of the landslide/active landslide must be accurately determined on site and offsite. It should be noted that slope stability analyses must assume that the landslide mass/debris does not provide lateral support for the slope above.
5. CALTRANS have collected geologic data in the area and have installed hydraugers in the area. Please incorporate this data into your geologic map, geologic cross sections, discussions and conclusions.
6. The submitted report indicates that headward enlargement of the mapped landslide is anticipated. The submitted report indicates that the ground cracks have moved over 100 feet northward since 1994. Based upon this information / history WHY should this office approve the proposed structure? The ultimate limits of the landslide has not been determined.
7. Please provide this office with a detailed discussion of the mapped landslide (ie, history, origin, nature of failure surface, depth, limits, cause, type of failure etc.).
8. Groundwater has been a problem in the area for years. Groundwater has played a major role in the landslides that have occurred along the sea cliff/base of Sunset Mesa. Provide this office with a complete discussion of the groundwater in the area. Local groundwater conditions must be incorporated into the geologic cross sections and slope stability analyses. Worst case groundwater conditions must be assumed (ie seeps in borings).
9. Previous consultant reports indicate that the area south and west of the subject property is underlain by shale and sandstone units of the Martinez Formation. Please determine the limits and structure of these units. Depict on the geologic map and geologic cross sections.
10. CALTRANS on September 1980 produced a landslide inventory report from the McClure Tunnel to Las Flores Canyon Road. In this report the landslide was discussed. The report indicates that although bedding is dipping into slope, the fractured nature of the Martinez shale and fine sandstone permits the passage of surface water through an extensive network of cracks and fissures. They indicate that several Zones of water seepage within the slide mass were discovered. Please provide a complete discussion. Please see item 8 above. Please incorporate all the data from this report and provide a detailed discussion.

Exhibit 3a

CDP 4-06-135

Comments Letter from
 Natasha Roit

Sheet 2 of 2

11. The subject property is located in close proximity to a mapped active landslide and in an region that contains many mapped landslides. Please provide this office with a complete argument as to why this site will be free from landsliding, settlement and slippage.
12. The submitted report indicates that a 1 1/2 -inch thick bentonite layer, slickensided siltstone and angular rock fragments exists at depth below the proposed building site. These descriptions "sound like" landslide debris to this reviewer. Please discuss in detail.
13. Utilize the 1 1/2" thick, east dipping, bentonite layer as a partial failure surface (cross section A-A') in the stability analysis.
14. Determine the depth and nature of the bedrock beneath the proposed project.
15. A complete review of the project can not take place until items 1-14 have been complied with.

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. 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 this 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

Reviewed by

Date December 14, 1998

NOTICE: Public safety, relative to geotechnical subsurface exploration, shall be provided in accordance with the Los Angeles County Code, Chapter 11.48, and the State of California, Title 8, Construction Safety
48-0052
6/22/98
F-RS:Form.8

Exhibit 3a

CDP 4-06-135

Comments Letter from
Natasha Roit

COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
MATERIALS ENGINEERING DIVISION

SOILS ENGINEERING REVIEW SHEET

Address: 900 S. Fremont Ave.
Alhambra, CA 91803
Telephone: (626) 458-4925
Fax: (626) 458-4913
Calling hours - Monday through Thursday 8-9 a.m. & 3-4 p.m.

District Office 9.1

Sheet 1 of 2

Demolish Existing Single Family Residence and Rebuild

Tract 28458 Lot 6

Location 3925 Malibu Vista Drive, Malibu

Developer/Owner Goodfriend

Engineer/Architect Leishman

Soils Engineer Hakimian Engineering

Geologist Same as above

DISTRIBUTION:

1 Drainage and Grading
1 Geo/Soils Central File
1 District Engineer
1 Geologist
1 Soils Engineer
1 Engineer/Architect

Miscellaneous Plan Check No. 9812010002

Review of:

Site Plan Dated By Processing Center 12/1/98

Geotechnical Report Dated 5/14/98

REMARKS:

1. Per the geotechnical report, observed ground cracks have moved over 100 feet northward in 3½ years and continued headward enlargement of the landslide is anticipated. However, the submitted slope stability analyses indicate factors of safety greater than County minimum requirements. It appears that the averaged shear strength parameters may be high and/or a phreatic surface should be utilized in the slope stability analyses. Based on these findings and conclusions, it appears that the subject site will not exhibit factors of safety equal to or greater than County minimum requirements. Clarify and revise as necessary.
2. All slope stability analyses must utilize a maximum expected phreatic surface.
3. Show the following on the geotechnical cross sections:
 - a. Locations of critical failure planes utilized in slope stability analyses.
 - b. Recommended 2:1 gradient projection line up from Topanga Canyon Blvd.
 - c. Locations of recommended piles.
 - d. Location of "Building setback".
4. Upon receipt of the above-requested data, a complete slope stability analysis review will be conducted.
5. Submit a copy of referenced geotechnical reports nos. 2 and 3.
6. Provide calculation to substantiate the recommended passive equivalent fluid pressure.
7. A statement is required by the consultant soils engineer making a finding in accordance with Section 111 of the County Building Code. The statement must be substantiated by appropriate data and analysis.
8. Requirements of the Geology Section are attached.
9. Additional slope stability analysis may be required when the geology of the site is c

Exhibit 3a

CDP 4-06-135

Comments Letter from
Natasha Roit

**COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
MATERIALS ENGINEERING DIVISION**

SOILS ENGINEERING REVIEW SHEET

Address: 900 S. Fremont Ave.
Alhambra, CA 91803
Telephone: (826) 458-4925
Fax: (826) 458-4913
Calling hours - Monday through Thursday 8-9 a.m. & 3-4 p.m.

