

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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VENTURA, CA 93001
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original staff report

Th20a & Th21a

ADDENDUM

DATE: April 8, 2014
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Items Th20a & Th21a, Thursday, April 10, 2014, Coastal Development Permit Application 4-12-069 and Coastal Development Permit Amendment Application 5-89-743-A2 (The Canyon at Peace Park and United World of the Universe Foundation)

The purpose of this addendum is to add text prior to the special conditions for Coastal Development Permit (CDP) Amendment 5-89-743-A2, replace the text of Special Conditions One (1) through Four (4) of CDP Amendment 5-89-743-A2, add language prior to Special Condition Five (5) CDP Amendment 5-89-743-A2, and delete text from Special Condition Eleven (11) of CDP Amendment 5-89-743-A2 in order to clarify the intent and terms of these conditions. Inadvertent errors have been also been corrected, and documentation regarding Ex Parte Communication from Commissioner Cox has been attached.

Note: ~~Strikethrough~~ indicates text deleted from the March 20, 2014 staff report pursuant to this addendum and underline indicates text added to the March 20, 2014 staff report pursuant to this addendum.

1) The following modification is recommended prior to Special Condition One (1) of Coastal Development Permit Amendment 5-89-743-A2 on page 18 of the staff report:

Special Conditions One (1) through Six (6) and Special Condition Twelve (12) shall be added as new special conditions affecting APNs 4465-001-036, 4465-001-028, and 4465-002-021. Special Conditions Seven (7) through Eleven (11) shall be added as new special conditions affecting APN 4465-002-021. Unless specifically altered herein by Coastal Development Permit Amendment 5-89-743-A2, all special conditions approved pursuant to Coastal Development Permit 5-89-743 and Coastal Development Permit Amendment 5-89-743-A1 shall remain in full force and effect.

2) Special Condition One (1) on page 18 of the staff report shall be replaced by the following:

Special Condition Three (3) of CDP 5-89-743 shall be modified as it relates to APNs 4465-001-036, 4465-001-028, and 4465-002-021 as follows:

1. Amendment to Open Space Easement-Environmentally Sensitive Habitat/Woodland

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the landowner(s) shall record and execute a document in a form and content acceptable to the Executive Director, modifying the Open Space Easement created by recordation of the Irrevocable Offer to Dedicate Open Space Easement recorded as Instrument No. 91-203065 and the Certificate of Acceptance recorded as Instrument No. 2011-1205558 as it affects Assessor Parcel Nos. 4465-001-036, 4465-001-028 and 4465-002-021. The recorded document shall reflect the corrected and/or revised location of Development Areas One, Two, and Three, generally as shown on Exhibits Six, Seven, and Eight. The applicants shall also submit a metes and bounds legal description and corresponding graphic depiction, both prepared by a licensed surveyor for review and approval of the Executive Director, of the revised easement areas located on APNs 4465-001-036, 4465-001-028, and 4465-002-021. The document shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the interest being conveyed.

3) Special Condition Two (2) on page 18 of the staff report shall be replaced by the following:

Special Condition Four (4) of CDP 5-89-743 shall be modified as it relates to APNs 4465-001-036, 4465-001-028, and 4465-002-021 as follows:

2. Amendment to Open Space Easement-Protection of Watershed/Wildlife Corridors

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the landowner(s) shall record and execute a document in a form and content acceptable to the Executive Director, modifying the Open Space Easement created by recordation of the Irrevocable Offer to Dedicate Open Space Easement recorded as Instrument No. 91-203066 and the Certificate of Acceptance recorded as Instrument No. 2011-1205561 as it affects Assessor Parcel Nos. 4465-001-036, 4465-001-028 and 4465-002-021. The recorded document shall reflect the corrected and/or revised location of Development Areas One, Two, and Three, generally as shown on Exhibits Six, Seven, and Eight. The applicants shall also submit a metes and bounds legal description and corresponding graphic depiction, both prepared by a licensed surveyor for review and approval of the Executive Director, of the revised easement areas located on APNs 4465-001-036, 4465-001-028, and 4465-002-021. The document shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the interest being conveyed.

4) Special Condition Three (3) on page 19 of the staff report shall be replaced by the following:

Special Condition Five (5) of CDP 5-89-743 shall be modified as it relates to APNs 4465-001-036, 4465-001-028, and 4465-002-021 as follows:

3. Amendment to No Future Subdivisions Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the landowner(s) shall record and execute a document in a form and content acceptable to the Executive Director, modifying the Deed Restriction recorded as Instrument No. 91 203064 as it affects Assessor Parcel Nos. 4465-001-036, 4465-001-028, and 4465-002-021. The recorded document shall reflect the corrected and/or revised location of Development Areas One, Two, and Three, generally as shown on Exhibits Six, Seven, and Eight. The applicants shall also submit a metes and

bounds legal description and corresponding graphic depiction, both prepared by a licensed surveyor for review and approval of the Executive Director, of the revised deed restricted areas located on APNs 4465-001-036, 4465-001-028, and 4465-002-021. The document shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the interest being conveyed.

5) Special Condition Four (4) on page 19 of the staff report shall be replaced by the following:

Special Condition Six (6) of CDP 5-89-743 shall be modified as it relates to APNs 4465-001-036, 4465-001-028, and 4465-002-021 as follows:

4. Amendment to Future Development Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the landowner(s) shall record and execute a document in a form and content acceptable to the Executive Director, modifying the Deed Restriction recorded as Instrument No. 91 203064 as it affects Assessor Parcel Nos. 4465-001-036, 4465-001-028, and 4465-002-021. The recorded document shall reflect the corrected and/or revised location of Development Areas One, Two, and Three, generally as shown on Exhibits Six, Seven, and Eight. The applicants shall also submit a metes and bounds legal description and corresponding graphic depiction, both prepared by a licensed surveyor for review and approval of the Executive Director, of the revised deed restricted areas located on APNs 4465-001-036, 4465-001-028, and 4465-002-021. The document shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the interest being conveyed.

6) The following modification is recommended to Special Condition Eleven (11) on page 25 of the staff report:

11. Future Development Restriction

This permit amendment is only for the development described in this Coastal Development Permit Amendment. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to any of the development governed by this permit. Accordingly, any future improvements to any portion of the development governed by this permit amendment, including but not limited to the sheds, water tank, and pump house, ~~trash/maintenance facility~~ shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7) The project description for Coastal Development Permit Amendment 5-89-743, on page 1 of the Staff Report, and all other references to two approved barns on pages 3, 26, and 43 of the Staff Report are revised as follows:

...

Modification of the location of Development Area Two and Development Area Three, correction of the legal description of Development Area One, and modification of the use of ~~two~~ three approved

barns to one 345 square foot storage shed, one 456 square foot storage shed, 10,000 gallon water tank, 52 square foot pump house, 441 square foot cement pad, benches, and landscaping.

8) The following modification is recommended to footnote one on page 2 of the staff report:

¹ Coastal Commission staff and the ~~applicant's~~ owner continue to work towards resolving existing violations on the other three parcels, and these parcels will be subject to a future permit and permit amendment process.

9) The following changes shall be made to Environmentally Sensitive Habitat Section B within Section IV. Findings and Declarations on page 34 of the Staff Report:

...

However, in this case, clustering Development Area Two on the adjacent vacant parcel (APN 4465-001-028) with Development Area Three (APN 4465-001-036) will allow for the use of overlapping fuel modification zones for each development area which is expected to reduce the total amount of vegetation clearance and adverse impacts to ESHA that would result if both sites were developed by approximately 2 1/2 - 3 acres in area. Thus, although the development located within Development Area Three is 3,530 sq. ft. larger than the normally permitted 10,000 square foot development area (resulting in an additional approximately 0.5 acres of additional vegetation clearance for fuel modification) in this case, the applicant's proposal to co-locate and cluster future development on the adjacent parcel will more than offset this impact and will actually serve to reduce total potential impacts to ESHA by approximately 2 1/2-3 acres. Thus, in the long term, the project, including the applicant's proposal to cluster development, will serve to protect ESHA on site to the maximum extent feasible.

In addition, the proposed peace pagoda is a minor non-flammable feature associated with the proposed trails surrounding the Women's Facility. Construction of the peace pagoda did not require substantial landform alteration and it is located in an area that is not visible from the scenic viewing area on Kanan Dume Road. Additionally, this development is located within an area that has been previously cleared of vegetation for fuel modification requirements and would also be located within the ~~overlapping~~ fuel modification area for ~~Development Area Three (The Women's Facility)~~ and Development Area Two; thus, the small pagoda would not require any new vegetation removal or result in any adverse impacts to ESHA. Further, although located within the existing open space easement area, the proposed paths and the existing septic facilities are allowable uses pursuant to CDP 5-98-743. Additionally, the proposed road is the minimum amount necessary to access the facilities required for the Women's Facility, including the septic system previously approved by CDP Waiver 4-07-152-W.

...

10) Attached to this addendum is documentation of an ex-parte communication received from Commissioner Cox dated April 7, 2013.

FORM OF DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or Description of Project: The Canyon at Peace Park (CDP Application Nos. 4-12-069 and 5-89-743-A2)

Date and Time of Receipt of Communication: April 2, 2014, 12:00 p.m.

Location of Communication: Phone

Type of Communication: Telephonic Meeting

Person(s) Initiating Communication: Rick Zbur, Esq., Latham & Watkins
Beth Gordie, Esq., Latham & Watkins
Anne Blemker, McCabe & Company

Person(s) Receiving Communication: Greg Murphy for Commissioner Greg Cox

Detailed Substantive Description of Content of Communication:
(Attach a copy of the complete text of any written material received.)

Rick Zbur and Beth Gordie provided my staff member, Greg Murphy, with a briefing on the applicants' After-the-Fact CDP Application and the Amendment Application to the existing CDP for the Property (the "Project"). Speaking on behalf of the applicants, each discussed the contents of an electronic briefing package, which they informed me has been provided to Commission staff and will be in the Commission record for this matter. The applicant's representatives covered the issues contained in the briefing package, including:

- an overview of the Property history;
- background information on and the status of implementation of the Consent Cease and Desist and Consent Restoration Orders for Property;
- a summary of the After-the-Fact CDP Application for the Women's Facility, Climbing Wall, Maintenance Trash and Recycling Area, and Communications Antenna; and
- a summary of the Amendment CDP Application for the change of use of and to include two sheds and associated development at Kanan Dume Road and to amend and correct previously approved Development Areas.

The applicant's representatives stated that the applicant is generally in agreement with the staff report and special conditions. At the time of the call, the applicant's representatives were working with Commission staff to address minor clarifications and corrections to the staff report.

A copy of the written materials provided to me is attached hereto.

Date: 4/3/14

Commissioner Signature: Greg Cox

APR 07 2014

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
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Th20a & Th21a



Filed: 11/20/13
180th Day: 5/19/14
Staff: J. Blaugrund-V
Staff Report: 3/20/14
Hearing Date: 4/10/14

STAFF REPORT: REGULAR CALENDAR

Permit Application No.: 4-12-069

Amendment Application No.: 5-89-743-A2

Applicant: The Canyon at Peace Park and United World of the Universe Foundation

Location: 2890 and 2900 Kanan Dume Road, Santa Monica Mountains, Los Angeles County. (APNs: 4465-001-036, 4465-001-028, and 4465-002-021)

Project Description for Application No. 4-12-069: After-the-fact approval of 4,971 square foot, 2-story, 28-foot high, residence with attached 500 square foot garage, 750 square foot guest house with attached carport, 158 square foot peace pagoda and associated paths, pool, spa, solar panels, access road, water pump, 10,000 gallon water tank, 23.5 foot tall pole antenna, 34 foot tall climbing wall, 45 foot by 8 foot metal shipping container, 1,497 cubic yards of cut and 1,142 cubic yards of fill.

Project Description for Amendment Application No. 5-89-743-A2: Modification of the location of Development Area Two and Development Area Three, correction of the legal description of Development Area One, and modification of the use of two approved barns to one 345 square foot storage shed, one 456 square foot storage shed, 10,000 gallon water tank, 52 square foot pump house, 441 square foot cement pad, benches, and landscaping.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed Coastal Development Permit with **Twelve (12) special conditions** regarding: (1) revised plans, (2) permanent drainage and polluted runoff control plan, (3) restoration plan, (4) structural appearance, (5) lighting restriction, (6) habitat impact mitigation, (7) site inspection, (8) pool and spa drainage maintenance, (9) assumption of risk, waiver of liability and indemnity, (10) future development restriction, (11) deed restriction, and (12) condition compliance.

Staff recommends **approval** of the proposed Coastal Development Permit Amendment with **Twelve (12) special conditions** regarding: (1) amendment to open space easement-environmentally sensitive habitat/woodland, (2) amendment to open space easement-protection of watershed/wildlife corridors, (3) amendment to no future subdivisions deed restriction, (4) amendment to future development restriction, (5) deed restriction, (6) lease restriction, (7) permanent drainage and polluted runoff control plan, (8) landscaping and fuel modification plans, (9) structural appearance, (10) lighting restriction, (11) future development restriction, and (12) condition compliance.

The current project, which includes an after-the-fact permit and permit amendment, involves three adjacent parcels off Kanan Dume Road in the Santa Monica Mountains. The parcels are part of a larger, six-parcel area comprising approximately 240 acres. In 1990, the Commission approved Coastal Development Permit (CDP) 5-89-743 (this CDP was issued in 1991), which designated six development areas, and allowed for the construction of one single family home and associated infrastructure, as well as access roads and a stable area over the approximately 240-acre site. This permit also required two separate Offers to Dedicate (OTD) so as to ensure that the remainder of the site would be protected open space (one OTD involved woodlands identified as ESHA in 1990, and the other OTD involved all other lands, subsequently also identified as ESHA). The OTDs were accepted by the Mountains Recreation and Conservation Authority (MRCA), and created open space easements over all areas of the site not designated as development areas in CDP 5-89-743.

In 1997, the applicant obtained a building permit from Los Angeles County for the women's facility house and garage, guesthouse and attached carport, pool and spa, but did not apply for a Coastal Development Permit to authorize this development. Although partially constructed within a development area designated by CDP 5-89-743, the above mentioned development also encroached into areas that were subject to the open space easements. In addition, as described in further detail below in Section A, the applicant made a number of other improvements to the property without a Coastal Development Permit. The currently proposed CDP and CDP amendment resolve the outstanding violations on three of the six parcels.¹

¹ Coastal Commission staff and the applicants continue to work towards resolving existing violations on the other three parcels, and these parcels will be subject to a future permit and permit amendment process.

Specifically, the Canyon at Peace Park and the United World of the Universe Foundation are requesting after-the-fact approval of a 4,971 square foot, 2-story, 28-foot high, residence with attached 500 square foot garage, pool, spa, 437 square foot ground mounted solar array, and a 750 square foot guest house with attached carport. Additionally, the proposed project includes after-the-fact approval of a 158 square foot peace pagoda and associated paths, access road, water pump, 10,000 gallon water tank, 23.5 foot tall pole antenna, 34 foot tall climbing wall, 45 foot by 8 foot metal shipping container, and 1,497 cubic yards of cut and 1,142 cubic yards of fill.

The applicants are also proposing to amend Coastal Development Permit 5-89-743 to modify the approved location of three development areas. The applicants propose to relocate the approved Development Area Two (on APN 4465-001-028) and Development Area Three (on APN 4465-001-036) and to correct the inaccurate legal description recorded for Development Area One (on APN 4465-002-021). The applicants are also proposing to modify of the use of two approved barns to two storage sheds (345 square feet and 456 square feet in size), a 10,000 gallon water tank, 52 square foot pump house, 441 square foot cement pad, benches, and landscaping.

The project site contains habitat that meets the definition of Environmentally Sensitive Habitat Area (ESHA) and the project will have adverse impacts on ESHA. The proposed CDP Amendment results in clustered development and a more compact development pattern than permitted by CDP 5-89-743. Since clustering the development areas involves permitting development on areas currently subject to the MRCA easements, Special Condition One (1) through Four (4) of CDP Amendment 5-89-743 requires alterations to the easement area, subject to the concurrence of MRCA.

The project site is visible from public viewing areas and has the potential to adversely impact visual resources. Specifically, the proposed climbing wall structure will be visible from a designated public viewing area adjacent to Kanan Dume Road, which is a designated scenic highway. There are siting alternatives that would avoid or reduce visual impacts of the subject climbing wall. As such, Special Condition One (1) of CDP 4-12-069 requires the applicant to submit revised plans to resite the climbing wall. Additionally, Special Condition Four (4) of CDP 4-12-069 and Special Condition Nine (9) of CDP Amendment 5-89-743 require the applicants to utilize exterior colors consistent with the surrounding natural landscape.

As mentioned above, the project site is located within in the Santa Monica Mountains area of Los Angeles County, and is comprised of three parcels² (APNs: 4465-001-036, 4465-001-028,

² All evidence available to Commission staff indicates that Assessor's Parcel Number (APN) 4465-001-036 considered herein and APN 4465-002-019 (an area of approximately 5.6 acres not currently proposed to be part of the subject applications) together constitute one legal parcel. No development considered herein would be located in the area designated as APN 4465-002-019 and as such; this area is not included within the project descriptions for CDP 4-12-069 and CDP Amendment 5-89-743. Furthermore, the open space easement areas recorded over APN

and 4465-002-021), each of which is approximately 40 acres in size. The United World of the Universe Foundation owns the subject parcels; however, they are leased by The Canyon at Peace Park for the operation of a treatment center.

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. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

4465-002-019 pursuant to CDP 5-89-743 will remain unchanged by the subject applications. Nothing in the subject approvals should be interpreted as tacit or other approval that APNs 4465-001-036 and 4465-002-019 are separate lots.

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APPENDICES

Appendix 1 - Substantive File Documents

EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Aerial Photograph

Exhibit 3 – Project Plans

Exhibit 4 – Location of Climbing Wall, Concrete Pads and Pathways

Exhibit 5 – Location of Development Areas

Exhibit 6 – Development Area One

Exhibit 7 – Development Area Two

Exhibit 8 – Development Area Three

Exhibit 9 – Consent Cease and Desist Order CCC-12-CD-05 and Consent Restoration Order CCC-12-RO-05

Exhibit 10 – Disclosure of Ex Parte Communications

I. MOTION AND RESOLUTION ON THE COASTAL DEVELOPMENT PERMIT

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 4-12-069 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. 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:

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 Three 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 Three. 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. MOTION AND RESOLUTION ON THE COASTAL DEVELOPMENT PERMIT AMENDMENT

Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit No. 5-89-743 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 a coastal development permit amendment 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 Three 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 Three. 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.

III. STANDARD CONDITIONS

This permit is granted subject to the following 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 of 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.

IV. SPECIAL CONDITIONS FOR COASTAL DEVELOPMENT PERMIT 4-12-069

1. Revised Plans

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two sets of final revised project plans. All plans must be drawn to scale with dimensions shown. The final revised project plans and project description shall reflect the following:

- (1) Relocation of the climbing wall structure within Development Area Three, as designated on Exhibit 4.
- (2) Removal of all concrete pads and pathways designated for removal on Exhibit 4, located adjacent to Development Area Three, and replacement of pathways designated for replacement on Exhibit 4, with a permeable surface.

B. The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

2. Permanent Drainage and Polluted Runoff Control Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan for the post-construction project site, prepared by a qualified licensed professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate long-term post-construction Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate in the project design of developments in the following order of priority:

- a. Site Design BMPs: Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site's natural stormwater flow regime.

Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.

b. Source Control BMPs: Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.

c. Treatment Control BMPs: Systems designed to remove pollutants from stormwater, by gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters. Where post-construction treatment of stormwater runoff is required, treatment control BMPs (or suites of BMPs) shall, at a minimum, be sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.

The qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- (1) Projects shall incorporate Low Impact Development (LID) techniques in order to minimize stormwater quality and quantity impacts from development, unless a credible and compelling explanation is provided as to why such features are not feasible and/or appropriate. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and native vegetation.
- (2) Post-development runoff rates from the site shall be maintained at levels similar to pre-development conditions.
- (3) Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (4) Landscape plants shall have low water and chemical treatment demands. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design shall be utilized for any landscaping requiring water application.
- (5) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed where needed to prevent erosion. Plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system shall be prepared by a qualified licensed professional. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations

showing the sizing requirements and how the device meets those sizing requirements. The qualified, licensed professional shall ensure that all energy dissipaters use the minimum amount of rock and/or other hardscape necessary to protect the site from erosion.

- (6) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (7) For projects located on a hillside, slope, or which may otherwise be prone to geologic instability, site drainage and BMP selection shall be developed concurrent with the preliminary development design and grading plan, and final drainage plans shall be approved by a licensed geotechnical engineer or engineering geologist.
- (8) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the affected area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

B. The final Drainage and Runoff Control Plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

3. Revegetation Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit two sets of revegetation plans, prepared by a licensed landscape architect or a qualified resource specialist. The consulting landscape architect or qualified landscape professional shall certify in writing that the final revegetation plan is in conformance with the following requirements:

A. Revegetation Plan

- (1) All areas covered by the pathways required to be removed pursuant to **Special Condition One**, shall be revegetated within one hundred and eighty (180) days of receipt of the Coastal Development Permit. To minimize the need for irrigation all

landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. 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) Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- (5) Fencing of the entire property is prohibited. Fencing shall extend no further than the approved development area. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in **Special Condition 4, Structural Appearance**, below.

B. Conformance with Commission Approved Site/Development Plans

The Permittees shall undertake development in accordance with the final Revegetation Plans. The final Revegetation Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

C. Monitoring

Three years from the date that the Coastal Development Permit is issued the applicants shall submit to the Executive Director, a monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the revegetation 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 landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicants, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental restoration plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial restoration plan shall be implemented within 30 days of the date of the final supplemental revegetation plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

4. Structural Appearance

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of this Coastal Development Permit. The palette samples shall be presented in a format not to exceed 8½" x 11" in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones.

The approved structures shall be colored with only the colors authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing may only be applied to the structures authorized by this Coastal Development Permit if such changes are specifically authorized by the Executive Director as complying with this special condition.

5. Lighting Restriction

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
- (2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

6. Habitat Impact Mitigation

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and approval of the Executive Director, a map delineating all areas of chaparral and coastal sage scrub habitat (ESHA) that will be disturbed by the proposed development, including fuel modification and brush clearance requirements on the project site and adjacent property. The chaparral and coastal sage scrub ESHA areas on the site and adjacent property shall be delineated on a detailed map, to scale, illustrating the subject parcel boundaries and, if the fuel modification/brush clearance zones extend onto adjacent property, adjacent parcel boundaries. The delineation map shall indicate the total acreage for all chaparral and coastal sage scrub ESHA, both on and offsite, that will be impacted by the proposed development, including the fuel modification/brush clearance areas. A 200-foot clearance zone from the proposed structures shall be used to determine the extent of on-site or off-site brush clearance for fire protection purposes. The delineation shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains.

Mitigation shall be provided for impacts to the chaparral and coastal sage scrub ESHA from the proposed development and fuel modification/brush clearance requirements by one of the three following habitat mitigation methods:

A. Habitat Restoration

1) Habitat Restoration Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit a habitat restoration plan, for the review and approval of the Executive Director, for an area of degraded chaparral and/or coastal sage scrub habitat equivalent to the area of chaparral and/or coastal sage scrub ESHA impacted by the proposed development and fuel modification/brush clearance area. The habitat restoration area may either be onsite or offsite within the coastal zone either in the City of Malibu or elsewhere in the Santa Monica Mountains. The habitat restoration area shall be delineated on a detailed site plan, to scale, that illustrates the parcel boundaries and topographic contours of the site. The habitat restoration plan shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains and shall be designed to restore the area in question for habitat function, species diversity and vegetation cover. The restoration plan shall include a statement of goals and performance standards, revegetation and restoration methodology, and maintenance and monitoring provisions. If the restoration site is offsite, the applicant shall submit written evidence to the Executive Director that the property owner has irrevocably agreed to allow the restoration work, maintenance and monitoring required by this condition and not to disturb any native vegetation in the restoration area.

The applicants shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the performance standards outlined in the restoration plan and

describing the revegetation, maintenance and monitoring that was conducted during the prior year. The annual report shall include recommendations for mid-course corrective measures. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has been, in part or in whole, unsuccessful, based on the approved goals and performance standards, the applicant shall submit a revised or supplemental restoration plan with maintenance and monitoring provisions, for the review and approval of the Executive Director, to compensate for those portions of the original restoration plan that were not successful. Should supplemental restoration be required, the applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating the supplemental restoration areas. At the end of the five-year period, a final report shall be submitted evaluating whether the supplemental restoration plan has achieved compliance with the goals and performance standards for the restoration area. If the goals and performance standards are not met within 10 years, the applicant shall submit an application for an amendment to the coastal development permit for an alternative mitigation program and shall implement whatever alternative mitigation program the Commission approves, as approved.

The habitat restoration work approved in the restoration plan shall be carried out prior to occupancy of the residence.

2) Open Space Deed Restriction

No development, as defined in section 30106 of the Coastal Act, shall occur in the habitat restoration area, as shown on the habitat restoration site plan required pursuant to (A)(1) above.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit evidence that the applicant has executed and recorded a deed restriction (if the applicant is not the owner, then the applicant shall submit evidence that the owner has executed and recorded the deed restriction), in a form and content acceptable to the Executive Director, reflecting the above restriction on development and designating the habitat restoration area as open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of both the parcel on which the restoration area lies and the open space area/habitat restoration area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3) Performance Bond

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall post performance bonds to guarantee implementation of the restoration plan as follows: a) one equal to the value of the labor and materials; and b) one equal to the value

of the maintenance and monitoring for a period of 5 years. Each performance bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicant fails to either restore or maintain and monitor according to the approved plans, the Coastal Commission may collect the security and complete the work on the property.

B. Habitat Conservation

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall (or, if the applicants are not the owner of the habitat conservation site, then the owner of the habitat conservation site shall) execute and record an open space deed restriction in a form and content acceptable to the Executive Director, over the entirety of a legal parcel or parcels containing chaparral and/or coastal sage scrub ESHA. The chaparral and/or coastal sage scrub ESHA located on the mitigation parcel or parcels must be of equal or greater area than the ESHA area impacted by the proposed development, including the fuel modification/brush clearance areas. No development, as defined in section 30106 of the Coastal Act, shall occur on the mitigation parcel(s) and the parcel(s) shall be preserved as permanent open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of the parcel or parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

Prior to issuance of the coastal development permit, the applicants shall submit evidence, for the review and approval of the Executive Director, that the recorded documents have been reflected in the Los Angeles County Tax Assessor Records.

If the mitigation parcel(s) is/are larger in size than the impacted habitat area, the excess acreage may be used to provide habitat impact mitigation for other development projects that impact like ESHA.

C. Habitat Impact Mitigation Fund

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit evidence, for the review and approval of the Executive Director, that payment for compensatory mitigation has been provided to the Mountains Recreation and Conservation Authority to mitigate adverse impacts to chaparral and coastal sage scrub habitat ESHA. The payment shall be calculated as follows:

1. Development Area, Irrigated Fuel Modification Zones, Off-site Brush Clearance

The payment for these areas shall be \$12,000 per acre within the development area, any required irrigated fuel modification zones, and required on-site or off-site brush clearance areas (assuming a 200-foot radius from all structures). The total acreage shall be based on the map delineating these areas required by this condition.

2. Non-irrigated Fuel Modification Zones

The payment for non-irrigated fuel modification areas (on-site) shall be \$3,000 per acre. The total acreage shall be based on the map delineating these areas required by this condition.

Prior to the payment for mitigation to the Mountains Recreation and Conservation Authority, the applicants shall submit, for the review and approval of the Executive Director, the calculation of the payment required to mitigate adverse impacts to chaparral and/or coastal sage scrub habitat ESHA, in accordance with this condition. After review and approval of the payment calculation, the payment shall be made to the Mountains Recreation and Conservation Authority's Coastal Habitat Impact Mitigation Fund for the acquisition, permanent preservation or restoration of habitat in the Santa Monica Mountains coastal zone, with priority given to the acquisition of or extinguishment of all development potential on properties containing environmentally sensitive habitat areas and properties adjacent to public parklands. The payment may not be used to restore areas where development occurred in violation of the Coastal Act's permit requirements.

7. Site Inspection

A. By acceptance of this permit, the applicants irrevocably authorize, on behalf of the applicants and all successors-in-interest with respect to the subject property, Coastal Commission staff and its designated agents to enter onto the property to undertake site inspections for the purpose of monitoring compliance with the permit, including the special conditions set forth herein, and to document their findings (including, but not limited to, by taking notes, photographs, or video), subject to Commission staff providing 24 hours advanced notice to the contact person indicated pursuant to paragraph B prior to entering the property, unless there is an imminent threat to coastal resources, in which case such notice is not required. If two attempts to reach the contact person by telephone are unsuccessful, the requirement to provide 24 hour notice can be satisfied by voicemail, email, or facsimile sent 24 hours in advance or by a letter mailed three business days prior to the inspection. Consistent with this authorization, the applicants and their successors: (1) shall not interfere with such inspection/monitoring activities and (2) shall provide any documents requested by the Commission staff or its designated agents that are relevant to the determination of compliance with the terms of this permit.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to Commission staff the email address and fax number, if available, and the address and phone number of a contact person authorized to receive the Commission's notice of the site inspections allowed by this special condition. The applicants are responsible for updating this contact information, and the Commission is entitled to rely on the last contact information provided to it by the applicant.

8. Pool and Spa Drainage and Maintenance

By acceptance of this permit, the applicants agree to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

9. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding 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.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

10. Future Development Restriction

This permit is only for the development described in this Coastal Development Permit. Pursuant to Title 14 California Code of Regulations section 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) and (b) shall not apply to the development governed by this Coastal Development Permit. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation other than as provided for in the approved revegetation plan prepared pursuant to **Special Condition 3, Revegetation Plans**, shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

11. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants 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.

12. Condition Compliance

Within 180 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants 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.

V. SPECIAL CONDITIONS FOR COASTAL DEVELOPMENT PERMIT AMENDMENT 5-89-743-A2

1. Amendment to Open Space Easement-Environmentally Sensitive Habitat/Woodland

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the landowner(s) shall record and execute a document in a form and content acceptable to the Executive Director, modifying the Open Space Easement previously recorded on Assessor's Parcels No. 4465-001-036, 4465-001-028 and 4465-002-021 pursuant to Special Condition Three of CDP 5-89-743. The recorded document shall reflect the corrected location of Development Area One on 4465-002-021, the revised location of Development Area Two on 4465-001-028 and the revised location of Development Area Three on 4465-001-036, as generally shown on Exhibits Six, Seven, and Eight. The document shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the interest. The applicants shall also submit a metes and bounds legal description, prepared by a licensed surveyor acceptable to the Executive Director, of the Open Space Easement, as well as a corresponding graphic depiction.

2. Amendment to Open Space Easement-Protection of Watershed/Wildlife Corridors

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the landowner(s) shall record and execute a document in a form and content acceptable to the Executive Director, modifying the Open Space Easement previously recorded on Assessor's Parcels No. 4465-001-036, 4465-001-028 and 4465-002-021 pursuant to Special Condition Four of CDP 5-89-743. The recorded document shall reflect the corrected location of Development Area One on 4465-002-021, the revised location of Development Area Two on 4465-001-028 and the revised location of Development Area Three on 4465-001-036, as generally shown on

Exhibits Six, Seven, and Eight. The document shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the interest. The applicants shall also submit a metes and bounds legal description, prepared by a licensed surveyor acceptable to the Executive Director, of the Open Space Easement, as well as a corresponding graphic depiction.

3. Amendment to No Future Subdivisions Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the landowner(s) shall record and execute a document in a form and content acceptable to the Executive Director, modifying the Deed Restriction previously recorded on Assessor's Parcels No. 4465-001-036, 4465-001-028 and 4465-002-021 pursuant to Special Condition Five of CDP 5-89-743. The recorded document shall reflect the corrected location of Development Area One on 4465-002-021, the revised location of Development Area Two on 4465-001-028 and the revised location of Development Area Three on 4465-001-036, as generally shown on Exhibits Six, Seven, and Eight. The document shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest, except for tax liens. The applicants shall also submit a metes and bounds legal description, prepared by a licensed surveyor acceptable to the Executive Director, of the Deed Restricted area, as well as a corresponding graphic depiction.

4. Amendment to Future Development Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the landowner(s) shall record and execute a document in a form and content acceptable to the Executive Director, modifying the Deed Restriction previously recorded on Assessor's Parcels No. 4465-001-036, 4465-001-028 and 4465-002-021 pursuant to Special Condition Six of CDP 5-89-743. The recorded document shall reflect the corrected location of Development Area One on 4465-002-021, the revised location of Development Area Two on 4465-001-028, and the revised location of Development Area Three on 4465-001-036, as generally shown on Exhibits Six, Seven, and Eight. The document shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the interest. The applicants shall also submit a metes and bounds legal description, prepared by a licensed surveyor acceptable to the Executive Director, of the Deed Restricted area, as well as a corresponding graphic depiction.

5. 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 landowner(s) 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.

6. Lease Restriction

PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall provide the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against its leasehold interest(s) in the property governed by this permit amendment a lease restriction (in which any private owner of the fee interest in such property shall join or to which it shall agree to be bound), in a form and content acceptable to the Executive Director (a) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the Property, subject to terms and conditions that restrict the use and enjoyment of the Property; and (b) imposing all of the Special Conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property. The restriction shall include a legal description of the property. It shall also indicate that, in the event of an extinguishment or termination of the lease restriction for any reason, the Special Conditions of this amendment shall continue to restrict the use and enjoyment of the Property so long as either this amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. Permanent Drainage and Polluted Runoff Control Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit to the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan for the post-construction project site, prepared by a qualified licensed professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate long-term post-construction Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate in the project design of developments in the following order of priority:

a. Site Design BMPs: Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site's natural stormwater flow regime. Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.

b. Source Control BMPs: Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.

c. Treatment Control BMPs: Systems designed to remove pollutants from stormwater, by gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters. Where post-construction treatment of stormwater runoff is required, treatment control BMPs (or suites of BMPs) shall, at a minimum, be sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.

The qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- (1) Projects shall incorporate Low Impact Development (LID) techniques in order to minimize stormwater quality and quantity impacts from development, unless a credible and compelling explanation is provided as to why such features are not feasible and/or appropriate. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and native vegetation.
- (2) Post-development runoff rates from the site shall be maintained at levels similar to pre-development conditions.
- (3) Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (4) Landscape plants shall have low water and chemical treatment demands and be consistent with **Special Condition 6, Landscaping and Fuel Modification Plans**. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design shall be utilized for any landscaping requiring water application.
- (5) All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this Coastal Development Permit Amendment and, if applicable, in accordance with engineered plans prepared by a qualified licensed professional.
- (6) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed where needed to prevent erosion. Plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system shall be prepared by a qualified licensed professional. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The qualified, licensed professional shall ensure that all energy dissipaters use the

minimum amount of rock and/or other hardscape necessary to protect the site from erosion.

- (7) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (9) For projects located on a hillside, slope, or which may otherwise be prone to geologic instability, site drainage and BMP selection shall be developed concurrent with the preliminary development design and grading plan, and final drainage plans shall be approved by a licensed geotechnical engineer or engineering geologist.
- (10) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the affected area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

B. The final Drainage and Runoff Control Plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

8. Landscaping and Fuel Modification Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

A. Landscaping Plan

- (1) To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. 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) Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- (5) Fencing of the entire property is prohibited. Fencing shall extend no further than the approved Kanan Dume development area. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in **Special Condition 7, Structural Appearance**, below.

B) Fuel Modification Plans

Vegetation within 20 feet of the proposed storage sheds may be removed to mineral earth, vegetation within a 200-foot radius of the storage sheds may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicants shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Conformance with Commission Approved Site/Development Plans

The Permittees shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

C. Monitoring

Three years from the date that the Coastal Development Permit Amendment is issued the applicants shall submit to the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

9. Structural Appearance

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of this Coastal Development Permit Amendment. The palette samples shall be presented in a format not to exceed 8½" x 11" in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones.

The approved structures shall be colored with only the colors authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing may only be applied to the structures authorized by this Coastal Development Permit if such changes are specifically authorized by the Executive Director as complying with this special condition.

10. Lighting Restriction

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.

- (2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

11. Future Development Restriction

This permit amendment is only for the development described in this Coastal Development Permit Amendment. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to any of the development governed by this permit. Accordingly, any future improvements to any portion of the development governed by this permit amendment, including but not limited to the sheds, water tank, pump house, trash/maintenance facility shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

12. 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 applicants 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.

VI. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

1. Project Description

The Canyon at Peace Park and The United World of the Universe Foundation are requesting after-the-fact approval of a Women's Facility, Communication Facility, Trash and Maintenance Facility, and climbing wall. The proposed Women's facility is located on APN 4465-001-036, as shown on Exhibit 8, and contains a 4,971 square foot, 2-story, 28-foot high, residence with attached 500 square foot garage, pool, spa, 437 square foot ground mounted solar array, and a 750 square foot guest house with attached carport. The Women's Facility also includes a 158 square foot peace pagoda and associated paths (partially located on APN 4465-001-028), as well as an access road, water pump, and 10,000 gallon water tank. The applicants are also requesting

after-the-fact approval of the grading necessary for construction of the Women's Facility, which included 1,497 cubic yards of cut and 1,142 cubic yards of fill.

The proposed Communications Facility consists of a 23.5 foot tall, four inch diameter, pole antenna located on APN 4465-001-028. The subject antenna provides wireless internet service to the Women's Facility. The proposed Trash and Maintenance Facility is located on APN 4465-002-021, in an area known as the Kanan Dume Road Development Area, as depicted on Exhibit 2. The subject facility consists of a 45 foot by 8 foot metal shipping container. The proposed climbing wall is a 34 foot tall recreational structure which consists of four wooden support poles that are installed into the ground in a square pattern approximately 12 feet apart. The subject climbing wall is proposed to be located within APN 4465-001-036, as shown on Exhibit 4.

The Canyon at Peace Park and The United World of the Universe Foundation are also requesting an amendment to Coastal Development Permit 5-89-743. The proposed amendment would modify the designated locations of Development Area Two, located on APN 4465-001-028 (as shown on Exhibit 7) and Development Area Three, located on APN 4465-001-036 (as shown on Exhibit 8) in order to reflect the as-built location of the Women's Facility and to ensure that future development will be clustered. The applicants are also proposing to correct the incorrectly recorded legal description of Development Area One, located on APN 4465-002-021 (as shown on Exhibit 6), to accurately reflect the approved location. Additionally, the applicants are proposing to modify the use of two approved barns located within the Kanan Dume Road Development Area, located on APN 4465-002-021, to one 345 square foot storage shed and one 456 square foot storage shed, 10,000 gallon water tank, 52 square foot pump house, 441 square foot cement pad, benches, and landscaping.