District Office 0.1

Sheet 2 of 2

Demolish Existing Single Family Residence and Rebuild

Tract 26458 Lot 8

Location 3925 Malibu Vista Drive, Malibu

Developer/Owner Goodfriend

Engineer/Architect Leishman

Soils Engineer Hakimian Engineering

Geologist Same as above

DISTRIBUTION:

1 Drainage and Grading
1 Geol/Soils Central File
1 District Engineer
1 Geologist
1 Soils Engineer
1 Engineer/Architect

Miscellaneous Plan Check No. 9812010002

REMARKS CONT.:

10. The building location is on or adjacent to a landslide. No permits for new dwellings can be approved, unless corrective measures and geotechnical reports can be provided to comply with Sections 110 and 111 of the Los Angeles County Building Code. However, prior to geotechnical review for issuance of future permits, specific development plans must be submitted.
11. The Department of Public Works "Geotechnical 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. 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 this 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

Scott T. Ezell



Date 12/16/98

NOTICE: Public safety, relative to geotechnical subsurface exploration, shall be provided in accordance inclusive of the Los Angeles County Code, Chapter 11.48, and the State of California Code of Construction. SCOTT2025

Exhibit 3a

CDP 4-06-135

Comments Letter from
Natasha Roit

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETER WILSON, Governor

CALIFORNIA COASTAL COMMISSION

18 CENTRAL COAST AREA
1001 NORTH CALIFORNIA STREET, SUITE 200
SANTA MONICA, CA 90401
341-0142

**DATE:** November 25, 1998

Marvin Goodfriend
Goodfriend Associates
1299 Ocean Avenue
Santa Monica, CA 90401

RE: Application No. 4-98-289**Dear Mr./Ms. Goodfriend:**

The staff of the Coastal Commission has received and reviewed your application for a coastal development permit. We are unable to file your application until the following is submitted:

1. Previous Geologic/Geotechnical Reports referenced in 5/14/98 report.
2. Approved Los Angeles County Geologic/Geotechnical Review Sheet

We will hold your application for no more than 60 days pending receipt of these materials. After we have received your completed application, it will again be reviewed and will be filed if all is in order. (Gov't Code Section 85943(a).) If these materials are not received within the specified time, we will return your application to you.

If you have any questions regarding your application, please contact me at the address and phone number listed above.

Sincerely,

SUSAN MONTOYA
Office Technician

cc: Tom Leishman, Architect

PROCTER, MCCARTHY & SLAUGHTER, LLP**Attorneys at Law**

James N. Procter II
Becky R. McCarthy
William M. Slaughter
Barry J. Reagan
James B. Cole
Lisa N. Shyer
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789 S. Victoria Avenue
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Of Counsel:

Suzanne D. Chadbourne
Brian A. Rohrer
Kristine L. Ham
Janet G. Martin

Writer's E-mail:

procter@proctermccarthyslaughter.com

March 8, 2007

PLEASE REFER TO:
66 0448

VIA FACSIMILE ONLY
(805) 641-1732

Ms. Melissa Hetrick
California Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, California 93001-2801

Re: **Application 4-06-135**

Dear Ms. Hetrick:

I am writing to respond to Ms. Roit's letter of March 1, 2007 in connection with the above-referenced application.

Ms. Roit's misleading comments and the statements of fact are not worthy of addressing individually. One of the few accurate comments made by Ms. Roit is that this remediation project is the result of a court order entered by the Honorable Cesar Sarmiento after a 30-day trial. The evidence at trial included the testimony of numerous experts and virtually all of the issues raised in Ms. Roit's letter were addressed at trial.

At the conclusion of the trial, Judge Sarmiento issued a Statement of Decision, setting forth his findings and conclusions, as well as a Judgment. I am enclosing both documents for the completion of your file.

You will note that, at item 4 of the Statement of Decision, the court indicates that the plaintiffs' failed to meet their burden of proof with respect to the groundwater issue and their claims that Mr. Goodfriend's conduct had reduced the factor of safety on the hillside. An independent expert, Doug Santo of R.T. Frankian & Associates, has stated:

Exhibit 3b

CDP 4-06-135

Comments Letter from Marvin
Goodfriend's Attorney

PROCTER, McCARTHY & SLAUGHTER, LLP
Attorneys at Law

Ms. Melissa Hetrick

Re: Application 4-06-135

March 8, 2007

Page 2

"The effect of the placement of construction debris on a stability analysis performed on a 50-scale cross section is like adding a thick pencil line in an area where the debris was placed. The additional weight is almost negligible. The construction debris likely had a small negative effect on gross stability of the slide, but the effect is small as to be within the accuracy and precision of the analytical technique used to perform the analysis. So to, removal of the construction debris will likely have a small positive effect on gross stability of the slide."

Finally, with respect to Ms. Roi's claims that the construction debris that will be removed contained "toxins," the court found as follows:

"Any asbestos or lead in the fill is in non-friable form and does not constitute toxic hazardous waste. There is no evidence of lead or asbestos contamination on the plaintiffs or the Goodfriend's property."

Mr. Goodfriend is eager to complete the remediation ordered by the court and wishes to cooperate with both the Coastal Commission and the Department of Building and Safety. If you have any questions or comments, please feel free to call either the undersigned or Soheila Kalhor of the Los Angeles County Department of Building and Safety, whose office is located at 26600 Agoura Road, Suite 110 in Calabasas, California 91302. Ms. Kalhor is handling this matter on behalf of her agency and would undoubtedly be an excellent source of information if you have any questions.