2. Background

The project site is located within the Santa Monica Mountains area of Los Angeles County, and is comprised of three parcels (APNs: 4465-001-036, 4465-001-028, and 4465-002-021), each of which is approximately 40 acres in size. The United World of the Universe Foundation owns the subject parcels; however, they are leased by The Canyon at Peace Park for the operation of a treatment center.

Specifically, the project site is located within Ramirez Canyon approximately four miles from the Pacific Ocean. Both the east facing slope and the north facing slope at the southern portion of the subject property are identified as significant oak woodlands in the certified 1986 Malibu/Santa Monica Mountains Land Use Plan (LUP). The project site also includes three blue line streams, which flow south through Ramirez Canyon, and ultimately enter the Pacific Ocean at Paradise Cove in the City of Malibu.

APNs: 4465-001-036³, 4465-001-028, and 4465-002-021, which are the subject of the currently proposed Coastal Development Permit (CDP) and CDP Amendment, are a part of a larger approximately 240 acre area composed of six approximately 40 acre parcels that were originally purchased by Fred Segal between 1984 and 1989. The above mentioned three parcels were subsequently transferred to the United World of the Universe Foundation, and the eastern three parcels were transferred to The Scholarship Camp. As mentioned above, the subject three parcels, which are held by the United World of the Universe Foundation, are currently leased to the Canyon at Peace Park for the operation of a treatment facility.

On May 10, 1990, CDP 5-89-743 was approved by the Commission. This CDP addressed existing violations on the properties and also established a long term development plan for all six of the above mentioned parcels by designating six development areas. CDP 5-89-743 also authorized construction in the form of a 7,346 square foot single family residence, pool, pond, pump house, three barns, stables and an 850 square foot guest house on APN 4465-002-021; and construction of an 800 square foot caretakers unit and stables on APN 4465-002-012, which is not a part of the currently proposed CDP or amendment. Additional development identified and approved by this permit included the installation of two cement picnic areas, grading and paving of a parking area adjacent to Kanan Dume Road, the drilling of wells, extending pads for the guest house, the building of culverts and the installation of rock facing on stream banks.

Special Condition Three of CDP 5-89-743 required the recordation of an offer to dedicate an open space easement for environmentally sensitive habitat/woodland. Special Condition Four of CDP 5-89-743 required the recordation of an offer to dedicate an open space easement for the protection of watershed and wildlife corridors. A no future subdivisions restriction and a future development restriction were also recorded pursuant to Special Condition Five and Six of CDP 5-89-743.

The Commission approved CDP Amendment 5-89-743-A1 on May 13, 1993. This amendment approved the removal of ice plant located along a roadway immediately adjacent to ESHA. Additionally, this amendment allowed for the planting of non-native, non-invasive plants along the roadway.

On July 12, 2012, the Commission approved the issuance of Consent Cease and Desist Order CCC-12-CD-05 and Consent Restoration Order CCC-12-RO-05, which are included as Exhibit

³ All evidence available to Commission staff indicates that Assessor's Parcel Number (APN) 4465-001-036 considered herein and APN 4465-002-019 (an area of approximately 5.6 acres not currently proposed to be part of the subject applications) together constitute one legal parcel. No development considered herein would be located in the area designated as APN 4465-002-019 and as such; this area is not included within the project descriptions for CDP 4-12-069 and CDP Amendment 5-89-743. Furthermore, the open space easement areas recorded over APN 4465-002-019 pursuant to CDP 5-89-743 will remain unchanged by the subject applications. Nothing in the subject approvals should be interpreted as tacit or other approval that APNs 4465-001-036 and 4465-002-019 are separate lots.

9. The unpermitted development addressed through the above mentioned Consent Orders was located on the parcels subject to the currently proposed CDP and CDP Amendment (APNs: 4465-001-036, 4465-001-028, and 4465-002-021), and included: the failure to restore a road with native vegetation as required by CDP 5-89-743, re-grading of a road previously restored pursuant to CDP 5-89-743; installation of an unpermitted structure adjacent to a riparian corridor; placement of a bridge and hardscaped paths; conversion of a previously permitted pump house into a residential structure; grading, paving, and installation of culverts to extend a previously permitted parking lot into a riparian area; construction of a residence within an ESHA area designated as a Significant Oak Woodland; construction of an unpermitted residence with garage, guesthouse, and landscaping; changed nature of facility, use, and configuration of permitted barns; and construction of an additional unpermitted residential structure. A substantial portion of the development addressed by the Consent Orders was undertaken on parts of the property subject to the Open Space Dedications recorded on the property pursuant to CDP 5-89-743.

By signing the proposed Consent Orders, the Canyon at Peace Park and the United World of the Universe Foundation agreed to, among other things to: 1) cease and desist from conducting any further unpermitted development on the subject property; 2) remove specified unpermitted development; 3) restore the areas impacted by unpermitted development that is to be removed under the Consent Orders; 4) apply for a coastal development permit to obtain permanent authorization for limited, specified development that may be consistent with the Coastal Act and the prior permit issued for the property; 5) apply to amend CDP 5-89-743 to more accurately reflect the extant ecological and developed condition of the property; 6) mitigate for the temporal habitat and ecosystem services losses brought about by the unpermitted development by undertaking onsite mitigation at a ratio of 1.66:1 (area of restoration to area impacted by unpermitted development) and by purchasing 2.33 acres in the Santa Monica Mountains Recreation and Conservation Authority's Mitigation Bank; and 7) make payments of a penalty of \$525,000.

B. ENVIRONMENTALLY SENSITIVE HABITAT

Section 30240 of the Coastal Act protects environmentally sensitive habitat areas (ESHA) by restricting development in and adjacent to ESHA. Section 30240 states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

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

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

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

- P57 Designate the following areas as Environmentally Sensitive Habitat Areas (ESHAs): (a) those shown on the Sensitive Environmental Resources Map (Figure 6), and (b) any undesignated areas which meet the criteria and which are identified through the biotic review process or other means, including those oak woodlands and other areas identified by the Department of Fish and Game as being appropriate for ESHA designation.*
- P63 Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table 1 and all other policies of this LCP.*
- P68 Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resource dependent use.*
- P69 Development in areas adjacent to environmentally sensitive habitat areas (ESHAs) shall be subject to the review of the Environmental Review Board, shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*
- P72 Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.*
- P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.*

P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.

P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.

1. Project Description and Site Specific Biological Resource Information

The project site is located within Ramirez Canyon approximately four miles from the Pacific Ocean. Two parks are adjacent to the subject property; Zuma Canyon is located beyond a ridge to the west and Malibu Creek is located beyond a ridge to the east. The project site also contains three blue line streams, which flow south through Ramirez Canyon, and ultimately enter the Pacific Ocean at Paradise Cove in the City of Malibu.

Both the east facing slope and the north facing slope at the southern portion of the subject property are identified as significant oak woodlands in the Malibu/Santa Monica Mountains Land Use Plan (LUP). Furthermore, the subject property is located almost entirely within a designated Wildlife Migration Corridor and partially within the Solstice Canyon Significant Watershed Area, as designated within the LUP.

The parcels were designated in the Los Angeles County Land Use Plan for residential use. Three land use designations apply to the subject parcels, which are: Mountain Land, that allows residential development at a maximum density of 1 dwelling unit per 20 acres of land; Rural Land I, that allows 1 unit per 10 acres; and Rural Land II, that allows 1 dwelling unit per 5 acres. The subject three parcels are each approximately 40-acres in size. Other scattered, residential developments are located in the same area as the subject parcels. Public parkland has been acquired in this general vicinity, the Santa Monica Mountains National Recreation Area. There is currently no offer to purchase the property from any public park agency.

The applicants have submitted a Biological Study, listed in the Substantive File Documents, which addresses the habitats currently present on the project site, as well as those that were present prior to construction of the development for which the applicants are seeking after-the-fact approval. The submitted report indicates that prior to construction, the location of the Women's Facility (on APN 4465-001-036, and associated antennae and paths on 4465-001-028) contained coastal sage scrub and chaparral habitat characteristic of that which currently exists on the undeveloped portions of the project site.

2. ESHA Designation on the Project Site

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

1) Is there a rare species or habitat in the subject area?

2) Is there an especially valuable species or habitat in the area, which is determined based on:

a) whether any species or habitat that is present has a special nature, OR

b) whether any species or habitat that is present has a special role in the ecosystem;

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

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

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodland have many special roles in the Mediterranean Ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. Additional discussion of the special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission’s Ecologist, Dr. John Dixon⁴ (hereinafter “Dr. Dixon Memorandum”), which is incorporated as if set forth in full herein.

Unfortunately, the native habitats of the Santa Monica Mountains, such as coastal sage scrub, chaparral, oak woodland and riparian woodlands are easily disturbed by human activities. As discussed in the Dr. Dixon Memorandum, development has many well-documented deleterious effects on natural communities of this sort. These environmental impacts may be both direct and indirect and include, but certainly are not limited to, the effects of increased fire frequency, of fuel modification, including vegetation clearance, of introduction of exotic species, and of night lighting. Increased fire frequency alters plant communities by creating conditions that select for some species over others. The removal of native vegetation for fire protection results in the direct removal or thinning of habitat area. Artificial night lighting of development affects plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals. Thus, large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodlands are especially valuable because of their special roles in the Santa Monica Mountains ecosystem and are easily disturbed by human activity. Accordingly,

⁴ The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-asha-memo.pdf>

these habitat types meet the definition of ESHA. This is consistent with the Commission's past findings in support of its actions on many permit applications and in adopting the Malibu LCP⁵.

As described above, the project site contains pristine coastal sage scrub and chaparral habitat that is part of a large, contiguous block of pristine native vegetation. As discussed above and in the Dr. Dixon Memorandum, this habitat is especially valuable because of its special role in the ecosystem of the Santa Monica Mountains and it is easily disturbed by human activity. Accordingly, the Commission finds that all habitat on the project site located outside of the approved building site areas meets the definition of ESHA in the Coastal Act.

3. Resource Dependent Use

The Commission finds that the project site and the surrounding area constitute an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. The applicants propose after-the-fact approval of a 4,971 square foot residence with an attached 500 square foot garage, a 750 square foot guest house with attached carport, 158 square foot peace pagoda and associated paths, pool, spa, solar panels, access road, water pump, 10,000 gallon water tank, 23.5 foot tall pole antenna, and 34 foot tall climbing wall. As this type of development does not have to be located within ESHA to function, it is not a use dependent on ESHA resources. Section 30240 also requires that ESHA be protected against significant disruption of habitat values. As the construction of the proposed development required the complete removal of ESHA within and adjacent to Development Area Three, and could require fuel modification for fire protection purposes around it, the proposed project also significantly disrupted the habitat value in those locations. Application of Section 30240, by itself, and in the absence of CDP 5-89-743 designating areas for development, would therefore require denial of the project, because the project would result in significant disruption of habitat values and is not a use dependent on those sensitive habitat resources.

However, CDP 5-89-743 designated six areas of the site for development. Since the entire site is ESHA, any development undertaken pursuant to this permit would involve impacts to ESHA. The current project design results in the clustering of development of the site. Thus, while the development necessarily results in some the loss of ESHA, the current permit and permit amendment results in less impact to ESHA than if the development had been located in the designated areas pursuant to the CDP 5-89-743.

4. Siting and Design Alternatives to Minimize Significant Disruption of Habitat Values

The Commission must still assure compliance with Section 30240 by avoiding impacts that would significantly disrupt and/or degrade environmentally sensitive habitat. Obviously, the construction of development, including vegetation removal for the development area as well as fuel modification, grading, construction of a residence and accessory structures, and the use of

⁵ Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

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

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. In order to ensure that the proposed development, including the as-built Women's Facility, on APN 4465-001-036 is located within Development Area Three, and outside of existing open space easement areas, the applicants have proposed to modify the location of Development Area Three, as shown in Exhibit 8. In addition, the applicants are also proposing to relocate the approved location of Development Area Two on the undeveloped lot to the east (APN 4465-001-028) closer to the reconfigured location of Development Area Three (APN 4465-001-036) in order to allow for new development on that site to be clustered adjacent to the Women's Facility. The portions of development that will be located outside of the revised location of Development Area Three include a portion of the proposed access road utilized to access the existing septic system, as well as the proposed trails, and peace pagoda.

In past permit actions, the Commission has allowed up to 10,000 square feet of development area for a residence on a parcel zoned for residential development in this area of the Santa Monica Mountains. However, the Commission has typically allowed that development area to avoid an unconstitutional "taking" under *Lucas v. South Carolina Coastal Council* (505 US 1003)(1992). Since the Commission has already allowed a reasonable economic use of the property through CDP 5-89-743, *Lucas* is not applicable here. Since no taking is occurring, the subject permit and permit amendment also comply with the requirements of Section 30010 of the Coastal Act.

In this case, the existing Women's Facility for which the applicants are requesting after-the-fact approval would exceed the typical 10,000 square foot development envelope, as the development area of the Women's Facility is approximately 13,530 square feet. However, in order to address this issue, the applicants are proposing to relocate the Development Area Two (which was previously authorized by the Commission pursuant to CDP 5-89-743) on the adjoining vacant parcel (APN 4465-001-028) to the east of the Women's Facility closer to Development Area Three on APN 4465-001-036, so as to allow for the clustering of development both parcels and minimize adverse impacts to ESHA, including those that would result from any fuel modification activities.

As described in further detail below, the Commission has found in past permit actions, that a new residential development will normally result in the disturbance of approximately 4.5 acres of total ESHA area (including both the 10,000 sq. ft. development envelope and the removal or thinning of vegetation within the 200 ft. fuel modification/brush clearance zones). As originally approved by the Commission pursuant to CDP 5-89-743, Development Areas Two and Three were located more than 400 ft. in distance from each other on adjacent lots; thus, development of each residential area would be expected to result in at least 4.5 acres of vegetation clearance for a

total disturbance area of more than 9 acres. However, in this case, clustering Development Area Two on the adjacent vacant parcel (APN 4465-001-028) with Development Area Three (APN 4465-001-036) will allow for the use of overlapping fuel modification zones for each development area which is expected to reduce the total amount of vegetation clearance and adverse impacts to ESHA that would result if both sites were developed by approximately 2 - 3 acres in area. Thus, although the development located within Development Area Three is 3,530 sq. ft. larger than the normally permitted 10,000 square foot development area (resulting in an additional approximately 0.5 acres of additional vegetation clearance for fuel modification) in this case, the applicant's proposal to co-locate and cluster future development on the adjacent parcel will more than offset this impact and will actually serve to reduce total potential impacts to ESHA by 2-3 acres. Thus, in the long term, the project, including the applicant's proposal to cluster development, will serve to protect ESHA on site to the maximum extent feasible.

In addition, the proposed peace pagoda is a minor non-flammable feature associated with the proposed trails surrounding the Women's Facility. Construction of the peace pagoda did not require substantial landform alteration and it is located in an area that is not visible from the scenic viewing area on Kanan Dume Road. Additionally, this development is located within an area that has been previously cleared of vegetation for fuel modification requirements and would also be located within the overlapping fuel modification area for Development Area Three (The Women's Facility) and Development Area Two; thus, the small pagoda would not require any new vegetation removal or result in any adverse impacts to ESHA. Further, although located within the existing open space easement area, the proposed paths and the existing septic facilities are allowable uses pursuant to CDP 5-98-743. Additionally, the proposed road is the minimum amount necessary to access the facilities required for the Women's Facility, including the septic system previously approved by CDP Waiver 4-07-152-W.

As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible.

5. Open Space Conservation

For the Commission to find consistency with Section 30240, the remaining ESHA on the property must continue to be preserved in perpetuity.

The two open space easements that are located on the project site were previously recorded through CDP 5-89-743, and are currently held by the Mountains Recreation and Conservation Authority (MRCA). As such, the Commission finds that the most effective way to assure continued ESHA preservation on the site is to modify the existing open space easements, in order to ensure that the MRCA continues to prohibit development on the remainder of the site now and in the future. The MRCA is dedicated to the preservation and management of open space, parkland, watershed lands, trails, and wildlife habitat. The MRCA manages and provides ranger services for almost 50,000 acres of public lands and parks that it owns or that are owned by the Santa Monica Mountains Conservancy. In the course of its normal duties, the MRCA park rangers and other staff are better able to monitor open space areas to ensure that the restrictions are followed than Commission staff. Additionally, easements provide notice to future owners of the limitations that apply to the open space conservation area, reducing the risk of a future

irreparable violation of the restriction. The Commission finds that MRCA as the easement holder provides adequate assurance that the open space on the site will be protected in perpetuity.

As mentioned above, the two easements located on the project site were previously recorded through Special Conditions Three and Four of CDP 5-89-743, and are currently held by the MRCA. A component of the subject CDP Amendment includes the relocation of both Development Area Two and Three so as to cluster development and minimize impacts to ESHA on the project site. The revised locations of the subject development areas will cover portions of the project site that were previously included within the recorded open space easement areas. Additionally, the applicants propose to correct an inaccurate legal description that was recorded for Development Area One (APN 4465-002-021). As such, in order to ensure that ESHA located on the project site continues to be protected, **Special Condition One (1) and Special Condition Two (2)** of CDP Amendment 5-89-743 requires that the applicants modify the previously recorded easements that are held by MRCA to accurately reflect the revised location of Development Area Two and Three, and the corrected legal description of Development Area One.

Additionally, Special Condition Five of CDP 5-89-743 required the recordation of a No Future Subdivisions Deed Restriction which provided for no more than six “single-family development areas” pursuant to Exhibit Six, which depicts the originally designated development areas. Furthermore, Special Condition Six of CDP 5-89-743 required the recordation of a Future Development Deed Restriction, which also referenced the originally approved development areas depicted in Exhibit Six. As such, **Special Condition Three (3) and Special Condition Four (4)** of CDP Amendment 5-89-743 require that the applicants modify the previously recorded No Future Subdivisions Deed Restriction and Future Development Deed Restriction to also accurately reflect the revised location of Development Area Two and Three and the corrected legal description of Development Area One.

Lastly, **Special Condition Eleven (11)** of CDP 4-12-069, **Special Condition Five (5) and Special Condition Six (6)** of CDP Amendment 5-89-743 require the applicants to record deed restrictions and lease restrictions that impose the terms and conditions of this CDP and CDP Amendment, 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.

In conclusion, only as conditioned will the proposed project minimize impacts to ESHA, as required by Section 30240 of the Coastal Act.

6. Habitat Impact Mitigation

While impacts resulting from development within ESHA can be reduced through siting and design alternatives for new development and by ensuring that the remaining ESHA on the site is permanently protected, they cannot be completely avoided, given the location of ESHA on and around the project site, the high fire risk in the Santa Monica Mountains, and the need to modify fuel sources to protect life and property from wildfire.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification will vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Los Angeles County Fire Department, which include a setback zone immediately adjacent to the structure (Zone A) where all native vegetation must be removed, an irrigated zone adjacent to Zone A (Zone B) where most native vegetation must be removed or widely spaced, and a thinning zone (Zone C) where native vegetation may be retained if thinned or widely spaced although particular high-fuel plant species must be removed. The combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels. In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned. The Commission has found in past permit actions, that a new residential development (with a 10,000 sq. ft. development area) within ESHA with a full 200 foot fuel modification radius will result in impact (either complete removal, irrigation, or thinning) to ESHA habitat of four to five acres.

Obviously, native vegetation that is cleared and replaced with ornamental species or substantially removed and widely spaced will be lost as habitat and watershed cover. As discussed in the Dr. Dixon Memorandum⁶, the cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. Further, fuel modification can result in changes to the composition of native plant and wildlife communities, thereby reducing their habitat value. Although the impacts from habitat removal cannot be avoided, the Commission finds that the loss of ESHA resulting from the removal, conversion, or modification of natural habitat for new development including the building site area, and fuel modification can be mitigated in order to ensure that ESHA impacts are minimized to the extent feasible.

The Commission has identified three appropriate methods for providing mitigation for the unavoidable loss of ESHA resulting from development; namely, habitat restoration, habitat conservation, and payment for mitigation. The Commission finds that any of these measures is appropriate in this case to mitigate the loss of ESHA on the project site. The first method is to provide mitigation through the restoration of an area of degraded habitat (either on the project site, or at an off-site location) that is equivalent in size to the area of habitat impacted by the development. A restoration plan must be prepared by a biologist or qualified resource specialist and must provide performance standards, and provisions for maintenance and monitoring. The restored habitat must be permanently preserved through the recordation of an open space easement.

⁶ The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-esh-memo.pdf>

The second habitat impact mitigation method is habitat conservation. This includes the conservation of an area of intact habitat of a similar type as that impacted equivalent to the area of the impacted habitat. The parcel containing the habitat conservation area must be restricted from future development and permanently preserved. If the mitigation parcel is larger in size than the impacted habitat area, the excess acreage could be used to provide habitat impact mitigation for other development projects that impact ESHA.

The third habitat impact mitigation option is the payment for mitigation of impacts to habitat. The payment is based on the habitat types in question, the cost per acre to restore or create comparable habitat types, and the acreage of habitat affected by the project. The Commission has, in past permit decisions, determined the appropriate payment for the restoration or creation of chaparral and coastal sage scrub habitat, based on research carried out by the Commission's biologist. A range of cost estimates was obtained that reflected differences in restoration site characteristics including topography (steeper is more difficult), proximity to the coast (minimal or no irrigation required at coastal sites), types of plants (some plants are rare or difficult to cultivate), density of planting, severity of weed problem, condition of soil, etc.

The Commission has determined that the appropriate mitigation for loss of coastal sage scrub or chaparral ESHA should be based on the actual installation of replacement plantings on a disturbed site, including the cost of acquiring the plants (seed mix and container stock) and installing them on the site (hydroseeding and planting). The payment amount found by the Commission to be appropriate to provide mitigation for the habitat impacts to ESHA areas where all native vegetation will be removed (building site, the "A" zone required for fuel modification, and off-site brush clearance areas), and where vegetation will be significantly removed and any remaining vegetation will be subjected to supplemental irrigation (the "B" zone or any other irrigated zone required for fuel modification) is \$12,000 per acre. Further, the Commission has required a payment of \$3,000 per acre for areas where the vegetation will be thinned, but not irrigated ("C" zone or other non-irrigated fuel modification zone).

As described above, although the applicants have provided evidence that an approved Fire Department Fuel Modification Plan has not been required for the Women's Facility Development, fuel modification activities may be required by the County in the absence of an approved plan. As such, the acreage of ESHA that is impacted must be determined based on the developed area of the site as well as maximum 200 foot radius (from habitable structures) of vegetation removal that could be required on the property or adjacent sites to minimize the risk of fire hazard for the proposed development. Therefore, **Special Condition Six (6)** of CDP 4-12-069 requires the applicants to delineate the total acreage of ESHA on the site (and offsite brush clearance areas, if applicable) that will be impacted by the proposed development, and provide mitigation to compensate for this loss of habitat, through one of the three methods described above. Only as conditioned will the proposed project minimize impacts to ESHA, pursuant to Section 30240 of the Coastal Act.

7. Additional Mitigation Measures to Address Additional ESHA Impacts

The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. This sort of impact was not addressed in the prior section.

Pursuant to the Consent Orders, the applicants submitted a landscaping plan for the Women's Facility, which required the planting of native species. The applicants propose "landscaping" in the Kanan Dume Development area, but no landscaping plan was submitted. As such, in order to minimize adverse effects to the adjacent natural areas, **Special Condition Eight (8)** of CDP Amendment 5-89-743 requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used. Furthermore, fencing of the property would adversely impact the movement of wildlife through the ESHA and wildlife migration corridor on this parcel. Therefore, the Commission finds it is necessary to limit fencing to the perimeter of the approved Kanan Dume Road development area, turnaround, and driveway. This is required to be shown on the landscaping plan.

Additionally, in order to further reduce adverse impacts to ESHA that have occurred on the project site, **Special Condition One (1)** of CDP 4-12-069 requires the applicants to remove all concrete pads and pathways designated on Exhibit 4, located adjacent to Development Area Three, and replace the existing pavement on the pathways designated on Exhibit 4 that may remain on the project site with a permeable surface. Furthermore, **Special Condition Three (3)** of CDP 4-12-069 requires the applicants submit a revegetation plan for all path areas required to be removed pursuant to Special Condition One (1).

The Commission has found that night lighting of ESHA areas in the Malibu/Santa Monica Mountains may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition Five (5)** of CDP 4-12-069 and **Special Condition Ten (10)** of CDP Amendment 5-89-743 limit night lighting of the site in general; limits lighting to the developed area of the site; and requires that lighting be shielded downward. Limiting security lighting to low intensity security lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural and relatively undisturbed area and that traverses the area at night.

Furthermore, the Commission also finds that the amount and location of any new development that could be built in the future on the subject site consistent with the resource protection policies of the Coastal Act is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, the permitting exemptions that apply by default under the Coastal Act for, among other things, improvements to existing single family homes and repair and maintenance activities may be inappropriate here. In recognition of that fact, and to ensure

that any future structures, additions, change in landscaping or intensity of use at the project site that may otherwise be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition Ten (10)** of CDP 4-12-069 and **Special Condition Eleven (11)** of CDP Amendment 5-89-743 are required.

Finally, in order to ensure that the terms and conditions of this permit are adequately implemented, **Special Condition Seven (7)** of CDP 4-12-069 requires the applicants to allow staff to enter onto the property (subject to 24 hour notice to the property owner) to undertake site inspections for the purpose of monitoring compliance with the permit.

C. 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.

Coastal Act Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained.

The project site contains oak woodlands, chaparral, and riparian vegetation associated with three blue-line streams. The subject streams flow south through Ramirez Canyon, and ultimately enter the Pacific Ocean at Paradise Cove in the City of Malibu. 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.

The proposed development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, 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. As such, **Special Condition Two (2)** of CDP 4-12-069 and **Special Condition Seven (7)** of CDP Amendment 5-89-743 require the applicants to submit final Drainage and Runoff Control Plans that incorporate long-term post-

construction Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate in the project design.

Additionally, both leakage and periodic maintenance drainage of the proposed swimming pool, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing the instability of the site and adjacent properties and potential impacts from pool chemicals (i.e. pool water algaecides, chemical pH balancing, and other water conditioning chemicals). As such, **Special Condition Eight (8)** of CDP 4-12-069 requires the applicants to install a low chlorine or no chlorine purification system to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. Additionally Special Condition Eight (8) of CDP 4-12-069 requires the applicants agree not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

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

D. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides. The project site is visible from Kanan Dume Road, a LUP designated scenic highway. The project site is also visible from a public viewing area located on Kanan Dume Road. Additionally, National parkland is located immediately adjacent to the project site, and portions of the property are visible from the Backbone Trail. The proposed development raises two issues regarding the siting and design: (1) whether or not public views from public roadways will be adversely affected; or, (2) whether or not public views from public lands and trails will be affected.

The proposed Women's Facility residence is 2-stories, with a maximum height of 28-feet. The proposed storage sheds have a maximum height of approximately 11-feet. As such, the proposed structures conform to the maximum height of 35-feet allowed under the guidance policies of the Malibu/Santa Monica Mountains LUP.

As described within the submitted visual analysis, the proposed ground-mounted solar array will not be visible from the public viewing area on Kanan Dume Road due its location behind existing site vegetation. Furthermore, the proposed solar array has been sited immediately adjacent to the proposed Women's Facility residence so as to cluster development and minimize visual impacts.

The proposed Communications Facility is located on a knoll that is visible from public areas. However, the proposed pole antenna has a diameter of four-inches and therefore is not visually prominent. Additionally, the previously approved Consent Orders required revegetation of the area immediately surrounding the pole antenna, and the planting of native landscaping will soften the visual impact of the pole antenna from public view areas.

The proposed development at Kanan Dume Road is visible from public areas. Specifically, the proposed Trash and Maintenance Facility is visible from an approximately 300 foot portion of Kanan Dume Road. As mentioned above, Kanan Dume Road is an LUP designated scenic Highway. Additionally, In order to minimize visibility of the proposed development, including the Trash and Maintenance facility, **Special Condition Nine (9)** of CDP Amendment 5-89-743 requires that all proposed structures be finished in a color consistent with the surrounding natural landscape.

The proposed climbing wall is a recreational structure that consists of four wooden poles that are installed vertically into the ground, and extend to a height of approximately 34-feet above grade. The poles are installed in a square pattern approximately 12-feet apart. As proposed by the applicants, the climbing wall would be located outside of the revised location of Development Area Three, within the previously recorded open space area, as shown on Exhibit 4. Furthermore, the proposed location is within an area that would be highly visible from the above mentioned scenic viewing area on Kanan Dume Road.

As such, the Commission has considered siting and design alternatives to avoid or reduce adverse impacts of the proposed climbing wall on visual resources. In this case, staff has identified an alternative building site location within the revised location of Development Area Three, as shown on Exhibit 8. Development in this location will allow the proposed climbing wall to be located behind a hillside, which will significantly reduce the visibility of the development from public viewing areas and minimize adverse impacts to visual resources. In order to minimize visual impacts, **Special Condition One (1)** of CDP 4-12-069 requires the applicant to submit revised plans, for the review and approval of the Executive Director, that relocate the proposed climbing wall within the revised location of Development Area Three.

To further minimize the visual impacts associated with development of the project site, **Special Condition Four (4)** of CDP 4-12-069 requires that all proposed structures be finished in a color consistent with the surrounding natural landscape. Additionally, **Special Condition Five (5)** of CDP 4-12-069 and **Special Condition Ten (10)** of CDP Amendment 5-89-743 are required to protect the nighttime rural character of this portion of the Santa Monica Mountains by limiting the allowable amount of night lighting on the project site.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

E. 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 or contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction or protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding and wild fire. The submitted geology, geotechnical, and/or soils reports referenced as Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. Furthermore, the submitted report indicates that there is no evidence of settlement, slippage, excessive erosion, or adverse drainage conditions. As no significant geologic hazards were identified on the project site, the submitted report does not contain recommendations to improve the stability and geologic safety of the subject development.

To minimize erosion and ensure stability of the project site, the project must include adequate drainage and erosion control measures. In order to achieve these goals, **Special Condition Two (2)** of CDP 4-12-069 and **Special Condition Seven (7)** of CDP Amendment 5-89-743 require the applicant to submit permanent drainage and polluted runoff control plans. Further, **Special Condition Three (3)** of CDP 4-12-069 and **Special Condition Eight (8)** of CDP Amendment 5-89-743, are required to ensure restoration of previously disturbed areas occurs and to ensure stability and avoid contributing significantly to erosion, all slopes and disturbed areas of the subject site must be landscaped, primarily with native plants, to stabilize disturbed soils and reduce erosion resulting from the development.

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 flooding and erosion, those risks remain substantial here. If the applicant nevertheless chooses to proceed with the project, **Special Condition Nine**

(9) of CDP 4-12-069 requires the applicants to assume the liability from these associated risks. Through the assumption of risk condition, the applicant acknowledges the nature of the fire and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

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

F. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit. The unpermitted development for which the applicants are proposing after-the-fact approval through the proposed CDP includes a 4,971 square foot, 2-story, 28-foot high, residence with attached 500 square foot garage, pool, spa, 437 square foot ground mounted solar array, a 750 square foot guest house with attached carport, a 158 square foot peace pagoda and associated paths, access road, water pump, 10,000 gallon water tank, 23.5 foot tall pole antenna, 34 foot tall climbing wall, 45 foot by 8 foot metal shipping container, and 1,497 cubic yards of cut and 1,142 cubic yards of fill.

The applicants are also proposing to amend Coastal Development Permit 5-89-743 to modify of the use of two approved barns to two storage sheds (345 square feet and 456 square feet in size), a 10,000 gallon water tank, 52 square foot pump house, 441 square foot cement pad, benches, and landscaping, all of which is currently located within the Kanan Dume Road Development Area.

In order to ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition Twelve (12)** of CDP 4-12-069 and **Special Condition Twelve (12)** of CDP Amendment 5-89-743 require the applicants to fulfill all of the Special Conditions that are a prerequisite to the issuance of this permit, within 180 days of Commission action.

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 Three 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.

G. LOCAL COASTAL PROGRAM PREPARATION

Section 30604(a) 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 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 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 Three policies of the Coastal Act. The preceding sections provide findings that the proposed projects will be in conformity with the provisions of Chapter Three 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 Three. **Special Conditions One (1) - Twelve (12)** of CDP 4-12-069 and **Special Conditions One (1) - Twelve (12)** of CDP Amendment 5-89-743 are required to assure the project's consistency with Section 30604 of the Coastal Act.

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 Three 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.

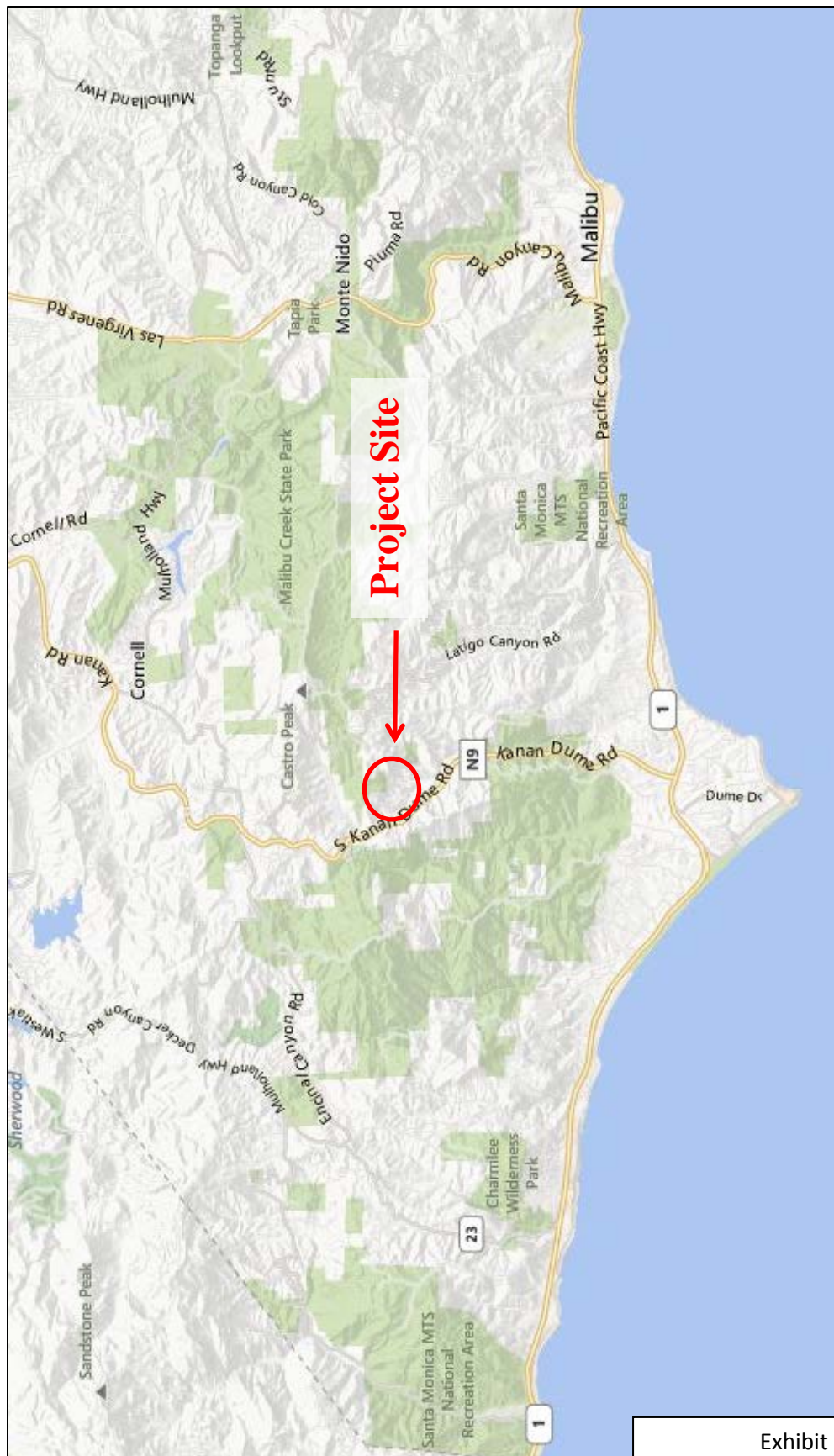
The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, 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. **Special Conditions One (1) - Twelve (12)** of CDP 4-12-069 and **Special Conditions (1) - Twelve (12)** of CDP Amendment 5-89-743 are required to assure the project's consistency with Section 13096 of the California Code of Regulations.