Thank you for your assistance in this matter.

Very truly yours,

PROCTER, McCARTHY & SLAUGHTER, LLP

Dictated But Not Read

Signed In Absence

To Avoid Delay

James N. Procter II

JNP/sdm

Enclosures: 1. Statement of Decision
2. Judgment

cc: Steven P. Viani, PE (Via Facsimile Only (916) 354-8840)

Exhibit 3b

CDP 4-06-135

Comments Letter from Marvin
Goodfriend's Attorney

PROCTER, McCARTHY & SLAUGHTER, LLP
Attorneys at Law

Ms. Melissa Hetrick

Re: Application 4-06-135

March 8, 2007

Page 3

Ms. Natasha Roit (Via Facsimile Only (310) 657-3026)
Marvin Goodfriend (Via Facsimile Only (310) 454-7643)
Vernon Roske (Via Facsimile Only (800) 529-8467)
Soheila Kalhor

Exhibit 3b

CDP 4-06-135

Comments Letter from Marvin
Goodfriend's Attorney

LAW OFFICES OF NATASHA ROIT

3929 MALIBU VISTA DRIVE, MALIBU, CALIFORNIA 90265
TELEPHONE (310) 657-7871 FACSIMILE (310) 657-3026
E-MAIL NatashaRoit@yahoo.com

March 9, 2007

VIA FAX NO. (805) 641-1732

Ms. Melissa Hetrick, Planner
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

RECEIVED

MAR 09 2007

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: 3925 Malibu Vista Drive; Application No. 4-06-135

Dear Ms. Hetrick:

I am sorry that we have been playing phone tag pertaining to the above-referenced Application. I am here to discuss this matter with you at any time.

In response to Mr. Procter's letter of yesterday's date, let me respond as follows:

1. **Fissure.** I am attaching to this letter just a small excerpt of the lengthy testimony of Mr. Goodfriend regarding fissures wherein he describes the placement of the construction debris inside one fissure, as well as provides the dimensions of the same.
2. **Water levels.** As to the issue of the water levels, it is regretful that Mr. Procter is focused on legalese of a standard of proof based on which damages would be proven to a court and monies awarded to us, and not the important issues which must be addressed for the safety of all. Briefly, the water levels we presented at trial were obtained from reading *inclinometers* which had been installed on our property by Cal Trans as part of the multi million dollar hillside project. Our geologist, E.D. Michael, who has worked on this hillside for over 40 years, utilized these inclinometers as piezometers in an attempt to ascertain the water levels, and determined that they were indeed high. It was Mr. Procter who attacked Mr. Michael's methodology claiming that only a piezometer could measure the water levels properly, rather than focus on the fact that water in these inclinometers was an issue for concern. We did not have a piezometer at that time. After the trial and after the Judgment and Statement of Decision to which Mr. Procter refers, and over the objections of Mr. Goodfriend and Mr. Procter, Judge Sarmiento's concern of the water levels caused him to issue an additional order to install a piezometer on the Goodfriend property, the measurements from which have confirmed Mr. Michael's analysis and concerns about the water levels.

Exhibit 3c

CDP 4-06-135

Comments Letter from
Natasha Roit

LAW OFFICES OF NATASHA ROIT

Page Two

Re: Application No. 4-06-135

March 9, 2007

3. Whether or not Mr. Goodfriend and his ill-advised and indiscriminate dumping of construction debris on this hillside caused the water levels to a legal degree of certainty is absolutely irrelevant for your consideration. The water levels, and the noted change in them since Cal Trans bored eight inclinometers, are a fact, water levels absolutely impact the calculation of the factor of safety, and they must be considered and addressed. To turn a blind eye to the same, as Mr. Procter would prefer because a legal standard for causation of damages was determined by the Court not to have been met during a trial, is inappropriate and foolhardy for all involved.
4. The Court's decision also instructed that Mr. Goodfriend must obtain and comply with all government agency permit requirements. The Court's decision is binding on Mr. Goodfriend, but it does not limit the Coastal Commission who, obviously, has the right and an obligation to make its own determinations. Further, we have the right and obligation to be completely truthful and forthcoming with your agency. To that end, please recall that, just as one example, it was Mr. Goodfriend and Mr. Procter who advised your agency that there were less than 50 cubic yards of debris to be removed and requested an exemption for the same, when in fact there are 274, excluding what was later discovered on the Goodfriend upper lot or on Thrifty Oil property. We stand ready to provide you with any documentation to support the statements made in my previous letter.
5. **Toxins.** On the issue of toxins, I have previously supplied to your Commission lab results regarding the same from a minute sampling taken from the debris area. No samplings were taken from the upper lot debris or from that found on Thrifty Oil's property. As way of background, prior to Mr. Goodfriend's gutting of his entire home, there was no asbestos testing done. As these were tract homes, and our home was tested for asbestos prior to our moving in, we can confirm that asbestos was found in the ducting system of our house and properly removed. In Goodfriend's case, an asbestos removal company was brought in, only visual estimates were made, and the entire heat ducting system and two bathroom floors were removed and disposed of. Despite the quantity of debris that this would entail, the asbestos company reported that less than 100 square feet were removed and, with that, negated any reporting requirements. It is notable that one of the positive samples for asbestos was a bathroom floor tile.

As to Mr. Procter's contention that the material asbestos was found in is non-friable, obviously material only remains non-friable if it is not broken. Given the fact that this material has now been removed, dumped, buried, and needs to be excavated and hauled away, begs the point how that would be accomplished while leaving

Exhibit 3c

CDP 4-06-135

Comments Letter from
Natasha Roit

LAW OFFICES OF NATASHA ROIT

Page Three

Re: Application No. 4-06-135

March 9, 2007

its original unbroken non-friable state. One of the positive toxic results previously provided to Coastal was from a soil sample that did indeed have levels of contamination. It was Mr. Goodfriend's expert's contention at the time of trial that it could not be proven that Goodfriend's dump site caused his toxic soil levels, and that they existed prior to his dumping, in that asbestos occurs naturally. However, despite this testimony, official and universally accepted mapping of naturally occurring asbestos areas does not include Malibu.

It cannot be over-emphasized that after a year of requesting that Mr. Goodfriend remove his dump site from the hillside, we were forced to undertake an extensive and expensive litigation spanning more than a year and costing us over \$100,000. Despite our lack of responsibility for the debacle created, it has been the Goodfriend position that it is incumbent upon us, beyond what we have already done, to undertake, at our personal expense, the installation of piezometers, extensive soil testing and further geotechnical exploration. Unfortunately, Mr. Goodfriend insisted during that litigation, as he does now, that we deliver to him a more accurate and technically complete picture than what can be ascertained from the current data, of the fall out that has been caused and continues to be exacerbated by his foolhardy and dangerous actions. Indeed, rather than embark on a more constructive course, Mr. Goodfriend and his insurance carrier have spent hundreds of thousands of dollars defending the indefensible and delaying the inevitable. As such, Mr. Procter's position in his letter that the Coastal Commission is somehow constrained by our personal litigation is not well taken.

Finally, Mr. Procter directs you to Soheila Kalhor of the Department of Building and Safety. It is my understanding that you have had previous contact with her. While it is certainly within your purview to contact any persons who may be helpful to your evaluation of this Application, it should be noted that the Court specifically appointed Steven Viani, P.E. as the person in charge of this project and Mr. Goodfriend has been ordered to comply with Mr. Viani's recommendations.

I will be more than happy to respond point by point to Mr. Procter's other concerns if he would care to enumerate what they actually are, as I can substantiate by way of documents any statement made in my prior letters to you, and, if there is any particular issue you would like me to address, please do not hesitate to contact me with any questions or concerns.

Exhibit 3c

CDP 4-06-135

Comments Letter from
Natasha Roit

LAW OFFICES OF NATASHA ROIT

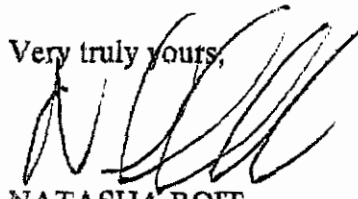
Page Four

Re: Application No. 4-06-135

March 9, 2007

Thank you for your professional handling of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to be 'NR' followed by several loops and a long horizontal stroke.

NATASHA ROIT

NR/wp

cc: Steven Viani, James Procter, Vernon Roske (via fax)

cc: Thrifty/Arco (via e-mail)

Exhibit 3c

CDP 4-06-135

Comments Letter from
Natasha Roit

CERTIFIED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
WEST DISTRICT

REBECCA A. RICKLEY, NATASHA ROIT,)

Plaintiffs,)

vs.)

MARVIN GOODFRIEND, SHAHRIAR
YAZDANI, and DOES 1 through 20,)
inclusive,)

Defendants.)

No. SC 081696
VOLUME I
DEPOSITION OF
MARVIN GOODFRIEND

DATE: JULY 23, 2004

TIME: 9:21 A.M.

TAKEN AT: 233 Wilshire Boulevard
Suite 700

Santa Monica, California

REPORTER: Susan Jaye, CSR No. 9605

Exhibit 3c

CDP 4-06-135

Comments Letter from
Natasha Roit

testified to was buried on the lower property, was any trenching done for that?

A. I don't know what "trenching" means.

Q. Were any holes dug out?

A. The property had a giant fissure on it. I believe they call it a scarp. The property -- this opening in the ground, was about two feet wide, and we put these materials with dirt in that fissure. Did we do digging? Not to my knowledge.

Q. So that I understand, the only burying of materials that was done was putting those materials in the already existing fissure, as you have called it, that was about two feet wide; is that right?

A. To my knowledge, that was the only burying of materials.

Q. When you say "two feet wide, can you give me the length dimension, or was it two feet wide all around?

A. It was as narrow as one foot in one area and perhaps two to three feet in another area, increasing, and the total dimension -- the total length must have been -- 30 feet would be a good estimate.

Q. When you say "30 feet," which dimension are you now giving me?

A. Thirty feet long.

Exhibit 3c

CDP 4-06-135

Comments Letter from
Natasha Roit

1 LAW OFFICES OF NATASHA ROIT
 2 BY: NATASHA ROIT, SBN 125216
 3 3929 MALIBU VISTA DRIVE
 4 MALIBU, CALIFORNIA 90265
 5 TELEPHONE: (310) 657-7871
 6 FACSIMILE: (310) 657-3026

7 ATTORNEYS FOR PLAINTIFFS IN RICKLEY, ET AL V. YAZDANI

8 NATASHA ROIT, ESQ.
 9 IN PROPRIA PERSONA
 10 3929 MALIBU VISTA DRIVE
 11 MALIBU, CALIFORNIA 90265
 12 TELEPHONE (310) 657-7871
 13 FACSIMILE (310) 657-3026

ORIGINAL FILED

FEB 23 2008

LOS ANGELES
 SUPERIOR COURT

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 15 FOR THE COUNTY OF LOS ANGELES

16 REBECCA A. RICKLEY, NATASHA
 17 ROIT,

Plaintiffs,

v.