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 A

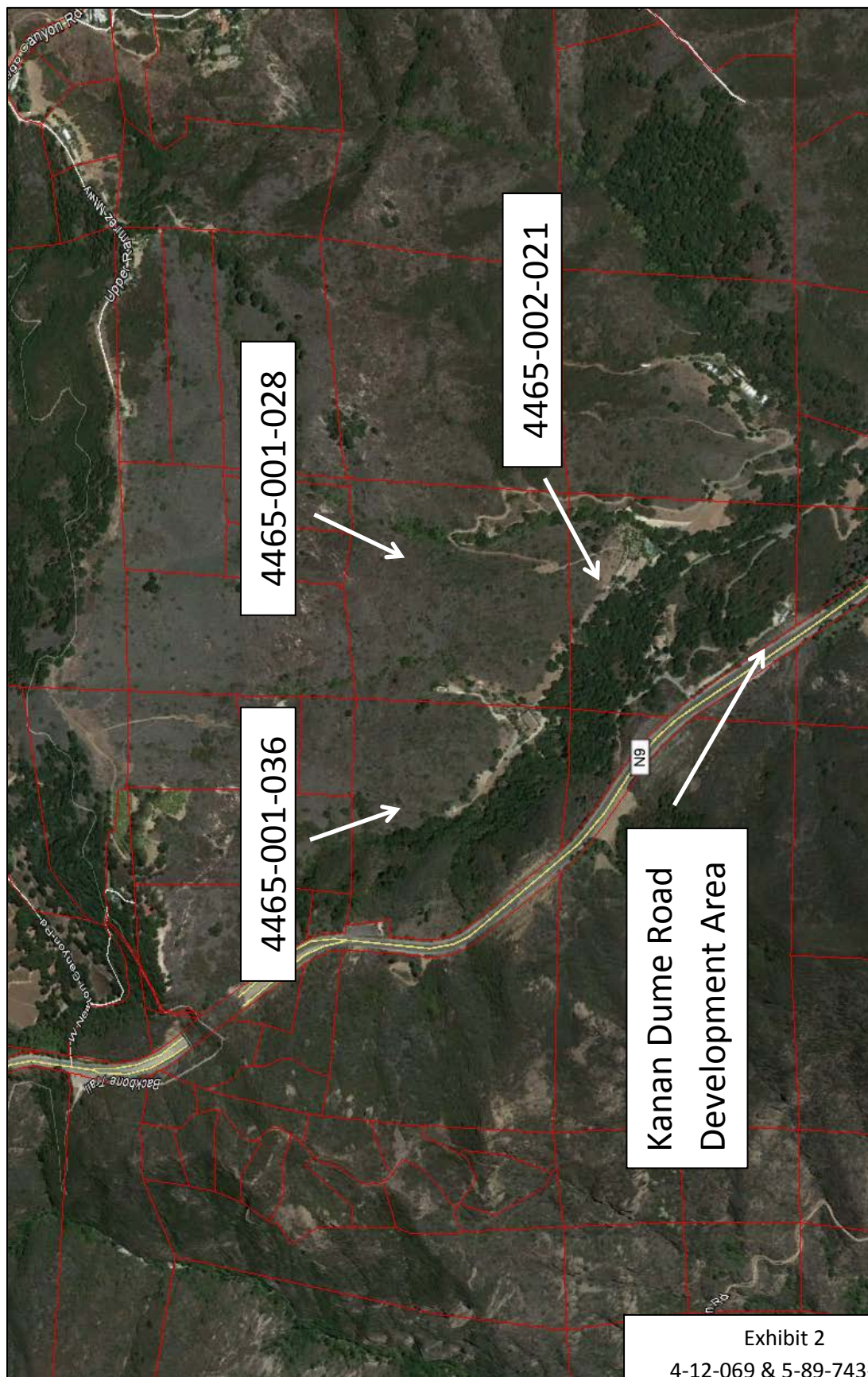
Substantive File Documents:

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; Grading Memo, by Pacific Coast Civil, Inc, dated October 9, 2012; County of Los Angeles Plot Plan 39558; Los Angeles County Building Permit BL 0910 9505250007; Biological Evaluation of the Kanan Dume Road Development Area, by Glenn Lukos and Associates, dated October 4, 2012; Biological Study for The Women's Facility and Communications Facility, by Glenn Lukos and Associates, dated October 2013; Engineering Geologic Investigation Report, by Gold Coast Geoservices, Inc., dated July 24, 2013; Consent Cease and Desist Order CCC-12-CD-05, Consent Restoration Order CCC-12-RO-05, Staff Report: Recommendations and Findings for Consent Cease and Desist and Consent Restoration Orders, dated 6/28/12; Coastal Development Permit 5-89-743; Coastal Development Permit Amendment 5-89-743-A1; and Coastal Development Permit Waiver 4-07-152-W.



Project Site

Exhibit 1
4-12-069 & 5-89-743-A2
Vicinity Map



4465-001-028

4465-002-021

4465-001-036

Kanan Dume Road
Development Area

Exhibit 2
4-12-069 & 5-89-743-A2
Aerial Photograph

THESE PLANS ARE THE PROPERTY OF THE ARCHITECT. NO PART OF THESE PLANS MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

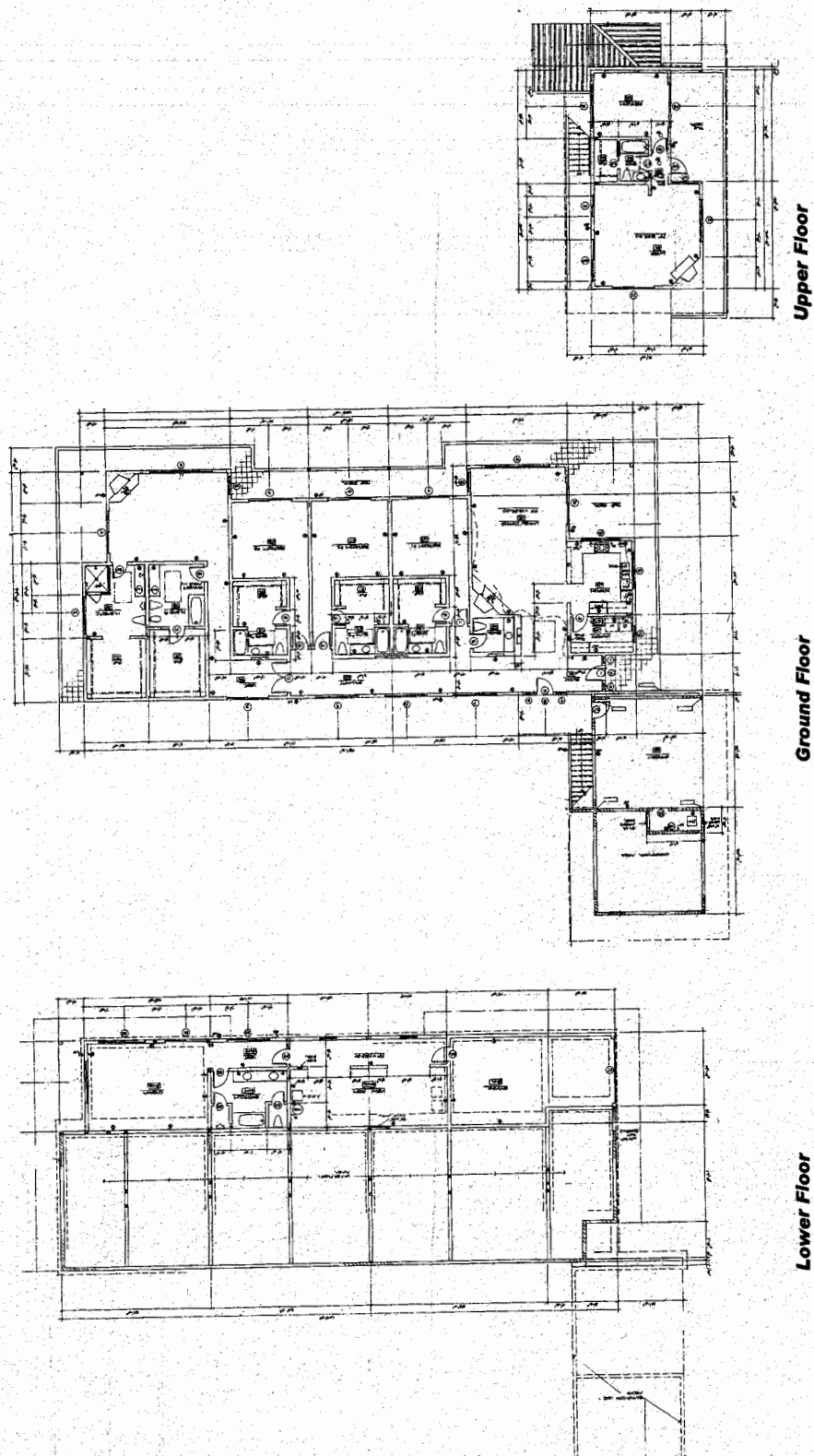
Architect:
 The House of the Future, LLC
 225 Vermont Circle
 Nashville, TN 37228
Engineer/Consultant:
 Moore & Associates, Inc.
 813 Madison Blvd., Suite 105
 Santa Monica, CA 90401
 Tel: 310-555-8775
 Fax: 310-555-8775

Insurance & Reviews:
 1st ESR
 2nd ESR
 3rd ESR

Contracted Use Agreement
 2890 Kanan Dume Rd.
 Malibu, CA 90265

Yellow House
 2890 Kanan Dume
 Existing Floor Plans
 1" = 10'

A 2



Lower Floor

Ground Floor

Upper Floor

1 Yellow House - 2890
 1" = 10'

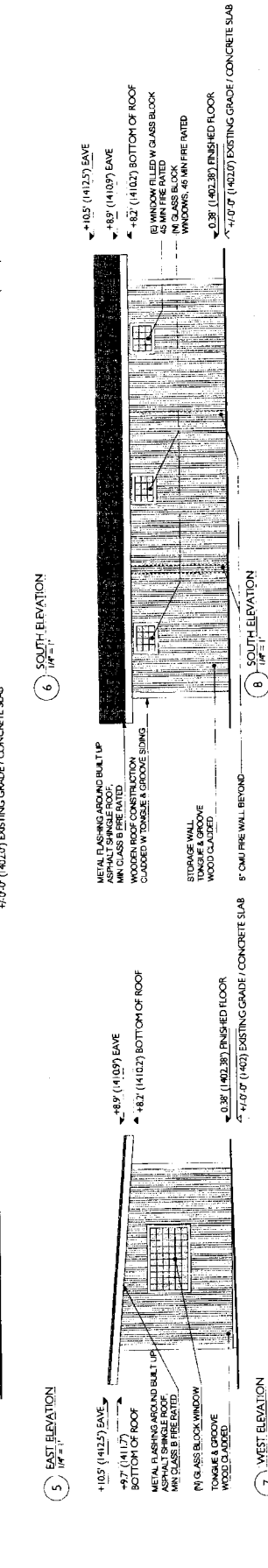
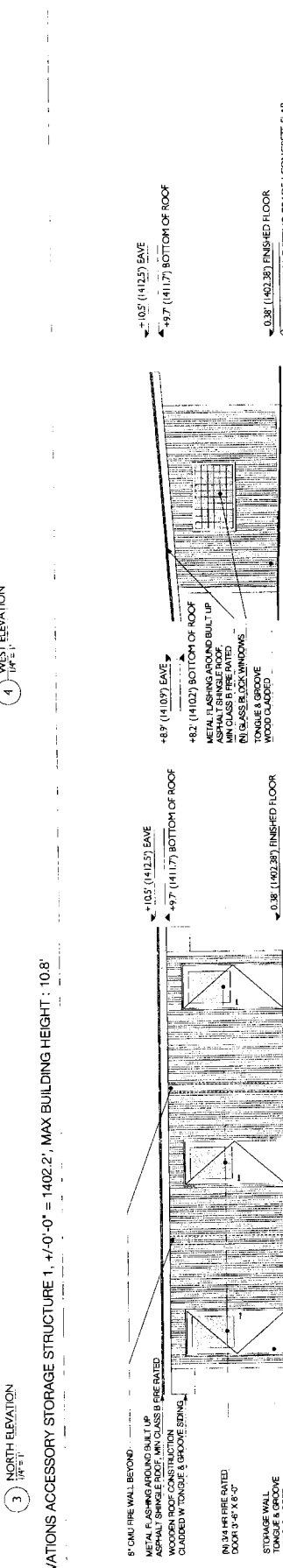
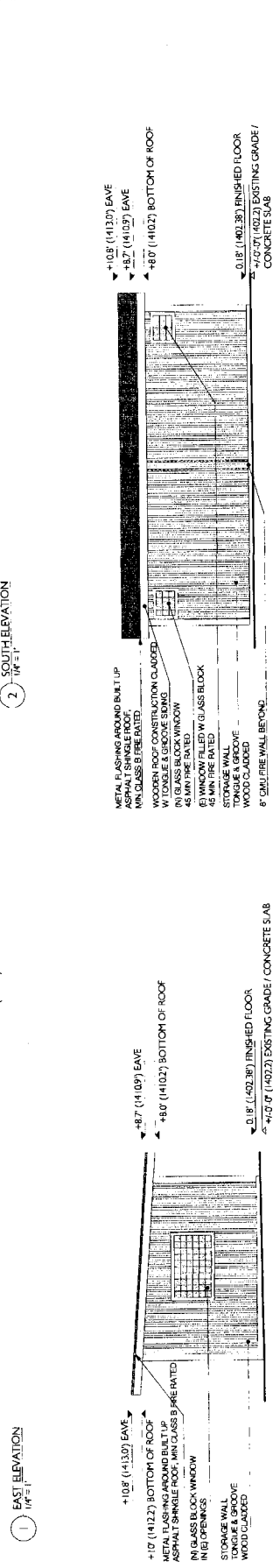
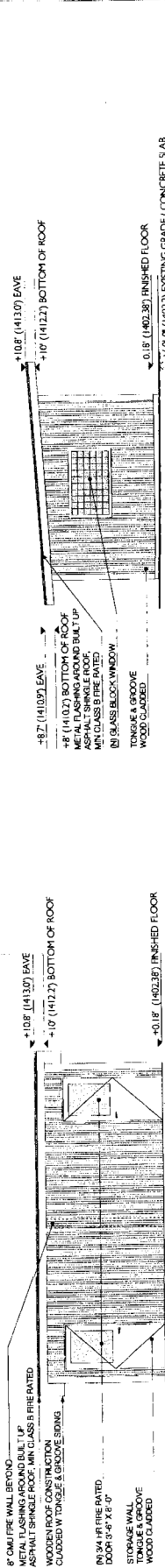
ALL NEW WORK IS PROPOSED. ALL EXISTING ELEMENTS SHOWN ARE EXISTING.

PLAN INDEX:

- 1 SITE PLAN / GENERAL NOTES
- 2 FLOOR / ROOF PLANS
 - ACCESSORY STORAGE STRUCT. 1 & 2
 - (TRUCKS, MAINTENANCE CONTAINERS
NOT PART OF THIS PERMIT)
- 3 ELEVATIONS
 - ACCESSORY STORAGE STRUCT. 1 & 2
- 4 SECTIONS
 - ACCESSORY STORAGE STRUCT. 1 & 2



| NO. | DATE | REVISION |
|-----|----------|-------------------|
| 1 | 07-14-11 | ISSUED FOR PERMIT |
| 2 | 07-14-11 | REVISION |
| 3 | 07-14-11 | REVISION |
| 4 | 07-14-11 | REVISION |
| 5 | 07-14-11 | REVISION |
| 6 | 07-14-11 | REVISION |
| 7 | 07-14-11 | REVISION |
| 8 | 07-14-11 | REVISION |



ELEVATIONS ACCESSORY STORAGE STRUCTURE 1, 4'-0'-0" = 1402.2', MAX BUILDING HEIGHT: 10.8'

ELEVATIONS ACCESSORY STORAGE STRUCTURE 2, 4'-0'-0" = 1402.0', MAX BUILDING HEIGHT: 10.5'

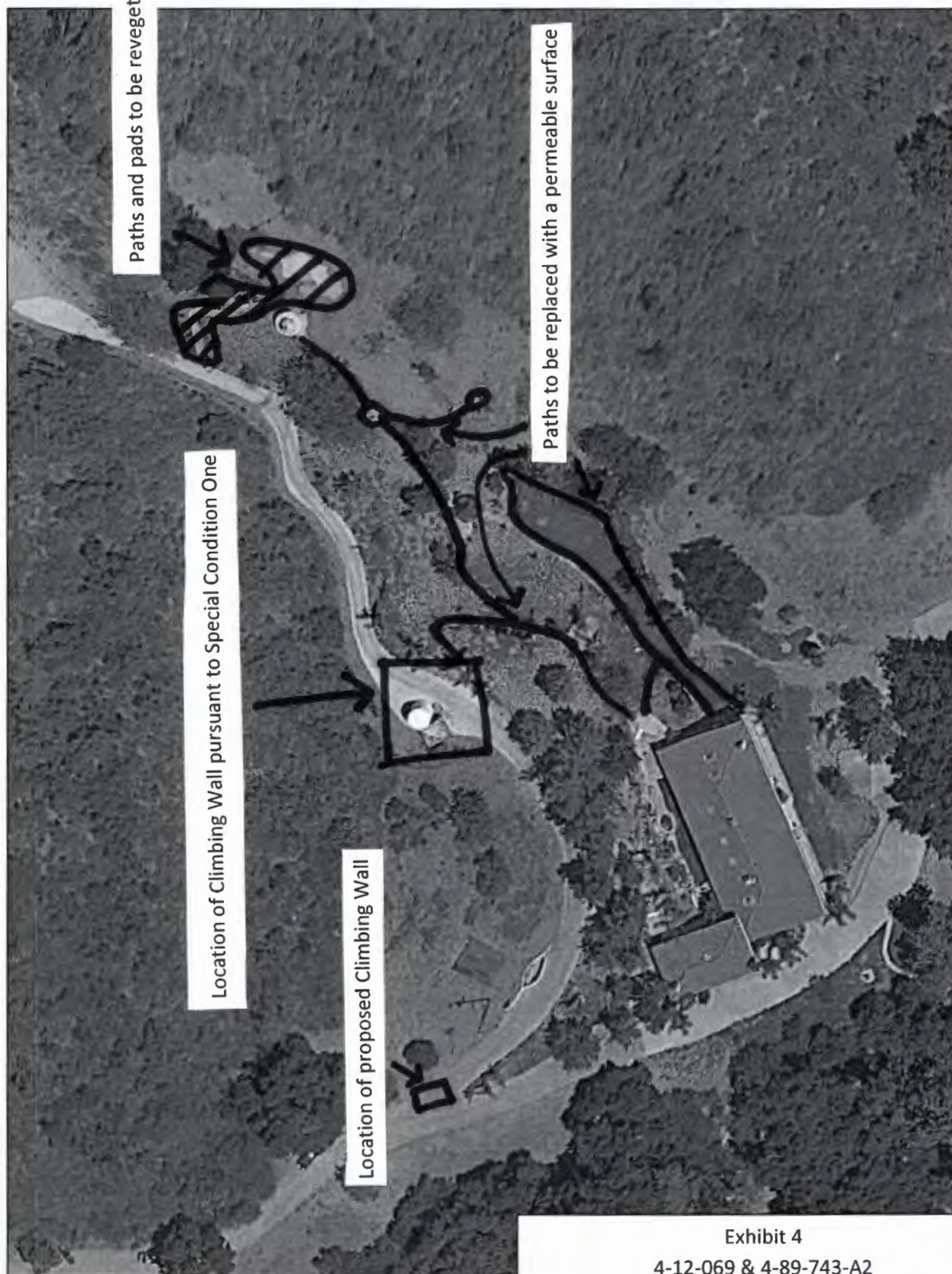


Exhibit 4
4-12-069 & 4-89-743-A2
Location of Climbing Wall, Concrete Pads, and
Pathways