18 MARVIN GOODFRIEND, SHAHRJAR
 19 YAZDANI, and DOES 1 through 20,
 20 inclusive,

Defendants.

CASE NO. SC 081696

~~PROPOSED~~ JUDGMENT
 AFTER TRIAL FOLLOWING
 STATEMENT OF DECISION

BY FAX

ASSIGNED FOR TRIAL TO THE
 HONORABLE JUDGE, CESAR
 SARMIENTO, DEPT. "W", MALIBU

Complaint Filed:
 Trial Date:

May 17, 2004
 September 6, 2005

PROPOSED JUDGMENT AFTER TRIAL FOLLOWING STATEMENT OF DECISION

1

Exhibit 4a

CDP 4-06-135

Statement of Decision

1 This matter came before this Court on September 6, 2005 for court trial, jury trial having
2 been waived. Ms. Natasha Roit of the Law Offices of Natasha Roit in Malibu, California,
3 represented Plaintiffs and Cross-Defendants, Natasha Roit and Rebecca Rickley, and said individuals
4 also appearing in pro per as against Defendant Goodfriend. James Procter and Lisa Shyer of Procter,
5 McCarthy & Slaughter appeared for the Goodfriend Defendants. Randall Dean of Chapman,
6 Glucksman & Dean appeared for Marvin Goodfriend on the Cross Complaint. Robert Garrett of
7 Garrett & Tully appeared on behalf of Defendant Yazdani.

8 On January 17, 2006, this Court issued its Statement of Decision.

9
10 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

11 I. JUDGMENT AS TO MARVIN GOODFRIEND AND ~~TELA RASPERBER~~ ^{et al}
12 ~~GOODFRIEND (HEREINAFTER "THE GOODFRIEND DEFENDANTS")~~ IS ENTERED AS
13 FOLLOWS:

14 A. First Cause of Action for Nuisance, Second Cause of Action for Violation of CC & Rs,
15 Third Cause of Action for Trespass and Fourth Cause of Action for Negligence Per Se: Judgment is
16 entered for Plaintiffs, Rebecca A. Rickley and Natasha Roit against the Goodfriend Defendants. ^{et al}

17 B. Injunctive Relief is issued as follows:

18 1. ^{The} ~~Goodfriend Defendants~~ ^{is et al} are ordered to abate the continuing nuisance in accordance
19 with Steven Viani's remediation plan set forth in Exhibit 26 consistent with the
20 following guidelines:

- 21 a. The portion of the plan calling for additional site characterization
22 (budgeted at \$39,179.38) is not to be done.
23 b. There is no necessity for the \$3,000 charge for hazardous waste disposal
24 and the \$900.00 charge for respirators and cartridges. These costs are not to
25 be charged to the defendant.
26 c. The debris is to be disposed of in a Class 3 landfill.

27 PROPOSED JUDGMENT AFTER TRIAL FOLLOWING STATEMENT OF DECISION

d. Mr. Viani is appointed to supervise completion of the remediation plan.

e. The amount of debris to be removed is 274 cubic yards.

f. All of the work will be performed in compliance with any and all local, state and federal regulations.

g. Defendant is ordered to obtain and pay for all of the necessary permits and fees required by the appropriate governmental agencies in connection with the remediation work.

h. The cost of remediation plan is not to exceed the budget as outlined in exhibit 26. That is, Mr. Viani must adhere to the budget he submitted taking into account the changes as just ordered above.

2. The remediation is to include the removal of the construction debris and part of a railroad tie wall which Goodfriend placed on Plaintiffs' property.

3. Goodfriend is ordered to comply with all laws including those Los Angeles County Codes that apply to height restrictions on fences, walls, trees, shrubs, flowers and plants.

II. JUDGMENT AS TO SHAHRIAR YAZDANI (HEREINAFTER "YAZDANI") IS ENTERED AS FOLLOWS:

A. Sixth Cause of Action for Nuisance ("Public and Private") and Eighth Cause of Action for Negligence Per Se: Judgment is entered for Plaintiffs, Rebecca A. Rickley and Natasha Roit against Yazdani.

B. Injunctive Relief is issued as follows:

1. Yazdani is ordered to abate the nuisance as follows:

a. Comply with all fire codes.

b. Obtain all necessary permits and pay all fees as required by any governmental agency for construction of the home.

PROPOSED JUDGMENT AFTER TRIAL FOLLOWING STATEMENT OF DECISION

c. Complete construction of the home in compliance with the Slide Waiver and any and all governmental agency permits.

C. Monetary Damages are awarded against Yazdani and in favor of Plaintiffs in the sum of \$2,500.00 (two thousand five hundred dollars).

D. Yazdani is found to be in contempt of court and is fined \$1,000.00 payable to the court by 4:00 p.m. on December 9, 2005.

E. Judgment in favor of Yazdani and against Plaintiffs on the Seventh Cause of Action for violation of CC & Rs.

III. JUDGMENT AS TO MARVIN GOODFRIEND'S CROSS COMPLAINT

A. First Cause of Action for Violation of CC & Rs: Judgment is entered in favor of Cross Defendants, Roit and Rickley and against Cross-Complainant, Marvin Goodfriend.

B. Second Cause of Action for Trespass: Judgment is entered in favor of Cross-Complainant, Marvin Goodfriend against Cross-Defendants, Roit and Rickley in the sum of \$6,260.00 (six thousand two hundred sixty dollars).

~~Plaintiff's attorney costs.~~ CCS

DATED: 2-23-06


JUDGE, SUPERIOR COURT
CESAR C. SARMIENTO

PROPOSED JUDGMENT AFTER TRIAL FOLLOWING STATEMENT OF DECISION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

ATE: 01/17/06

DEPT. WEMALW

ONORABLE Cesar C. Sarmiento

JUDGE

Manny Mabunga

DEPUTY CLERK

ONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

0:00 am SC081696

Plaintiff

Counsel

REBECCA A. RICKLEY ET. AL.

no appearances

VS

Defendant

MARVIN GOODFRIEND ET. AL.

Counsel

(LEAD CASE) RELATED WITH SC0844
AND SC084503

NATURE OF PROCEEDINGS:

GOODFRIEND STATEMENT OF DECISION:

The court has read and considered the request for statement of decision of specified issues filed by the plaintiffs. The court has already addressed all of these issues in its tentative decision except for the issue of the Los Angeles County Code pertaining to the height of fences, wall, trees, shrubs, flowers and plants.

Causes of actions against Goodfriend.

1. Goodfriend is ordered to comply with all laws including those Los Angeles County Codes that apply to height restrictions on fences, walls, trees, shrubs, flowers and plants.

2. The defendant, Marvin Goodfriend dumped construction debris into his back yard. This constitutes a private nuisance. Judgment is granted for the plaintiff as to the first, second and fourth causes of action.

3. The fill on the Goodfriend property is a continuing nuisance that can be abated.

4. The plaintiffs have not shown that there is a permanent nuisance. Eugene Michael, the plaintiff's expert, was unable to provide evidence as to the actual amount of water the fill has added to the groundwater. This could have been done had there been testing with a piezometer. Although Mr Michael stated

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/17/06

DEPT. WEMALW

HONORABLE Cesar C. Sarmiento

JUDGE

Manny Mabunga

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

10:00 am

SC081696

Plaintiff

Counsel

REBECCA A. RICKLEY ET. AL.

no appearances

VS

Defendant

MARVIN GOODFRIEND ET. AL.

Counsel

(LEAD CASE) RELATED WITH SC0844
AND SC084503

NATURE OF PROCEEDINGS:

that he believes that the factor of safety has been reduced, he is unable to quantify the amount. In fact, he testified that he is unable to say if the factor of safety has been reduced enough to put the slide at risk. This is not a case where the court finds it appropriate to shift the burden of proof to the defendant. On this issue, the plaintiffs have failed to meet their burden of proof.

5. Goodfriend is not responsible for the garden wall leaning and rotating. The court finds persuasive Gregory Applegate's testimony. He testified that Oleander roots are moldable and grow around hard objects and that they are not thick and expansive. He also observed other walls in the area that were rotating in the same direction with no oleander or other types of plants around them.

6. The oleander plants on the Goodfriend property do not obstruct the Plaintiffs ocean view.

7. Goodfriend placed construction debris and part of a railroad tie on the Plaintiff's property. Judgment is granted in favor of the plaintiffs as to the third cause of action. No additional damages are awarded for this cause of action because the removal of this debris is included in the costs of implementing the remediation plan.

8. Any asbestos or lead in the fill is in non-friable form and does not constitute toxic hazardous waste.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/17/06

DEPT. WEMALW

HONORABLE Cesar C. Sarmiento

JUDGE Manny Mabunga

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

10:00 am SC081696

Plaintiff

Counsel

REBECCA A. RICKLEY ET. AL.

no appearances

VS

Defendant

MARVIN GOODFRIEND ET. AL.

Counsel

(LEAD CASE) RELATED WITH SC0844
AND SC084503

NATURE OF PROCEEDINGS:

There is no evidence of lead or asbestos contamination on the Plaintiff's or the Goodfriend's property.

9. The defendant is ordered to abate the nuisance in accordance with Steven Viani's remediation plan set forth in exhibit 26 consistent with the following guidelines:

- a. The plaintiffs did not prove the necessity for additional site characterization and that portion of the remediation plan (budgeted at \$39,179.38) is not to be done.
- b. There is no necessity for the \$3,000.00 charge for hazardous waste disposal and the \$900.00 charge for respirators and cartridges. These costs are not to be charged to the defendant.
- c. The debris is to be disposed of in a Class 3 landfill.
- d. Mr. Viani is appointed to supervise completion of the remediation plan.
- e. The amount of debris to be removed is 274 cubic yards.
- f. All of the work will be performed in compliance with any and all local, state and federal regulations.
- g. Defendant is ordered to obtain and pay for all of the necessary permits and fees required by the appropriate governmental agencies in connection with the remediation work.
- h. The cost of remediation plan is not to exceed the budget as outlined in exhibit 26. That is,

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/17/06

DEPT. WEMALW

HONORABLE Cesar C. Sarmiento

JUDGE

Manny Mabunga

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

10:00 am

SC081696

Plaintiff

Counsel

REBECCA A. RICKLEY ET. AL.

no appearances

VS

Defendant

MARVIN GOODFRIEND ET. AL.

Counsel

(LEAD CASE) RELATED WITH SC0844
AND SC084503

NATURE OF PROCEEDINGS:

Mr. Viani must adhere to the budget he submitted taking into account the changes as just ordered above.

10. The defendant is ordered to abate the nuisance in accordance with the remediation plan set forth in exhibit 26 as testified by Steven Viani. However, the plaintiffs did not prove the necessity for additional site characterization and that portion of the remediation plan (budgeted at \$39,179.38) is not to be done. The defendant is ordered to obtain and pay for all the necessary permits and fees from the appropriate governmental agencies for completion of this remediation.