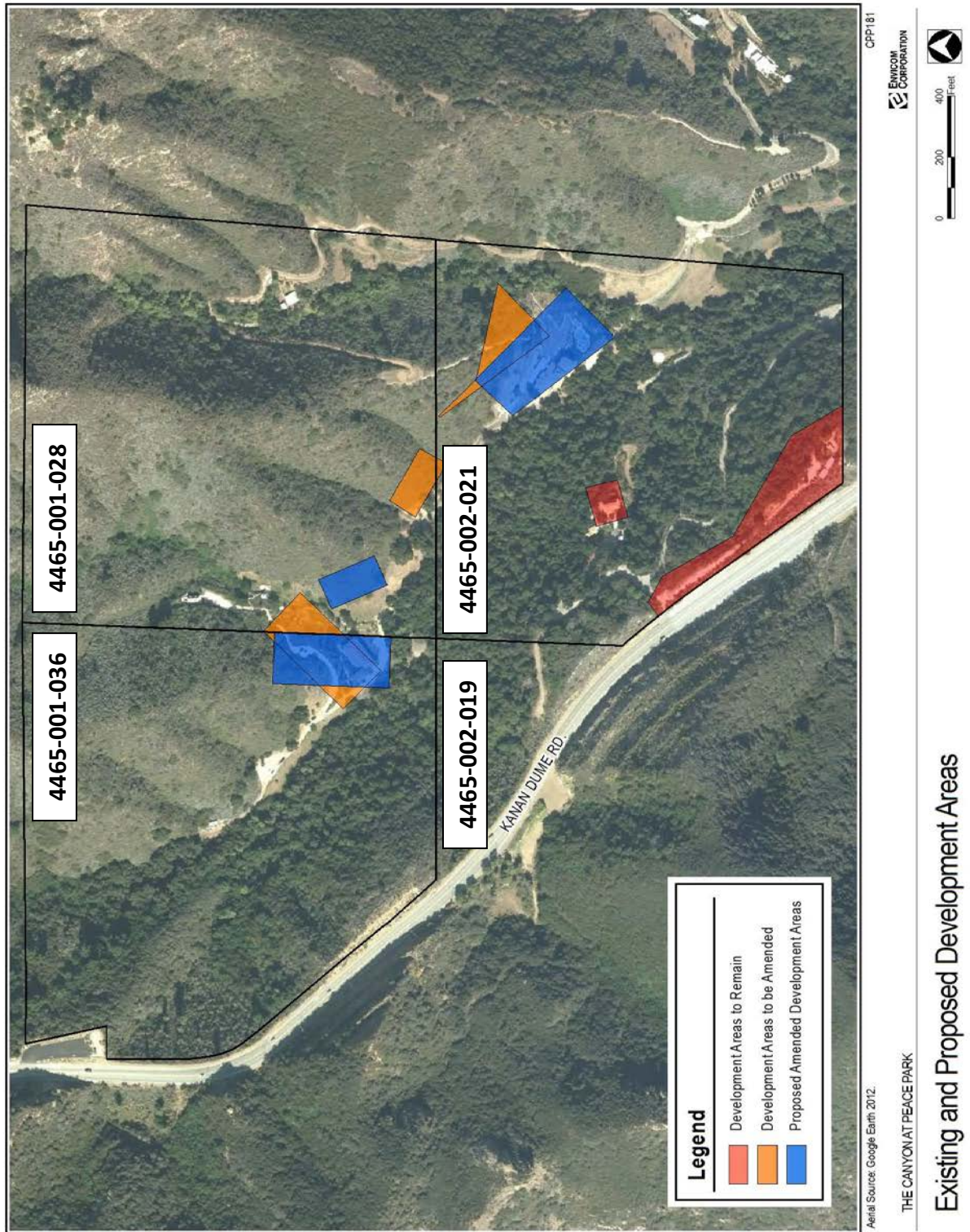


Exhibit 5
4-12-069 & 4-89-743-A2
Location of Development Areas

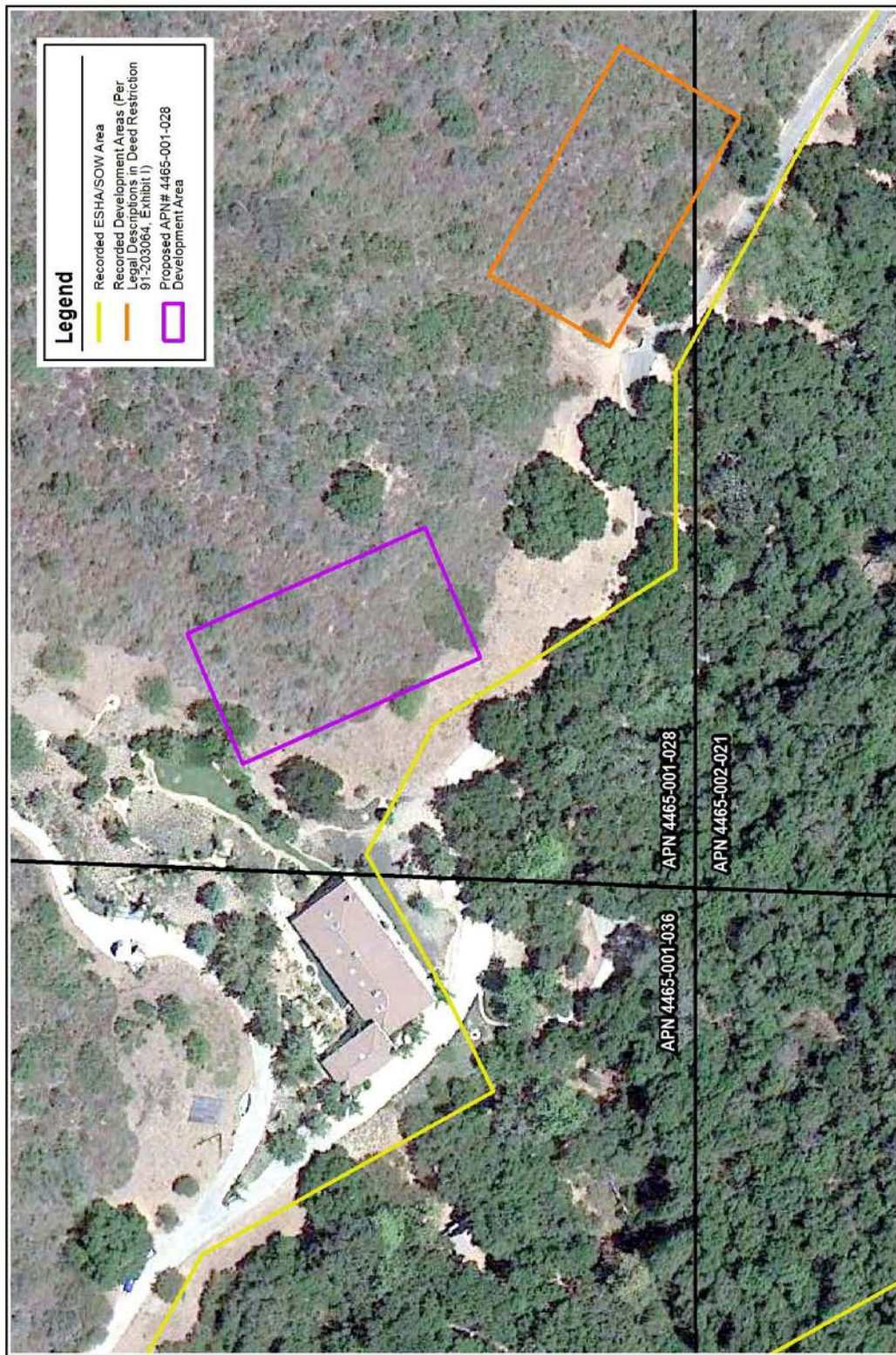


Aerial Source: Google Earth 2012.

THE CANYON AT PEACE PARK

Recorded and Corrected Development Area on APN 4465-002-021 (Men's House)

Exhibit 6
4-12-069 & 4-89-743-A2
Development Area One



Recorded and Proposed Development Area for APN# 4465-001-028

Exhibit 7
4-12-069 & 4-89-743-A2
Development Area Two

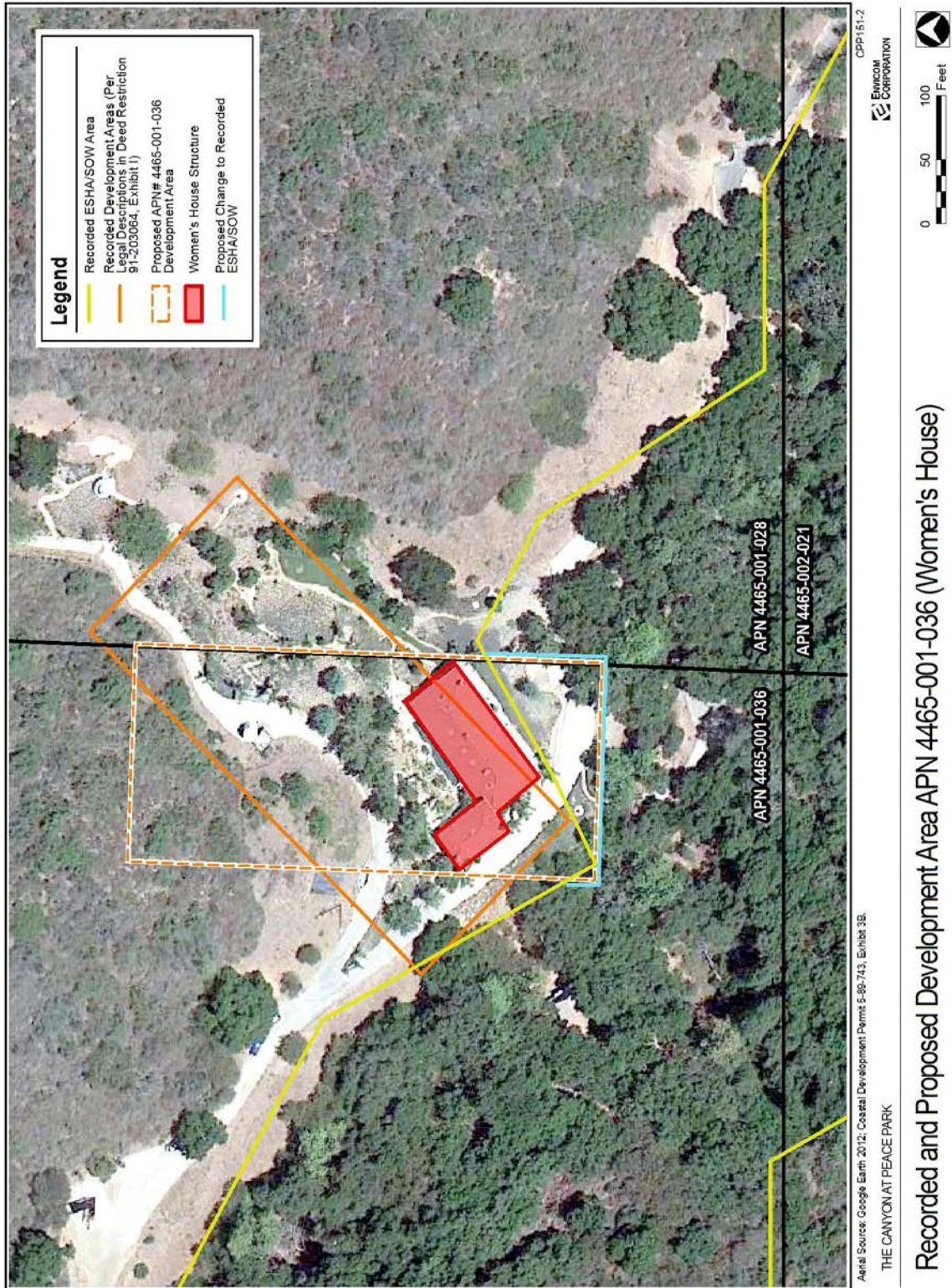


Exhibit 8
4-12-069 & 4-89-743-A2
Development Area Three

**CONSENT CEASE AND DESIST ORDER CCC-12-CD-05 AND CONSENT
RESTORATION ORDER CCC-12-RO-05**

- 1.0 **Consent Cease and Desist Order CCC-12-CD-05.** Pursuant to its authority under California Public Resources Code ('PRC') Section 30810, the California Coastal Commission ('Commission') hereby orders and authorizes the United World of the Universe Foundation and The Canyon at Peace Park and all their successors and assigns (hereinafter collectively referred to as 'Respondents') and those officers and employees of Respondents, or other individuals acting on behalf of Respondents to:
- 1.1 Cease and desist from engaging in any further development, as that term is defined in PRC Section 30106, that would normally require a coastal development permit on any of the property identified in Section 12.0 below ('Subject Properties'), unless authorized pursuant to the Coastal Act, PRC Sections 30000-30900, which includes through these Consent Orders.
- 1.2 Cease and desist from maintaining on the Subject Properties any of the following: (a) any Unpermitted Development (defined in Section 13.0, below), including any of the unpermitted physical structures and materials on the Subject Properties, or other unpermitted changes in the intensity of use to the Subject Properties, resulting therefrom; or (b) development inconsistent with Commission Coastal Development Permit ('CDP') 5-89-743.
- 1.3 Remove, subject to the terms in these Consent Orders and pursuant to an attached removal plan or a removal plan consistent with Section 8.0 below, and pursuant to the terms and conditions set forth herein, all physical items placed or allowed to come to rest on the Subject Properties as a result of Unpermitted Development, including, but not necessarily limited to:

Graded roads, non-native invasive vegetation, residences and appurtenant structures, accessory structures including water tanks, trailers, pavement, landscaping, culverts, and fill/paving within and along streams.

Through the execution of Consent Cease and Desist Order CCC-12-CD-05, below, Respondents agree to comply with its terms and conditions. Respondents shall comply with this Order and shall cause its agents, contractors, and employees to comply with this Order, including by, among other things, distributing copies to any aforementioned parties undertaking activities relevant to this Order, and incorporating a provision in

contracts to undertake activities relevant to this Order requiring such parties to comply with the terms and conditions of this Order.

- 2.0 **Consent Restoration Order CCC-12-RO-05.** Pursuant to its authority under PRC Section 30811, the Commission hereby orders and authorizes Respondents to restore the Subject Properties as described in Sections 4.0, 5.0, 6.0, and 8.0 below. Through the execution of Consent Restoration Order No. CCC-12-RO-05, below, Respondents agree to comply with its terms and conditions.

Provisions Common to Both Orders. CCC-12-CD-05 and CCC-12-RO-05 are hereinafter collectively referred to as ‘the Consent Orders’.

3.0 **Definitions.**

- 3.1 **‘Pump House’** The approximately 10 foot by 10 foot structure on APN 4465-002-021, authorized pursuant to CDP 5-89-743 for the purpose of housing a pump, and which has since been converted into an approximately 1,500 sq foot unpermitted residence. Coastal Commission Waiver De Minimis Number 4-11-064 authorized the removal of the 1,250 sq foot structure constructed around and on top of the authorized Pump House.
- 3.2 **‘Tree House’** The unpermitted structure located in the southwestern portion of APN 4465-001-036, located within a designated Significant Oak Woodland and within an area subject to the easement for open space, view preservation, and habitat protection.
- 3.3 **‘A-Frame’** The unpermitted structure on APN 4465-001-028, north of the Women’s Facility, located within an area subject to an easement for protection of watershed and wildlife corridors, and view protection.
- 3.4 **‘Men’s Facility’** The 7,346 sq foot residence, and appurtenant garage, pool, and pond, which occupies the northwest portion of APN 4465-002-021, and which was authorized by CDP 5-89-743.
- 3.5 **‘Women’s Facility’** The 4,971 sq foot residence, constructed without the benefit of a CDP, and 500 sq foot garage, constructed in 1997 on APN 4465-001-036, which is principally located within Development Area 3, as identified in CDP 5-89-743.
- 4.0 **Removal and Restoration of Impacted Areas.** Respondents shall implement the applicable approved Restoration Plans, consistent with Section 8.0 of these Consent Orders and attached hereto, for removal and restoration of each of the

elements of unpermitted development enumerated in this Section. Respondents shall commence implementation of each of the Restoration Plans within one hundred and twenty (120) days of the effective date of these Consent Orders, or if Los Angeles County approval is necessary to undertake any subject Restoration Plan, Respondents shall inform Commission staff and this deadline shall commence within one hundred and twenty (120) days of approval by Los Angeles County for any subject Restoration Plan requiring Los Angeles County approval. Respondents shall complete all elements of each Restoration Plan, excepting each associated Monitoring Plan, no later than one hundred and twenty (120) days from commencing implementation of any subject Restoration Plan. The Monitoring Plan shall be implemented consistent with the terms of each subject Monitoring Plan. The Executive Director may extend the deadlines or modify the approved schedule for good cause pursuant to Section 19.0 of these Consent Orders.

- 4.1 **The Pump House.** The Pump House shall be removed and restored pursuant to the Attachment 1, the 'Restoration Plan for the Removal of a Portion of the Pump House Foundation and Concrete Slab'.
 - (A) Removal and restoration shall not apply to: the underlying permitted housing which covers the pump, an apron around the housing, and an access path to the propane tank as depicted in Attachment 1, the 'Restoration Plan for the Removal of a Portion of the Pump House Foundation and Concrete Slab'.
 - (B) Respondents agree that any repair and maintenance exemptions, including pursuant to Sections 13252 and 13250 of the Commission's Regulations, that might otherwise apply will not be applicable to the retaining wall located adjacent to the Pump House. Any repair, maintenance, replacement, or redevelopment of said retaining wall shall require a CDP, and failure to obtain a CDP for such activities will constitute a violation of these Consent Orders.
- 4.2 **Tree House.** The Tree House structure and surrounding impacted area, including the footbridge across the stream on APN 4465-001-036 and any physical development demarcating the footpath through the adjacent woodland, shall be removed and restored pursuant to Attachment 2, the 'Restoration Plan for the Removal of the Tree House'.
- 4.3 **A-Frame and Road.** The A-Frame structure on APN 4465-001-028 and access road on APNs 4465-001-028 and 4465-001-036 shall be removed and restored pursuant to Attachment 3, the 'Restoration Plan for the

Removal of the A-Frame, A-Frame Road, and Women's House Northwest Road'.

- 4.4 **Structure, Footpath, and Overlook Road.** The two structures located adjacent to the riparian corridor on APN 4465-001-028 north of the parking area, the spur road accessing the knoll on APN 4465-001-028, which provides access to overlook the 'Men's Facility' from the riparian corridor to the east, and any physical development demarcating the footpath originating at the Men's Facility and terminating at the knoll shall be restored pursuant to Attachment 4, the 'Restoration Plan for the Removal of the Two Structures, Footpath, and Overlook Road'.
- 4.5 **Parking Area Extension.** The parking area extension, including the paving and the installation of culverts placed within a stream, not approved by CDP 5-89-743 or existing prior to the Coastal Act, shall be removed and restored with native vegetation pursuant to Attachment 5, the 'Restoration Plan for the Removal of the Parking Area Extension'.
- 4.6 **Landscaping and Road.** The road emanating to the northwest from the Women's Facility along the riparian corridor on APN 4465-001-036 shall be removed and restored pursuant to Attachment 3, the 'Restoration Plan for the Removal of the A-Frame, A-Frame Road, and Women's House Northwest Road', and the non-native landscaping around the Women's Facility shall be removed pursuant to Attachment 6, the 'Restoration Plan for the Removal of Women's House Landscaping'.
- 4.7 **Guest House Road.** The road originating at the guest house on APN 4465-002-021, progressing east and then west along the hillside below the guest house shall be restored pursuant to Attachment 7, the 'Restoration Plan for the Removal of the Guest House Road'.
- 4.8 **Peace Pagoda.** Respondents shall submit for the review and approval of the Commission's Executive Director, a Removal, Erosion Control, Restoration, Revegetation, and Monitoring Plan for the removal of the Peace Pagoda and associated paths if the permit amendment mentioned in Section 6.1(B), below, does not result in the situation of a development area within 200-feet of the Peace Pagoda and paths. This Restoration Plan shall be consistent with the provisions set forth in Section 8.0, below, and shall be submitted to Commission staff within ninety (90) days of final Commission action on the permit amendment mentioned below in Section 6.1(B).

5.0 Submittal of After-the-Fact Coastal Development Permit Application.

5.1 Communications Facility.

- (A) Within ninety (90) days of the effective date of these Consent Orders, Respondents shall submit, and shall not withdraw or impede final Commission action in any way on, a ‘complete’ coastal development permit application for after-the-fact approval of the Communications Facility situated on the knoll overlooking the Men’s Facility, should they wish to retain said Communications Facility. Where a Los Angeles County approval is required for the coastal development permit application to be ‘complete’, Respondents are diligently working to obtain County approval, and County review is still pending, Respondents may request an extension, pursuant to Section 19.0, of deadlines necessarily affected.
- (B) Respondents shall comply with the terms and conditions of any permit issued pursuant to the application submitted under Section 5.1(A), above, within two (2) years of final Commission action.
- (C) Within ninety (90) days of the effective date of these Consent Orders, Respondents shall submit, for the review and approval of the Commission’s Executive Director, a Removal, Erosion Control, Restoration, Revegetation, and Monitoring Plan for the removal of the Communications Facility if Respondents do not apply to retain in the permit application required by Section 5.1(A), above. This Restoration Plan shall be consistent with the provisions set forth in Section 8.0, below.

5.2 Women’s Facility.

- (A) Within ninety (90) days of the effective date of these Consent Orders, Respondents shall submit, and shall not withdraw or impede final Commission action in any way on, a ‘complete’ coastal development permit application for after-the-fact approval of any of the following development that Respondents wish to retain within APN 4465-001-036. Where a Los Angeles County approval is required for the coastal development permit application to be ‘complete’, Respondents are diligently working to obtain County approval, and County review is still pending, Respondents may request an extension, pursuant to Section 19.0, of deadlines necessarily affected.
 - (1) The Women’s Facility, garage guesthouse, solar panels, accessory structures, water tank, the road accessing the

water tank, and accessory development within or near Development Area 3; and

- (2) The climbing wall and the maintenance, trash, and recycling facility within or near Development Area 3 or which Respondents may seek to retain within or near Development Area 3, or to relocate within another Development Area on the Subject Properties.
 - (a) Development in Section 5.2(A)(2) may be temporarily located to a previously disturbed area within the development area adjacent to Kanan Dume Road on APN 4465-002-021 during the pendency of the above-mentioned permit application.
- (B) The permit application must include information necessary to evaluate all grading and landform alteration associated with the development mentioned in Section 5.2(A)(1-2).
- (C) Respondents shall comply with the terms and conditions of any permit issued pursuant to the application submitted under Section 5.2(A), above, within two (2) years of final Commission action.
- (D) Within ninety (90) days of the effective date of these Consent Orders, Respondents shall submit, for the review and approval of the Commission's Executive Director, a Removal, Erosion Control, Restoration, Revegetation, and Monitoring Plan for removal of any development listed in Section 5.2(A)(1 or 2) that Respondents do not apply to retain in the permit application required by that Section. This Restoration Plan shall be consistent with the provisions set forth in Section 8.0, below.

6.0 Coastal Development Permit Amendment

- 6.1 Concurrent with the permit application of Section 5.0, Respondents shall submit, and not withdraw or impede final Commission action in any way on, an application to amend CDP 5-89-743 in the following manner:
 - (A) To include any portion of the two meditation trailers, shed, and associated development located east of Kanan Dume Road which they wish to retain.

- (B) To amend the location of the development area on APN 4465-001-028 to one of two approximate locations depicted on Attachment 12.
 - (1) Should the development area, as amended, be partially or wholly situated on APN 4465-001-036, Respondents shall submit, as part of the coastal development permit application discussed in Section 5.0, an application to adjust the lot line between APN 4465-001-036, and APN 4465-001-028 such that each resulting lot contains one development area.
 - (2) Respondents shall comply with the terms and conditions of the above-described amendment and permit within two (2) years of final Commission action.
 - (3) Should the development area, as amended, be partially or wholly situated on APN 4465-001-036, and should Respondents fail to apply to the Commission for a lot line adjustment, or should the Commission deny the above-described lot line adjustment, Respondents shall submit, for the review and approval of the Commission's Executive Director, a Removal, Erosion Control, Restoration, Revegetation, and Monitoring Plan for the removal of the Peace Pagoda and restoration of areas impacted by the development. This Restoration Plan shall be submitted within thirty (30) days of final action on said denial, or within ninety (90) days of the effective date of these Consent Orders.
- (C) To amend the location of the development area on APN 4465-001-036.
- (D) To correct the legal description of the development area on APN 4465-002-021 to render it consistent with CDP 5-89-743.
- (E) Respondents shall comply with the terms and conditions of any permit issued pursuant to the application submitted under Sections 6.1(A-D), above, within two years of final Commission action.

7.0 Denial of Development. Respondents shall submit, for the review and approval of the Commission's Executive Director, a Removal, Erosion Control, Restoration, Revegetation, and Monitoring Plan for the removal of development and restoration of areas impacted by the development, for any development for which

these Consent Orders provide for application to the Commission, and for which the Commission denies authorization. This Restoration Plan shall be submitted within ninety (90) days of final action on said denial, and shall be consistent with the provisions set forth in Section 8.0, below.

- 8.0 Restoration Plan. These Consent Orders require the preparation and implementation of a Restoration Plan to remove unpermitted development and to restore impacted areas on the Subject Properties. Respondents shall submit any Restoration Plan required by Sections 5.0, 6.0, and 7.0 of these Consent Orders, for review and approval of the Commission's Executive Director, within the deadlines set forth in these Consent Orders. The Restoration Plans provided for in Section 4.0, and attached hereto, have been approved by the Executive Director as consistent with the requirements of Section 8.0 set forth below, and do not require further approval unless modified or amended. The Restoration Plan shall outline all proposed removal activities, proposed remedial grading, and proposed re-vegetation activities and mitigation, in the subject area, as well as monitoring plans, and shall include the following elements and requirements.

8.1 **General Provisions.**

- (A) The Restoration Plan shall be prepared by a qualified restoration ecologist(s), resource specialist(s), and/or engineer ('Specialist'). Prior to the preparation of the Restoration Plan, Respondents shall submit for the Executive Director's review and approval the qualification of the proposed Specialist, including a description of the proposed Specialist's educational background, training and experience related to the preparation and implementation of the Restoration Plan described herein. If the Executive Director determines that the qualifications of Respondents' resource specialist is not adequate to conduct such restoration work, he/she shall notify Respondents and, within 10 days of such notification, Respondents shall submit for the Executive Director's review and approval a different Specialist.
- (B) The Restoration Plan shall include a schedule/timeline of activities, the procedures to be used, and identification of the parties who will be conducting the restoration activities.
- (C) The Restoration Plan shall include a detailed description of all equipment to be used. All tools utilized shall be hand tools unless the Specialist demonstrates to the satisfaction of the Executive Director that mechanized equipment is needed and will not impact resources protected under the Coastal Act, including, but not

limited to: geological stability, integrity of landforms, freedom from erosion, and the existing native vegetation.

- (1) If the use of mechanized equipment is proposed, the Restoration Plan shall include limitations on the hours of operations for all equipment and a contingency plan that addresses, at a minimum: 1) impacts from equipment use; 2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and responses thereto; and 3) any water quality concerns. The Restoration Plan shall designate areas for staging of any construction equipment and materials, including receptacles and temporary stockpiles of graded materials, all of which shall be covered on a daily basis.
- (D) The Restoration Plan shall specify that no demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wind or runoff erosion and dispersion.
 - (1) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (E) The Restoration Plan shall identify the location of the disposal site(s) for the off-site disposal of all materials removed from the Subject Properties and all waste generated during restoration activities pursuant to these Consent Orders. If a disposal site is located in the Coastal Zone and is not an existing sanitary landfill, a coastal development permit is required for such disposal. All hazardous waste must be disposed of at a suitable licensed disposal facility.
- (F) The Restoration Plan shall specify the methods to be used during and after restoration to stabilize the soil and make it capable of supporting native vegetation. Such methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid or similar materials. Any soil stabilizers identified for erosion control shall be compatible with native plant recruitment and establishment. The Restoration Plan shall also include all measures that will be installed on the Subject Properties and maintained until the impacted areas have been revegetated to minimize erosion and the transport of sediment.

- (G) The Restoration Plan shall identify all areas on which the Restoration Plan are to be implemented, and upon which the restoration will occur ('Restoration Area'). The Restoration Plan shall also state that prior to the initiation of any restoration or removal activities, the boundaries of the Restoration Area shall be physically delineated in the field, using temporary measures such as fencing stakes, colored flags, or colored tape. The Restoration Plan shall state further that all delineation materials shall be removed when no longer needed and verification of such removal shall be provided in the annual monitoring report that corresponds to the reporting period during which the removal occurred.

8.2 Erosion Control Plan.

- (A) Respondents shall submit an Erosion Control Plan, prepared by a qualified Specialist, approved pursuant to Section 8.1(A), as part of the Restoration Plan, to address ground disturbance during any construction or restoration activities, and during the establishment of the vegetation planted pursuant to Section 8.5, below.
 - (1) The erosion control measures are required to be installed and fully functional on the Restoration Area prior to or concurrent with the initial removal and restoration activities required by these Consent Orders and maintained throughout the removal/restoration process to minimize erosion across the site and sedimentation of streams, tributaries, drains and culverts.
- (B) The Erosion Control Plan shall: 1) include a narrative report describing all temporary run-off and erosion control measures to be used during removal/restoration activities; 2) identify and delineate on a site or grading plan the locations of all temporary erosion control measures; and 3) specify that the removal work and construction of the permanent erosion control features shall take place only during the dry season (April 1- November 1). This period may be extended for a limited period pursuant to the provisions of Section 19.0, below.
 - (1) All temporary construction related erosion control materials shall be comprised of bio-degradable materials and shall be removed from the construction site once the permanent erosion control features are established.

- (C) In those areas where erosion control measures may be immediately necessary, Respondents shall install said measures in a timely manner to as to avoid further resource impacts.

8.3 **Removal Plan.**

- (A) As part of the Restoration Plan, Respondents shall submit a Removal Plan, prepared by a qualified Specialist, approved pursuant to Section 8.1(A), to govern the removal and off-site disposal of all unpermitted development required to be removed pursuant to these Consent Orders, unpermitted development for which no authorization is sought by the deadlines established in these Consent Orders, and unpermitted development for which authorization is denied by the Commission.
 - (1) The Removal Plan shall include a site plan showing the location and identity of all Unpermitted Development to be removed from the Subject Properties.
- (B) The Removal Plan shall indicate that removal activities shall not disturb areas outside of the removal and restoration area. Measures for the restoration of any area disturbed by the removal activities shall be included within the Revegetation Plan. These measures shall include the restoration of the areas from which the unpermitted development was removed, and any areas disturbed by those removal activities.

8.4 **Remedial Grading Plan.**

- (A) As part of the Restoration Plan, Respondents shall submit a Remedial Grading Plan prepared by a qualified Specialist approved pursuant to Section 8.1(A) for the review and approval of the Commission's Executive Director. The Remedial Grading Plan shall include sections showing original and finished grades, and a quantitative breakdown of grading amounts (cut/fill), drawn to scale with contours that clearly illustrate, as accurately as possible, the pre-development and the current, unpermitted topography. The Remedial Grading Plan shall demonstrate how the proposed remedial grading will restore the Subject Properties to their original, pre-violation topography, as determined in consultation with Commission staff biologist and engineer.
- (B) If the Specialist determines that alterations to the original topography are necessary to ensure a successful restoration of the

riparian and chaparral habitat, the Remedial Grading Plan shall also include this proposed topography and a narrative report that explains the justification for needing to alter the topography from the original contours.

8.5 Revegetation Plan.

- (A) Respondents shall submit a Revegetation Plan, prepared by a qualified Specialist, as approved under Section 8.1(A), above, as part of the Restoration Plan, outlining the measures necessary to revegetate the Restoration Area. The Revegetation Plan shall include detailed descriptions, including graphic representations, narrative reports, and photographic evidence as necessary, submitted pursuant to requirements of Section 8.6(B), of vegetation in the Restoration Area prior to any Unpermitted Development undertaken on the Subject Properties, and the current state of the Subject Properties. The Revegetation Plan shall demonstrate that the areas impacted by the Unpermitted Development on the Subject Properties will be restored using plant species endemic to and appropriate for the area in which the unpermitted activities occurred.
- (B) The Revegetation Plan shall identify the natural habitat type that is the model for the restoration and describe the desired relative abundance of particular species in each vegetation layer. This section shall explicitly lay out the restoration goals and objectives for the revegetation. Based on these goals, the plan shall identify the species that are to be planted, and provide a rationale for and describe the size and number of container plants and the rate and method of seed application. The Revegetation Plan shall indicate that plant propagules and seeds must come from local, native stock of the Santa Monica Mountains.
 - (1) If plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin (Santa Monica Mountains) and are not cultivars. The Revegetation Plan shall provide specifications for preparation of nursery stock. Technical details of planting methods (e.g. spacing, mycorrhizal inoculation, etc.) shall be included.
- (C) The Revegetation Plan shall include a detailed description of the methods that shall be utilized to restore the Restoration Area to the condition that existed prior to the unpermitted development occurring.

- (D) The Revegetation Plan shall include a map showing the type, size, and location of all plant materials that will be planted in the Restoration Area; the location of all non-native plants to be removed from the Restoration Area; the topography of all other landscape features on the site; and the location of photographs of the Restoration Areas that will provide reliable photographic evidence for annual monitoring reports, as described in Section 8.6(B), below.
- (E) The Revegetation Plans shall include a detailed explanation of the performance standards that will be utilized to determine the success of the restoration. The performance standards shall identify that 'x' native species appropriate to the habitat should be present, each with at least 'y' percent cover or with a density of at least 'z' individuals per square meter. The description of restoration success shall be described in sufficient detail to enable an independent specialist to duplicate it.
- (F) The Revegetation Plans shall include a schedule for installation of plants and removal of non-native plants. Respondents shall not employ non-native plant species, which could supplant native plant species in the Restoration Area.
 - (1) If the planting schedule requires planting to occur at a certain time of year beyond deadlines set forth herein, the Executive Director may, at the written request of Respondents, extend the deadlines as set forth in Section 19.0 of these Consent Orders in order to achieve optimal growth of the vegetation.
 - (2) The Revegetation Plan shall demonstrate that all non-native vegetation within the Restoration Area will be eradicated prior to any remedial grading and revegetation activities on the Subject Properties. In addition, the Revegetation Plan shall specify that non-native vegetation removal shall occur year round, including on a monthly basis during the rainy season (January through April) for the duration of the restoration project, as defined in Section 8.6.
- (G) The Revegetation Plan shall describe the proposed use of artificial inputs, such as irrigation, fertilizer or herbicides, including the full range of amounts of the inputs that may be utilized. The minimum amount necessary to support the establishment of the plantings for

successful restoration shall be utilized. No permanent irrigation system is allowed in the Restoration Area. Temporary above ground irrigation to provide for the establishment of plantings is allowed for a maximum of three (3) years or until the revegetation has become established, whichever comes first.

- (1) If, after the three (3) year time limit, the vegetation planted pursuant to the Revegetation Plan has not become established, the Executive Director may, upon receipt of a written request from Respondents, allow for the continued use of the temporary irrigation system. The written request shall outline the need for and duration of the proposed extension.

8.6 Monitoring Plan.

- (A) The plan shall indicate that Respondents shall submit a Monitoring Plan, as part of the Restoration Plan, that describes the monitoring and maintenance methodology, including sampling procedures, sampling frequency, and contingency plans to address potential problems with restoration activities or unsuccessful restoration of the area. The Monitoring Plan shall specify that the restoration Specialist shall conduct at least four site visits annually for the duration of the monitoring period set forth in Section 8.6(B), at intervals specified in the Restoration Plan, for the purposes of inspecting and maintaining, at a minimum, the following: all erosion control measures; non-native species eradication; trash and debris removal; and the health and abundance of original and/or replacement plantings.
- (B) Respondents shall submit, on an annual basis and during the same one-month period of each year (no later than December 31st of the first year), for five (5) years from the completion of implementation of the Revegetation Plan, according to the procedure set forth under Section 8.9, a written report, for the review and approval of the Executive Director, prepared by the qualified Specialist, evaluating compliance with the approved Restoration Plan. These reports shall also include photographs taken during the periodic site inspections pursuant to Section 8.6(A), at the same time of year, from the same pre-designated locations (as identified on the map submitted pursuant to Section 8.5(D)) indicating the progress of recovery in the Restoration Areas.

- (1) The locations from which the photographs are taken shall not change over the course of the monitoring period unless recommended changes are approved by the Executive Director, pursuant to Section 19.0 of these Consent Orders.
- (C) If periodic inspections or the monitoring reports indicate that the restoration project or a portion thereof is not in conformance with the Restoration Plan, or these Consent Orders, or has failed to meet the goals and/or performance standards specified in the Restoration Plan, Respondents shall submit a revised or supplemental Restoration Plan ('Revised Restoration Plan') for review and approval by the Executive Director. The Revised Restoration Plan shall be prepared by a qualified Specialist, approved by the Executive Director, and shall specify measures to correct those portions of the restoration that have failed or are not in conformance with the original approved Restoration Plan, or these Consent Orders. The Executive Director will then determine whether the Revised Restoration Plan must be processed as a modification of these Consent Orders, a new Restoration Order, or a new or amended coastal development permit. After the Revised Restoration Plan has been approved, these measures, and any subsequent measures necessary to carry out the original approved Restoration Plan, shall be undertaken by Respondents as required by Executive Director until the goals of the original approved Restoration Plan have been met. Following completion of the Revised Restoration Plan's implementation, the duration of the monitoring period, set forth in Section 8.6(D), shall be extended for at least a period of time equal to that during which the project remained out of compliance, but in no case less than two annual reporting periods.
- (D) At the end of the five (5) year monitoring period (or other duration, if the monitoring period is extended pursuant to Section 8.6(C)), Respondents shall submit, according to the procedure set forth under Section 8.9, a final detailed report prepared by a qualified Specialist for the review and approval of the Executive Director.
 - (1) If this report indicates that the restoration has in part, or in whole, been unsuccessful, based on the requirements of the approved Restoration Plans, Respondents shall submit a Revised Restoration Plan, in accordance with the requirements of Section 8.6(C) of the Consent Orders, and the monitoring program shall be revised accordingly.