11. The plaintiffs are not entitled to recovery for diminution in value damages, as this is a continuing nuisance.

12. The plaintiffs failed to prove that they are entitled to damages based on reduction in fair market value. Although the plaintiff produced evidence of market value through their expert, they presented no evidence to show how the fill damaged them to the extent that it prevented them from using their property in some way.

13. The plaintiffs did not prove that Goodfriend acted with malice, oppression or fraud, therefore the plaintiffs are not entitled to punitive damages.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/17/06

DEPT. WEMALW

HONORABLE Cesar C. Sarmiento

JUDGE Manny Mabunga

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

10:00 am SC081696

Plaintiff
Counsel

no appearances

REBECCA A. RICKLEY ET. AL.

VS

Defendant
Counsel

MARVIN GOODFRIEND ET. AL.

(LEAD CASE) RELATED WITH SC0844
AND SC084503

NATURE OF PROCEEDINGS:

Causes of Action against Yazdani:

1. The condition of the Yazdani property is a public and private continuing nuisance and is negligence per se.

Mr. Yazdani is ordered to abate the nuisance as follows:

- a. Comply with all fire codes.
- b. Obtain all necessary permits and pay all fees as required by any governmental agency for construction of the home.
- c. Complete construction of the home in compliance with the Slide Waiver and any and all governmental agency permits.

3. The plaintiffs did not present any substantial evidence that they are entitled to recover diminished rental value. There is no evidence that they were denied the use of their property due to the condition of the Yazdani property.

4. The plaintiffs are awarded \$2,500.00 for the annoyance, discomfort and inconvenience caused by the the condition of the Yazdani property.

5. The equitable defenses of unclean hands and acquiescence do not apply to a cause of action for nuisance, but they do apply to the seventh cause of action for violation of covenants, conditions and

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/17/06

DEPT. WEMALW

HONORABLE Cesar C. Sarmiento

JUDGE

Manny Mabunga

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

10:00 am SC081696

Plaintiff

Counsel

REBECCA A. RICKLEY ET. AL.

no appearances

VS

Defendant

MARVIN GOODFRIEND ET. AL.

Counsel

(LEAD CASE) RELATED WITH SC0844
AND SC084503

NATURE OF PROCEEDINGS:

restrictions. The evidence is clear that the Plaintiffs performed construction on their property in violation of CC&Rs and knew about the Goodfriend illegal construction and failed to report it to the homeowners association. In light of these facts judgment is entered for the defendants as to the seventh cause of action.

6. Mr.Yazdani is found to be in contempt of court and is fined \$1,000.00 payable to the court by 4:00 PM on December 9,2005.

7. Mr.Yazdani did not act with malice,oppression or fraud. The conduct of Angel Galvez was vile and offensive, however, there was no evidence to suggest that Mr.Yazdani condoned,encouraged or was aware of this conduct before it took place. The request for punitive damages is denied.

Cross Complaint

1. Judgment is granted in favor of the cross defendants as to the first cause of action for violation of conditions,covenants and restrictions. The evidence in this case has demonstrated that all parties completely disregarded adherence to the CC&Rs and county building permit requirements when performing construction on their homes. The parties invoked the CC&Rs only when it suited their needs in the disputes against one another.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/17/06

DEPT. WEMALW

HONORABLE Cesar C. Sarmiento

JUDGE Manny Mabunga

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

10:00 am SC081696

Plaintiff

Counsel

REBECCA A. RICKLEY ET. AL.

no appearances

VS

Defendant

MARVIN GOODFRIEND ET. AL.

Counsel

(LEAD CASE) RELATED WITH SC0844
AND SC084503

NATURE OF PROCEEDINGS:

2. Judgment is granted in favor of the cross complainant as to the trespass cause of action. The cross defendant is ordered to pay the replacement cost of \$6,260.00 to the cross complainant.

3. The cross defendants did not act with malice, oppression or fraud.

Counsel for Plaintiff to prepare Judgment.

CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of 1/17/2006 upon each party or counsel named below by depositing in the United States mail at the courthouse in Malibu, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: January 18, 2006

John A. Clarke, Executive Officer/Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/17/06

DEPT. WEMALW

HONORABLE Cesar C. Sarmiento

JUDGE Manny Mabunga

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

10:00 am SC081696

Plaintiff
Counsel

REBECCA A. RICKLEY ET. AL.

no appearances

VS

Defendant
Counsel

MARVIN GOODFRIEND ET. AL.

(LEAD CASE) RELATED WITH SC0844
AND SC084503

NATURE OF PROCEEDINGS:

By:


Manny MabungaNATASHA ROIT, ESQ.
Law Offices of
3929 Malibu Vista Drive
Malibu, Ca 90265RANDALL J. DEAN, ESQ.
Chapman, Glucksman & Dean
11900 West Olympic Blvd., 8th Floor
Los Angeles, Ca 90064ROBERT R. GARRETT, ESQ.
Garrett & Tully, APC
225 South Lake Avenue, Suite 1400
Pasadena, Ca 91101JAMES N. PROCTER, ESQ.
Proctor, McCarthy & Slaughter, LLP
789 South Victoria Avenue, Suite 305
Ventura, Ca 93003-5419



Exhibit 5a

CDP 4-06-135

Aerial Photo of
Project Site

Proposed
Remediation
Area

Coastline Dr

Rodeo Grounds Ln

Topanga Canyon Blvd

© 2005 Microsoft

Pacific Coast Hwy 1

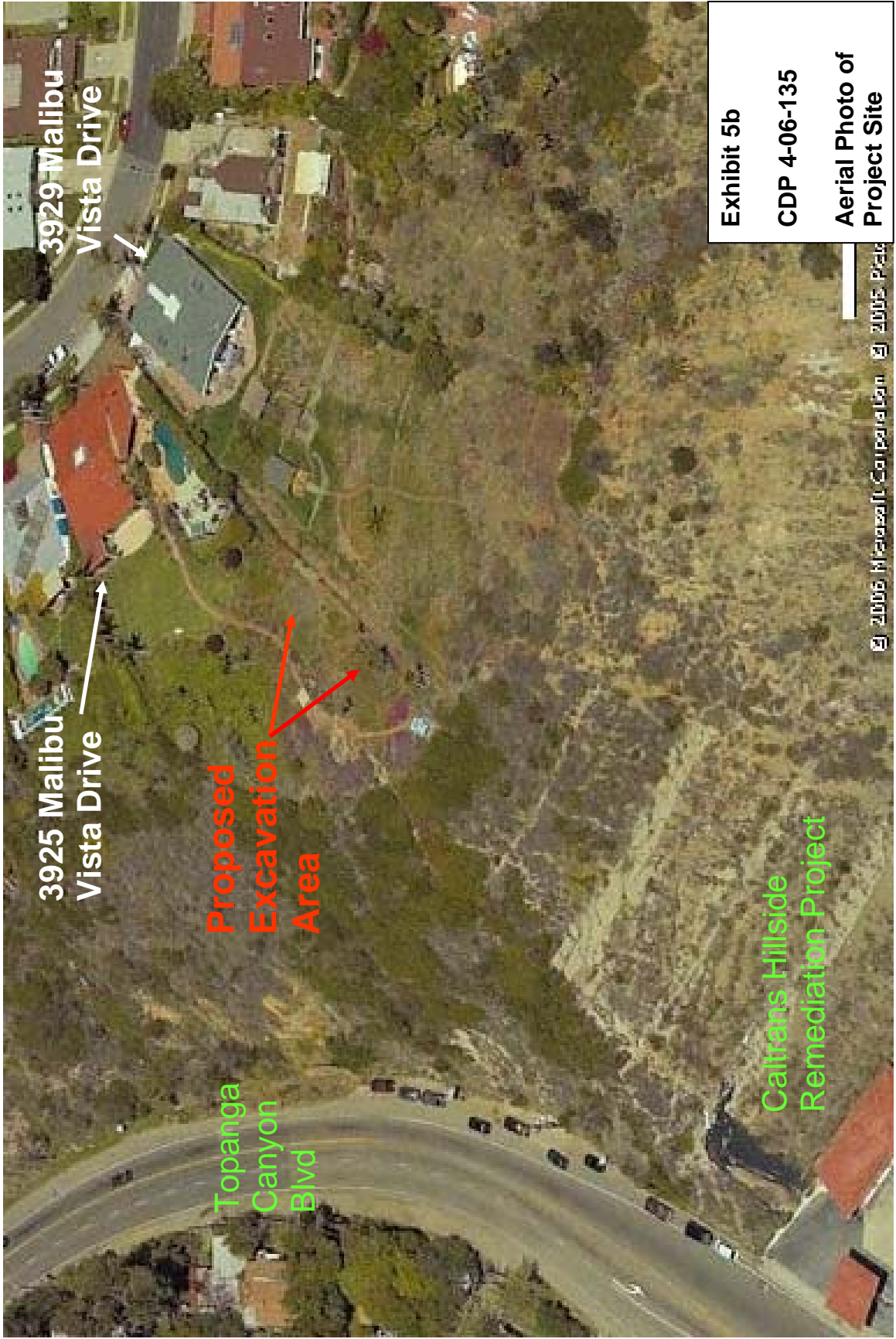


Exhibit 5b
CDP 4-06-135
Aerial Photo of
Project Site

CALIFORNIA COASTAL COMMISSION

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

**AMENDMENT TO COASTAL DEVELOPMENT PERMIT**

Date: March 20, 2012

Permit No: 4-06-135

Issued to: Marvin Goodfriend

For: The removal of 274 cu. yd. of demolition debris, regrading of 358 cu. yds. of soil, and installation of a hillside drainage system.

Amended to on May 7, 2008 to: Modify the language of Special Condition Five (5) "Assumption of Risk" and Special Condition Six (6) "Deed Restriction".

at: 3925 and 3929 Malibu Vista Drive, Malibu (Los Angeles County).

has been amended to include the following changes: Revised Grading Plan that depicts the correct location of the debris field, closer to toe of slope; relocation of sump pump and associated electric and plumbing lines from 3929 Malibu Vista Drive to 3925 Malibu Vista Drive; addition of swale; use of a dual sump pump and high density polyethylene liner for bowl area; and revised Landscaping Plan.

This amendment was determined by the Executive Director to be immaterial, was duly noticed, and no objections were received.

This amendment will become effective upon return of a signed copy of this form to the Commission office. Please note that the original permit conditions are still in effect.

Sincerely,

CHARLES LESTER
Executive Director

A handwritten signature in black ink, appearing to read "KB", followed by a long horizontal flourish.

Kanani Brown
Coastal Program Analyst

ACKNOWLEDGMENT

I have read and understand the above Notice of Intent and agree to be bound by its conditions and the remaining conditions of Permit No: _____.

Date: _____

Signature: _____

Exhibit 9
CDP No. 4-06-135-A2
Immaterial Amendment Letter
CDP No. 4-06-135-A3