- 8.7 Upon approval of the Restoration Plan (including the Removal, Remedial Grading, Revegetation, and Monitoring Plans) by the Executive Director, Respondents shall commence implementation of the Restoration Plan within one hundred and twenty (120) days after the Restoration Plan is approved, or if Los Angeles County approval is necessary to undertake any subject Restoration Plan, Respondents shall inform Commission staff and this deadline shall commence within no later than one hundred and twenty (120) days of approval by Los Angeles County. Respondents shall inform Commission staff if Los Angeles County approval is required within thirty (30) days of notification of such. Respondents shall complete all elements of the Restoration Plan, excepting the Monitoring Plan, no later than one hundred and twenty (120) days from commencing implementation of the Restoration Plan. The Monitoring Plan shall be implemented consistent with the terms of each subject Monitoring Plan. The Executive Director may extend this deadline or modify the approved schedule for good cause pursuant to Section 19.0 of these Consent Orders.
- 8.8 Within thirty (30) days of the completion of the work described pursuant to each phase (Removal Plan, Remedial Grading Plan, and Revegetation Plan), Respondents shall submit, according to the procedures set forth under Section 8.9, a written report, prepared by a qualified Specialist, for the review and approval of the Executive Director, documenting all restoration work performed on the Subject Properties pursuant to the specific component of the Restoration Plan. This report shall include a summary of dates when work was performed and photographs taken from the pre-designated locations (as identified on the map submitted pursuant to Section 8.5(D)) documenting implementation of the respective components of the Restoration Plan, as well as photographs of the Subject Properties before the work commenced and after it was completed.
- 8.9 All plans, reports, photographs and other materials required by these Consent Orders shall be sent to:

California Coastal Commission
Attn: Heather Johnston
45 Fremont Street, Ste 2000
San Francisco, CA 94105

With a copy sent to:

California Coastal Commission
Attn: N. Patrick Veasart
89 S. California Street, Ste 200
Ventura, California 93001

8.10 **Mitigation.**

- (A) Within one hundred and twenty (120) days of the effective date of these Consent Orders, Respondents shall begin implementation of the Mitigation Plan (Attachment 11), or if Los Angeles County approval is necessary to undertake the Mitigation Plan, Respondents shall inform Commission staff and this deadline shall commence within one hundred and twenty (120) days of approval by Los Angeles County. Respondents shall complete all elements of the Mitigation Plan, excepting subpart 'Monitoring Plan', no later than one hundred and twenty (120) days from beginning implementation. The Monitoring Plan shall be implemented consistent with the terms of the Monitoring Plan. The Executive Director may extend the deadlines or modify the approved schedule for good cause pursuant to Section 19.0 of these Consent Orders. The Mitigation Plan outlines the proposed 3.16 acres of mitigation to be undertaken on-site, reflecting a mitigation ratio of 1.67:1 (mitigation: damaged resources).
- (B) Within sixty (60) days of the effective date of these Consent Orders, Respondents shall purchase 2.33 acres in the Santa Monica Mountains Recreation and Conservation Authority's Mitigation Bank at a rate of \$12,000 per acre.

Additional Provisions Common to Both Orders.

- 9.0 Nothing in these Consent Orders shall preclude future proposals to develop or modify the Subject Properties if consistent with these Consent Orders and authorized pursuant to Coastal Act, PRC Sections 30000-30900. Any future development proposed on the Subject Properties will need to comply with all relevant Coastal Act standards.
- 10.0 **Revision of Deliverables.** The Executive Director may require revisions to future deliverables under these Consent Orders, not including the approved Restoration Plans and the Mitigation Plan documents attached hereto. The Respondents shall revise any such future deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval by the Executive Director, by the deadline established by the modification request from the Executive Director. The Executive Director may extend the deadline for submittals upon a written request and a showing of good cause, pursuant to Section 19.0 of these Consent Orders.

- 11.0 **Persons Subject to these Orders.** The United World of the Universe Foundation owns the properties subject to these Consent Orders, and The Canyon at Peace Park leases and operates a portion thereof. Collectively the aforementioned parties have stated their intentions to take responsibility for the violations alleged in Section 13.0, below. By executing these Consent Orders, Respondents attest that they have authority to conduct the work on the Subject Properties required by these Consent Orders, and agree to obtain all necessary permissions (access, etc.) to conduct and complete the work required to resolve the violations addressed herein. Respondents are jointly and severally subject to all the requirements of these Consent Orders. Respondents agree to undertake the work required herein, and agree to cause their current and future agents, contractors, and employees to comply with the terms and conditions of these Consent Orders, including by distributing copies of these Consent Orders to aforementioned parties undertaking activities relevant to the Consent Orders, and by incorporating a provision in contracts to undertake activities relevant to the Consent Orders requiring agents and contractors to comply with the terms and conditions of the Consent Orders.
- 12.0 **Identification of the Subject Properties.** The property that is the subject to these Consent Orders is located at 2900 Kanan Dume Road, Los Angeles County, California, which is also identified by Los Angeles County Assessor's Parcel Numbers 4465-002-021; 4465-001-036; and 4465-001-028.
- 13.0 **Description of the Unpermitted Development.**^{1 2}
- 13.1 Failure to restore native vegetation in, removal of native vegetation from, and re-grading of, roads previously restored or required to be restored pursuant to Special Condition 1 of CDP 5-89-743 including:
- (A) The unpaved road originating at the guest house on APN 4465-002-021, progressing east and then west along the hillside below the residence (Attachment 8); and
 - (B) The unpaved spur road accessing the knoll on APN 4465-001-028, which overlooks the 'Men's Facility' from the riparian corridor to the east (Attachment 9).

¹ The description herein of the violation at issue is not necessarily a complete list of all development on the Subject Properties that is in violation of the Coastal Act and/or that may be of concern to the Commission. Accordingly, Commission's silence regarding (or failure to address) other development on the Subject Properties is not indicative of the Commission's acceptance of, or acquiescence in, any such development.

² The Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings ('NOI'), dated March 19, 2012, addressed unpermitted development on seven contiguous parcels of land, known by the Los Angeles County Assessors Office as APNs 4465-002-021, 4465-001-036, 4465-001-028, 4465-001-029, 4465-002-012, 4465-005-036 and 4465-005-037. These Consent Orders only pertain to the APNs 4465-001-036, 4465-001-028, 4465-002-021, which are owned by the United World of the Universe Foundation. The unpermitted development referenced in the NOI on the remaining four parcels will be addressed separately in a subsequent action.

- 13.2 Native vegetation removal, including removal of ESHA, and grading and paving to create roads and cleared areas, including:
- (A) The road from the Women's Facility in Development Area 3 extending northeast to the A-Frame (Attachment 10) on APN 4465-001-036 and 4465-001-028; and
 - (B) The road emanating to the northwest from the Women's Facility along the riparian corridor (Attachment 10) on APN 4465-001-036, which widens into a graded node in the center and a graded node at the northwestern terminus, both of which are used for intermittent parking and storage of vehicles.
 - (C) Native vegetation removal and landform alteration associated with clearing and construction of a footpath on APNs 4465-002-021 and 4465-001-028 to the knoll accessed by the road referenced in Section 13.1(B) above (Attachment 9).
- 13.3 Installation of unpermitted development, including:
- (A) Change of use of two structures, associated cement pads, and appurtenant development on previously-cleared area of APN 4465-002-021 immediately east of Kanan Dume Road (Attachment 8).
 - (B) Native vegetation removal, grading, and conversion of an approximately ten foot by ten foot pump house into a single family residence with associated development on APN 4465-002-021 adjacent to the guest house authorized in CDP 5-89-743 (Attachment 8).
 - (C) Expansion of a parking area (approved by CDP 5-89-743) near the Men's Facility by 16,000 square feet, within and adjacent to riparian ESHA on APN 4465-002-021, including:
 - (1) Removal of riparian and native chaparral vegetation;
 - (2) Grading and paving, including within the dripline of several oak trees; and
 - (3) Installation of two culverts within the stream corridor (Attachment 9).
 - (D) Placement of a communications facility on the knoll above the Men's Facility located on APN 4465-002-021 (Attachment 9).

- (E) Removal of native vegetation, grading, and construction of a ‘Tree House’ structure on APN 4465-001-036 in riparian ESHA with associated access ways and appurtenant development (Attachment 10).
- (F) Removal of native vegetation, grading, and construction of a 5,000 square foot ‘Women’s Facility’ on APN 4465-001-036 with associated:
 - (1) Garage;
 - (2) Climbing wall;
 - (3) Guest house;
 - (4) Solar panels;
 - (5) Water tank;
 - (6) Maintenance, trash, and recycling facility; and
 - (7) Non-native/Invasive landscaping and walkways extending onto APN 4465-001-028 (Attachment 10), and providing access to the structure mentioned in Section 13.3(G), below.
- (G) Native vegetation removal and construction of the Peace Pagoda on APN 4465-001-028 with associated non-native/invasive landscaping (Attachment 10).
- (H) Native vegetation removal, grading, and construction of an ‘A-Frame’ structure on APN 4465-001-028, accessed by the road referenced in Section 13.2(A), above (Attachment 10).
- (I) Native vegetation removal, grading, and placement of two structures along the riparian corridor on APN 4465-001-028 north of the parking area referenced in Section 13.3(C), above (Attachment 9).
- (J) Placement of a bridge and decomposed granite footpath across the stream located on APN 4465-001-036 (Attachment 10).

14.0 **Commission Jurisdiction.** The Commission has jurisdiction over resolution of these alleged Coastal Act violations pursuant to PRC Section 30810 and 30811. In light of the desire of the parties to settle these matters, Respondents agree not to contest the Commission’s jurisdiction to issue or enforce these Consent Orders.

15.0 **Resolution of Matter Via Settlement.** In light of the intent of the parties to resolve these matters in settlement, Respondents have not submitted a “Statement of Defense” form as provided for in Sections 13181 and 13191 of Title 14 of the

California Code of Regulations and have agreed not to contest the legal and factual bases, the terms, or the issuance of these Consent Orders, including the allegations of Coastal Act violations contained in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings dated March 19, 2012. Specifically, Respondents have agreed not to contest the issuance or enforcement of these Consent Orders at a public hearing or any other proceeding.

- 16.0 **Effective Date and Terms of the Consent Orders.** The effective date of these Consent Orders is the date these Consent Orders are issued by the Commission. These Consent Orders shall remain in effect permanently unless and until rescinded by the Commission.
- 17.0 **Findings.** These Consent Orders are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled “Staff Report and Findings for Consent Cease and Desist Order No. CCC-12-CD-05 and Consent Restoration Order No. CCC-12-RO-05.” The activities authorized and required in these Consent Orders are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act. The Commission has authorized the activities required in these Consent Orders as being consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.
- 18.0 **Settlement/Compliance Obligation.**
- 18.1 In light of the intent of the parties to resolve these matters in settlement, Respondents have agreed to pay a monetary settlement in the amount of \$525,000. Payment shall be made in two equal installments of \$262,500 each, with the first installment due ninety (90) days from the effective date of these Consent Orders, and the second due one year and ninety days from the effective date of the Consent Orders. The settlement monies shall be deposited in the Violation Remediation Account of the California Coastal Conservancy Fund (see PRC Section 30823), or into such other public account as authorized by applicable California law at the time of the payment, and as designated by the Executive Director. The settlement payments shall be submitted to the Commission’s San Francisco Office, at the address provided in Section 8.9, to the attention of Heather Johnston of the Commission, payable to the account designated under the Coastal Act, and include a reference to the numbers of these Consent Orders.
- 18.2 Strict compliance with these Consent Orders by all parties subject thereto is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Executive Director grants an extension under Section 19.0, will constitute a violation of these Consent Orders and shall result in Respondents being liable for stipulated penalties in the amount of \$1,000

per day per violation. Respondents shall pay stipulated penalties regardless of whether Respondents have subsequently complied. If Respondents violate these Consent Orders, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including imposition of civil penalties and other remedies pursuant to PRC Sections 30820, 30821.6, and 30822 as a result of the lack of compliance with the Consent Orders and for the underlying Coastal Act violations described herein.

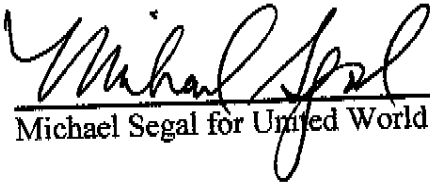
- 19.0 **Deadlines.** Prior to the expiration of the deadlines established by these Consent Orders, Respondents may request from the Executive Director an extension of the deadlines. Such a request shall be made in writing, 10 days in advance of the deadline, and directed to the Executive Director, care of Heather Johnston, in the San Francisco office of the Commission. The Executive Director may grant an extension of deadlines upon a showing of good cause, either if the Executive Director determines that Respondents have diligently worked to comply with their obligations under these Consent Orders, but cannot meet deadlines due to unforeseen circumstances beyond their control, or if the Executive Director determines that any deadlines should be extended if additional time would benefit the success of the obligations under the Consent Orders from an ecological or biological perspective.
- 20.0 **Severability.** Should any provision of these Consent Orders be found invalid, void or unenforceable, such illegality or unenforceability shall not invalidate the whole, but the Consent Orders shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.
- 21.0 **Site Access.** Respondents shall provide Commission staff and any other agency having jurisdiction over the work being performed under these Consent Orders with access to the Subject Properties to inspect the restoration activities and areas potentially affected by the restoration activities at all reasonable times, upon twenty four (24) hours notice, when the Executive Director determines feasible, having been provided to the appropriate representatives(s) of Respondents, who shall be designated for this purpose in the Restoration Plans. Nothing in these Consent Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the Subject Properties on which the violations are located, and on adjacent areas of the Subject Properties on which the impacted areas are located, and on adjacent areas of the Subject Properties to view the areas where development is being performed pursuant to the requirements of the Consent Orders for purposes, including, but not limited to: inspecting records; operating logs and contracts relating to the site; and overseeing, inspecting and reviewing the progress of Respondents’

implementation of the Restoration Plan and compliance with these Consent Orders.

- 22.0 **Government Liabilities.** Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to these Consent Orders, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to these Consent Orders.
- 23.0 **Settlement via Consent Orders.** In light of the desire to settle this matter via these Consent Orders and avoid litigation, pursuant to the agreement of the parties as set forth in these Consent Orders, Respondents hereby waive whatever right they may have to seek a stay pursuant to PRC section 30803(b) or to challenge the issuance and enforceability of these Consent Orders in a court of law or equity.
- 24.0 **Settlement of Claims.** The Commission and Respondents agree that these Consent Orders settle the Commission's monetary claims for relief from Respondents for the violations of the Coastal Act alleged in the Notice of Intent dated March 19, 2012 ("NOI"), occurring prior to the date of these Consent Orders, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under PRC Sections 30805, 30820, and 30822), with the exception that, if Respondents fail to comply with any term or condition of these Consent Orders, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of these Consent Orders. In addition, these Consent Orders do not limit the Commission from taking enforcement action due to Coastal Act violations on the Subject Properties beyond those that are the subject of the NOI.
- 25.0 **Successors and Assigns.** These Consent Orders shall run with the land, binding Respondents, including successors in interest, heirs, assigns, and future owners of the Subject Properties. Respondents agree that they shall provide notice to all successors, assigns, and potential purchasers of the Subject Properties of any remaining obligations under these Consent Orders. These Consent Orders are a personal legal obligation and Respondents are responsible for the work required by these Consent Orders without regard to the ownership of their property adjacent to the Subject Properties.
- 26.0 **Modifications and Amendments.** Except as provided in Section 19.0, and other minor non-substantive modifications, subject to agreement between the Executive Director and Respondents, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) and Section 13197 of the Commission's administrative regulations.

- 27.0 **Government Jurisdiction.** These Consent Orders shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.
- 28.0 **Limitation of Authority.**
- 28.1 Except as expressly provided herein, nothing in these Consent Orders shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Consent Orders.
- 28.2 Correspondingly, Respondents have entered into these Consent Orders and waived their right to contest the factual and legal bases for issuance of these Consent Orders, and the enforcement thereof according to its terms. Respondents have agreed not to contest the Commission's jurisdiction to issue and enforce these Consent Orders.
- 29.0 **Integration.** These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in these Consent Orders.
- 30.0 **Stipulation.** Respondents and their representatives attest that they have reviewed the terms of these Consent Orders and understand that their consent is final and stipulate to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:
On behalf of Respondents:



Michael Segal for United World of the Universe Foundation

6-28-12

Date

Robert Waggener for The Canyon at Peace Park

Date

Executed in _____ on behalf of the California Coastal Commission:

Charles Lester, Executive Director

Date

IT IS SO STIPULATED AND AGREED:
On behalf of Respondents:

Michael Segal for United World of the Universe Foundation

Date



Robert Waggener for The Canyon at Peace Park

Date

6/28/12

Executed in _____ on behalf of the California Coastal Commission:

Charles Lester, Executive Director

Date

Received

MAK 11 2014

California
Coastal Commission

DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of receipt of communication:

March 5, 2014 at 11:30 a.m.

Location of communication:

Phone

Type of communication:

Teleconference

Person(s) in attendance at time of communication:

Susan McCabe

Person(s) receiving communication:

Carole Groom

Name or description of project:

Item W26a - Coastal Permit Application No. 4-12-069 (The Canyon at Peace Park and United World of the Universe Foundation, Los Angeles County)

Detailed substantive description of the content of communication:

Representative indicated that applicants are in agreement with staff recommendation. However, representative of applicants indicated that the item has been postponed to be reviewed by Coastal Commission legal staff, though the representative was not aware of the reason for the postponement.

A briefing book was provided for this meeting and has been given to staff. Because the staff report was not made available, further conversation did not take place.

Date: March 10 2014

Signature of Commissioner: _____

Carole Groom

Exhibit 10
4-12-069 & 4-89-743-A2
Disclosure of Ex Parte
Communications

**FORM OF DISCLOSURE OF
EX PARTE COMMUNICATIONS**

Name or Description of Project: The Canyon at Peace Park (CDP Application Nos. 4-12-069 and 5-89-743-A2)

Date and Time of Receipt of Communication: March 4, 2014, 11:45 a.m.

Location of Communication: Mark Vargas' Office and Phone

Type of Communication: In-Person and Telephonic Meeting

Person(s) Initiating Communication: Susan McCabe, McCabe & Co. (In-Person)
Anne Blemker, McCabe & Co. (Telephonic)
Rick Zbur, Esq., Latham & Watkins (Telephonic)
Beth Gordie, Esq., Latham & Watkins (Telephonic)

Person(s) Receiving Communication: Commissioner Mark Vargas

Detailed Substantive Description of Content of Communication:

(Attach a copy of the complete text of any written material received.)

Susan McCabe, Anne Blemker, Rick Zbur, and Beth Gordie provided me with a briefing on the applicants' After-the-Fact CDP Application and the Amendment Application to the existing CDP for the Property (the "Project"). Speaking on behalf of the applicants, each discussed the contents of an electronic briefing package, which they informed me has been provided to Commission staff and will be in the Commission record for this matter. The applicant's representatives covered the issues contained in the briefing package, including:

- an overview of the Property history;
- background information on and the status of implementation of the Consent Cease and Desist and Consent Restoration Orders for Property;
- a summary of the After-the-Fact CDP Application for the Women's Facility, Climbing Wall, Maintenance Trash and Recycling Area, and Communications Antenna; and
- a summary of the Amendment CDP Application for the change of use of and to include two sheds and associated development at Kanan Dume Road and to amend and correct previously approved Development Areas.

The applicant's representatives stated that the applicant is generally in agreement with the staff report and special conditions. At the time of our call, the applicant's representatives were working with Commission staff to address minor clarifications and corrections to the staff report.

Date: March 4, 2014

Commissioner Signature:



Received

MAR 17 2014

California
Coastal Commission

**FORM OF DISCLOSURE OF
EX PARTE COMMUNICATIONS**

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Date and Time of Receipt of Communication: March 4, 2014, 11:45 a.m.

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Type of Communication: In-Person and Telephonic Meeting

Person(s) Initiating Communication: Susan McCabe, McCabe & Co. (In-Person)
Anne Blemker, McCabe & Co. (Telephonic)
Rick Zbur, Esq., Latham & Watkins (Telephonic)
Beth Gordie, Esq., Latham & Watkins (Telephonic)

Person(s) Receiving Communication: Commissioner Mark Vargas

Detailed Substantive Description of Content of Communication:

(Attach a copy of the complete text of any written material received.)

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Date: March 4, 2014

Commissioner Signature:

