Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Jon Sanabria
Acting Director of Planning

July 23, 2009

TO: Leslie G. Bellamy, Chair
Wayne Rew, Vice Chair
Harold V. Helsley, Commissioner
Esther L. Valadez, Commissioner
Pat Modugno, Commissioner

FROM: Mr. Jodie Sackett, Senior Regional Planning Assistant
Land Divisions Section

SUBJECT: PROJECT NO. 94-165-(3)
VESTING TENTATIVE TRACT MAP NO. 34289
CONDITIONAL USE PERMIT CASE NO. 94-165
OAK TREE PERMIT CASE NO. 200700011
AGENDA ITEM NO. 6: AUGUST 5, 2009

PROJECT PROPOSAL

Vesting Tentative Tract Map No. 34289 is a proposed subdivision of land to create six single-family lots, one open space lot and one private street lot on 34.43 gross acres (33.6 net acres) in the Malibu Coastal Zone and the Third Supervisorial District of Los Angeles County. Conditional Use Permit ("CUP") Case No. 94-165 is a request to ensure compliance with non-urban hillside management performance review criteria. Oak Tree Permit ("OTP") Case No. 200700011 is a request for the removal of five Oak trees (none heritage) located on the subject property.

MAY 20, 2009 REGIONAL PLANNING COMMISSION PUBLIC HEARING

On May 20, 2009, your Commission heard a presentation from staff and the applicant's representative, as well as opposing testimony from local residents and the adjacent landowner's attorney. In considering the opposing testimony and rebuttal testimony given by the applicant's representative, your Commission voted 3-0-1 (Valadez absent, Bellamy abstaining) to continue the case in order to address the driveway access issue to the south of the subject property.

The property owner to the south owns an ingress/egress and utility easement on the subject property that is currently used by both parties. The adjacent property owner argues that the change in access for the proposed subdivision will interfere with the existing driveway configuration, making the easement "useless". The applicant's representative rebutted that the proposed improvements will widen the driveway and improve the line of sight distance from Latigo Canyon Road, making the access safer for all users of the easement.

After hearing all testimony, your Commission discussed the project issues and decided that the case should be continued to "assess the access issue to the south." Your Commission indicated that it is generally supportive of the project but that staff should "come back with additional analysis" of modified access alternatives.

On May 20, 2009, your Commission continued the public hearing until August 5, 2009 so that concerns related to access for the property owner to the south can be addressed.

JUNE 17, 2009 STAFF MEETING WITH THE APPLICANT

On June 17, 2009, staff from Regional Planning, Public Works and Fire met with the applicant's representative to discuss the project access alternatives. Three access alternatives were presented to staff, reviewed and discussed at the meeting. The three alternatives are briefly described below:

- Alternative 1 (improve the existing access driveway): This alternative proposes to utilize the existing driveway configuration and improve it so that it meets Fire standards. This would involve widening the driveway from its current variable paved width of 12-14 feet to a minimum of 28 feet wide for the entire driveway length.

  This option was considered infeasible by staff due to the inadequate line-of-sight distance from Latigo Canyon Road and the substantial additional grading required.

- Alternative 2 (improve Baller Road): This alternative proposes to widen Baller Road, an existing 12-foot wide paved utility access easement on the northerly portion of the subject property. This option would allow the driveway configuration within existing access easement to remain unchanged.

  Staff considered this option inappropriate, due to the fact that it would require a major redesign of the project in order to relocate building pad sites along Baller Road. Further, the improvement of Baller Road would require widening the road to a minimum of 28 feet, causing a significant increase in the amount of project

grading and use of retaining walls along a visible ridgeline with a wall length of 1,275 feet and a maximum height of 22 feet.

- Alternative 3 (modify the proposed access to provide a 32-foot turn radius): This last alternative proposes to modify the applicant's private street design currently depicted on the Exhibit "A". The modification involves a widening of a portion the proposed private street an additional 16 feet (creating a curved "bulb") to provide a full 32-foot turn radius. This would allow the adjacent landowner to turn his vehicles immediately in front of his property instead of driving onto the subject property and utilizing the proposed cul-de-sac as a turn-around point. Project grading to provide the additional turning area will increase by approximately 400 cubic yards.

  Staff supports this design alternative, as it minimizes the adjacent landowner's inconvenience of using the modified access within the existing easement, is safer for residents and the public, does not cause a major redesign of the project, and proposes the least significant increase in environmental impacts.

A more detailed explanation of each of the above alternatives is provided by the applicant in a cover letter dated July 8, 2009 (attached).

STAFF RECOMMENDATION

Staff recommends the following:

1. That the project be modified to incorporate the third access design alternative (modify proposed private street for a full 32-foot turn radius); and

2. That the Regional Planning Commission continue the public hearing for a period of 90 days to a date certain so that the project can be revised through the Subdivision Committee and staff can prepare revised draft findings and conditions.

Suggested Motion: "I move that the Regional Planning Commission continue the public hearing to _____ so that the project can be revised to incorporate Access Design Alternative No. 3."

SMT:jds
7/23/09

Attachments: Alternative Access Exhibit Nos. 1, 2 and 3
Additional Correspondence received since May 20, 2009

July 23, 2009

Via Hand Delivery

Regional Planning Commission
c/o Jodie Sackett
LA County Department of Regional Planning
320 West Temple Street, Room 1360
Los Angeles, CA 90012

RE: Vesting Tentative Tract Map 34289

Dear Honorable Commissioners:

We are writing to you on behalf of our client, Dr. Reddy, regarding the above-referenced project. It is our understanding that the scope of the upcoming continued hearing to take place on August 5, 2009 will be limited to the particular directive issued to us at the May 20, 2009 hearing by the Regional Planning Commission ("Commission"). Specifically, the Commission directed that the Regional Planning Staff and the applicant further assess alternative access locations and design options to the project site from Latigo Canyon Road, in order to further address the southerly neighbor's (Doyle's) concerns about access.

This was further confirmed in the May 20, 2009 meeting minutes approved on June 10, 2009 which stated that "the public hearing be continued to Wednesday, August 5, 2009, to allow staff and the applicant to further study alternative access locations to the project site from Latigo Canyon Road, in order to reduce impacts, impediments to the use of an existing access easement for the adjacent property to the south." In response to the Commission's directive, the applicant commissioned the project civil engineer to prepare alternatives analyses and said alternatives were reviewed and assessed by and with applicable County Planning Department, Public Works and Fire Department staff.

As a result, please be advised that our presentation to the Commission will be focused primarily on the above described scope with regard to the access alternatives explored and reviewed with County staff. If our understanding of any of the matters described above is incorrect, please let us know as soon as possible. Should you have any questions regarding the above, please do not hesitate to contact me at (818) 338-3636 or dshen@schmitzandassociates.net. Thank you for your time and attention to this matter.

Sincerely,
SCHMITZ & ASSOCIATES, INC.

Donna Shen Tripp
Regional Manager

SCHMITZ & ASSOCIATES INC.
PROVIDERS OF LAND USE PLANNING
FOR A BETTER COMMUNITY

SCHMITZ & ASSOCIATES, INC.

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CC: Dr. Reddy
Sorin Alexanian, Department of Regional Planning
Jodie Sackett, Department of Regional Planning
Fred Ganes, Esq., Gaines & Stacey

Via Hand Delivery

July 08, 2009

Regional Planning Commission
c/o Jodie Sackett
LA County Department of Regional Planning
320 West Temple Street, Room 1360
Los Angeles, CA 90012

RE: Vesting Tentative Tract Map 34289

Dear Honorable Commissioners:

On 05/20/2009, the Regional Planning Commission directed that Regional Planning Staff and the applicant for the above mentioned project further assess alternative access locations to the project site from Latigo Canyon Road in order to satisfy the neighbor to the south's (Doyle's) concerns about access. Said efforts included further analysis of the alternatives and the commissioning of additional grading plans specifically with the aim of reducing impacts and impediments to the use of the existing access easement by Doyle.

Three alternatives were prepared by the project civil engineers and analyzed both by our offices and County Staff including Fire Department, Public Works and Regional Planning. The alternatives are as follows:

Alternative 1: Improving the Existing Access Driveway

Improving and utilizing the existing driveway was explored as an option as this option would maintain Doyle's access in its current configuration with the driveway brought up to Fire Department compliance. However improving the existing driveway (Alternative Access Road – 1) by preserving its current location and point of intersection with Latigo Canyon Road was also deemed to be infeasible due to the visual impacts generated by the improvement and the substandard lines-of-sight that exist both to the north and south on Latigo Canyon Road and the substantial amounts of grading of the hillside that would be required to achieve the required lines-of-sight.

Widening the existing 12-14' wide driveway to 28' to bring it to Fire Department standards would result in almost doubling the height of the currently proposed retaining wall to a maximum height of 23' which would cause significant visual impacts along Latigo Canyon Road. Grading for the road improvement alone would require an additional 6,150 cubic yards of cut. The existing lines-of-sight to both the north and south with the currently existing driveway are substandard by close to 200' to the north and over 100' to the south. A significant amount of grading would be required to obtain the required 310' line-of-sight required by LA County for Latigo Canyon Road. Utilization of a 1:1 slope for the hillside to the north (which is a best-case scenario, as a 2:1 is more likely and as such would necessitate more grading) would require an additional 6,000 cubic yards of cut, bringing the total additional grading required for Alternative Access Road – 1 to over 12,000 cubic yards (and most likely more with the use of a 2:1 slope).

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Alternative 2: Improving Baller Road

Utilizing Baller Road was the second alternative assessed as it would allow Doyle's access to remain 'as-is' (note, however, that would still result in Doyle's access remaining non-compliant with Fire Department and Public Works' standards and maintain the dangerous lines-of-sight at the driveway's intersection with Latigo Canyon). Improving Baller Road (Alternative Access Road – 2) would require widening the road to 28' to bring it up to Fire Department standards. This was deemed infeasible with the unreasonable resource impacts the widening would have yielded due to an increase in approximately 6,000 cubic yards of grading for Baller Road alone. The widening would also require a 1,275' long retaining wall with a maximum height of 22' along Baller which would be highly visible from Latigo Canyon Road and have significant visual impacts.

Past Baller Road, the 20' wide connector road to the cul-de-sac would also require widening to 28' to bring it to Fire Department standards. Though the grading requirements for this extension have not been precisely determined, given the elevation change from the ridge to the lowest building pad being approximately 180' and the access road requirement of no steeper than 15-20%, a 900'-1,200' long road would be required. This road in turn would require a significant increase in grading and retaining walls with the potential to cause significant visual impacts. Eliminating or reducing the connector road would require a reconfiguration of the cul-de-sac and building pads which would involve a significant project redesign and would still result in a project that has significantly more resource impacts than the current project design has.

Alternative 3: Modification of proposed driveway to provide a 32' turning radius

Alternative 3 proposes a modification of the originally proposed access road to provide a 32' turning radius into Doyle's property instead of the previously proposed 26' turning radius. Alternative Access Road-3 provides Doyle with unfettered access to his property by providing two 32' turning radii both into his property and further south to his other two lots that have legal access via the easement on the subject property.

The 32' turning radii will allow access of a Fire Department pumper truck up to 30' in length and thus should provide more than adequate vehicular access for Doyle's residential use. The preferred alternative also does not require significant project redesign with regard to building pad locations, etc. and maintains the minimal resource impacts of the project design. Project grading will increase by 400 cubic yards of cut from the previous figure of 19,250 cubic yards and as such will not have a significant impact. Both Doyle's and the public's safety will be increased both by ensuring a Fire Department compliant access to Doyle's property and bringing the lines-of-sight for access onto Latigo Canyon to County standards.

On 06/17/2009, Schmitz and Associates met with Jodie Sackett (DRP), Andy Narag (Public Works) and Juan Padilla (Fire Department) to review the three alternatives prepared. Upon taking into account the impacts each of the alternatives would have with regard to safety, additional grading, heights of retaining walls, etc., it was determined by all that "Alternative Access Road – 3" was the most feasible and preferred option. This was primarily because "Alternative Access Road-3" will result in no impacts or impediments to Doyle's access of his property while at the same time proposing a minimal change in grading and associated impacts to both natural and visual resources. "Alternative Access-3" additionally mitigates the dangerous lines-of-sight currently in place at the driveway/Latigo intersection and will bring Doyle's currently substandard access up to Fire Department and Public Works compliancy.

The preferred access alternative was provided to Doyle and his representatives on 06/19/2009 for comment. This brought the number of outreach efforts made by Schmitz and Associates. and the property owner's legal counsel Gaines & Stacey, LLP to a total of fourteen (14) correspondences, eleven (11) phone calls and four (4) site visits or meetings with Doyle since March 2008 in an effort to reach an agreeable compromise. Doyle responded on 06/24/2009 (his first response to outreach efforts since a 01/05/2009 site visit) via his representatives at Fletcher, White & Adair and raised issues with alleged improvements on Mr. Doyle's property and asserting a legal right to utilize the existing driveway as access to his property amongst others. Schmitz and Associate's clarified to Doyle on 07/07/2009 that no improvements are proposed on his property. Gaines & Stacey responded to Doyle on 07/02/2009 confirming that Doyle will continue to be able to utilize his easement for access via the improved driveway and thus his property rights will not be impeded. Copies of the correspondences and exhibits sent to Doyle from Schmitz & Associates and Gaines & Stacey respectively have been enclosed for your reference.

The property owner Dr. Reddy and his project consultants have gone to great lengths to design a sensitive, code-compliant project and to explore and propose an access alternative which not only results in minimal impacts to natural resources but will have minimum impacts to Doyle. "Alternative Access-3" provides the best balance between these objectives for project design. While Doyle may face some temporary inconvenience associated with construction (which will be mitigated as required by the County in the Mitigation Monitoring Program and relevant County-imposed project conditions), Doyle's unimpeded access to his property will remain and, in actuality, be improved beyond that what exists today.

Should you have any questions regarding the enclosed materials, please do not hesitate to contact me at (818) 338-3636 or ngunasekera@schmitzandassociates.net. Thank you for your time and attention to this matter.

Sincerely,
SCHMITZ & ASSOCIATES, INC.

Naren Gunasekera
Associate Planner II

Enclosures:

1. Full size plans for the three (3) Access Alternatives prepared by Whitson Engineers
2. 06/18/2009 Correspondence & preferred Access Alternative to Doyle (Schmitz & Associates)
3. 06/18/2009 Correspondence to Regional Planning Commission (Gaines & Stacey)
4. 06/22/2009 Correspondence & Exhibits to Regional Planning Commission (Schmitz & Associates)
5. 06/24/2009 Correspondence from Fletcher, White & Adair commenting on preferred Access Alternative
6. 07/02/2009 Correspondence to Doyle (Gaines & Stacey)
7. 07/07/2009 Correspondence & Exhibits to Doyle (Schmitz & Associates)

Via UPS *(tracking # 1ZV203620290171482)*

July 7, 2009

Mr. Michael Doyle
c/o Fletcher, White, & Adair
28925 Pacific Coast Hwy, Second Floor
Malibu, CA 90265

RE: VTTM 34289-(3); CUP 94-165-(3); OTP 2007-00011-(3)

Dear Mr. Fletcher,

I am writing to you on behalf of our client, Dr. Reddy, in response to your June 24, 2009 correspondence, sent on behalf of your client, Mike Doyle (Doyle). Specifically, we wish to clarify a number of issues raised in your correspondence.

In your June 24 correspondence you erroneously claimed that the modifications to the project depicted in 'Alternative Access Road-3' would require improvements on Doyle's property, specifically that "a large portion of his wall and his pilasters have to be destroyed for you to create a 32' turning radius, most of which is on his property" and that the "majority of the change is that you have modified Mr. Doyle's property to create the first of the two 32' turning radii."

Please note that no improvements are proposed on Doyle's property for proposed 'Alternative Access Road-3,' nor were any ever proposed with the original design. The referenced block wall and pilasters in question will remain intact as can be seen in Exhibit A. The improvements needed to create the 'first of the 32' turning radii' is located on Dr. Reddy's property and is reflective of the efforts that were made to improve the originally proposed 26' turning radius due to Mr. Doyle's concerns that the 26' radius would not be sufficient for him to access his property. Please note that the second 32' turning radius is pre-existing and requires no improvements to Doyle's property or Dr. Reddy's property.

As previously advised the proposed access point to Doyle's property with the redesign would provide a Fire Department pumper truck, with a length of approximately 30 feet, a sufficient turning radius for ingress and egress as verified by the County Fire Department. The redesigned access point would as such provides Doyle access to his property via what will be a Fire Department compliant access road (as opposed to his current driveway which is non-compliant with regard to width of access).

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Additionally your correspondence erroneously claimed that Doyle "will be exiting his property with a 17 foot drop off in front of him." Please note that Doyle's access point from his property (Exhibit B) onto the proposed driveway will have an average grade of 1-2% and as such is almost flat.

The County-preferred access alternative, 'Alternative Access Road – 3' will allow Doyle unfettered access to his property and, with the substantial improvements in lines-of-sight for access to Latigo Canyon Road and bringing access to Doyle's property up to Fire Department standards, will increase both his safety and the safety of the public that utilizes Latigo Canyon.

Should you have any questions regarding the enclosed maps, please do not hesitate to contact me at ngunasekera@schmitzandassociates.net or (818)338-3636.

Sincerely,
SCHMITZ & ASSOCIATES, INC.

Naren Gunasekera
Associate Planner II

CC: Jodie Sackett
Dr. Chilumula Reddy

Exhibit A: No improvements are proposed on Mike Doyle's Property with Alternative Access Road-3

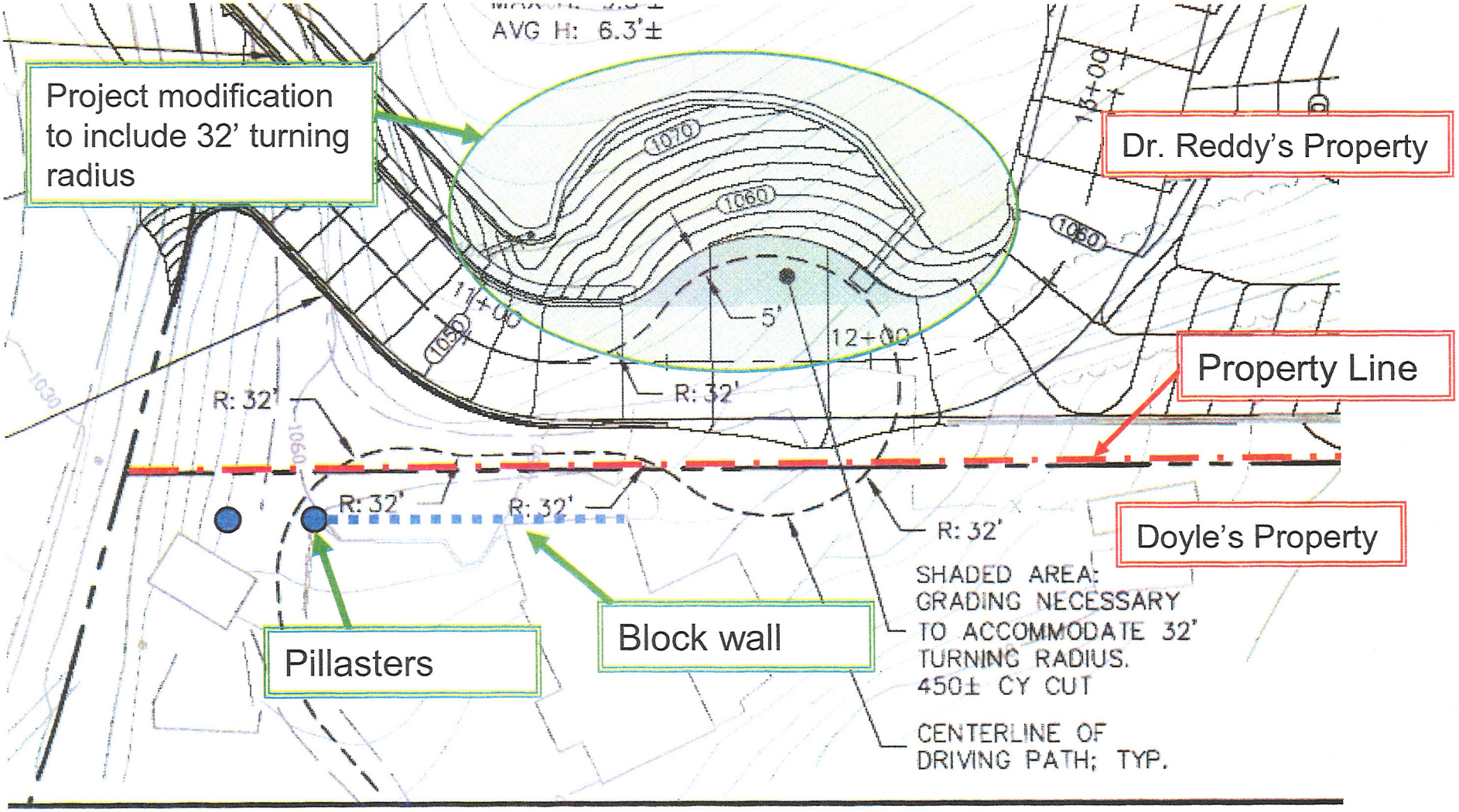
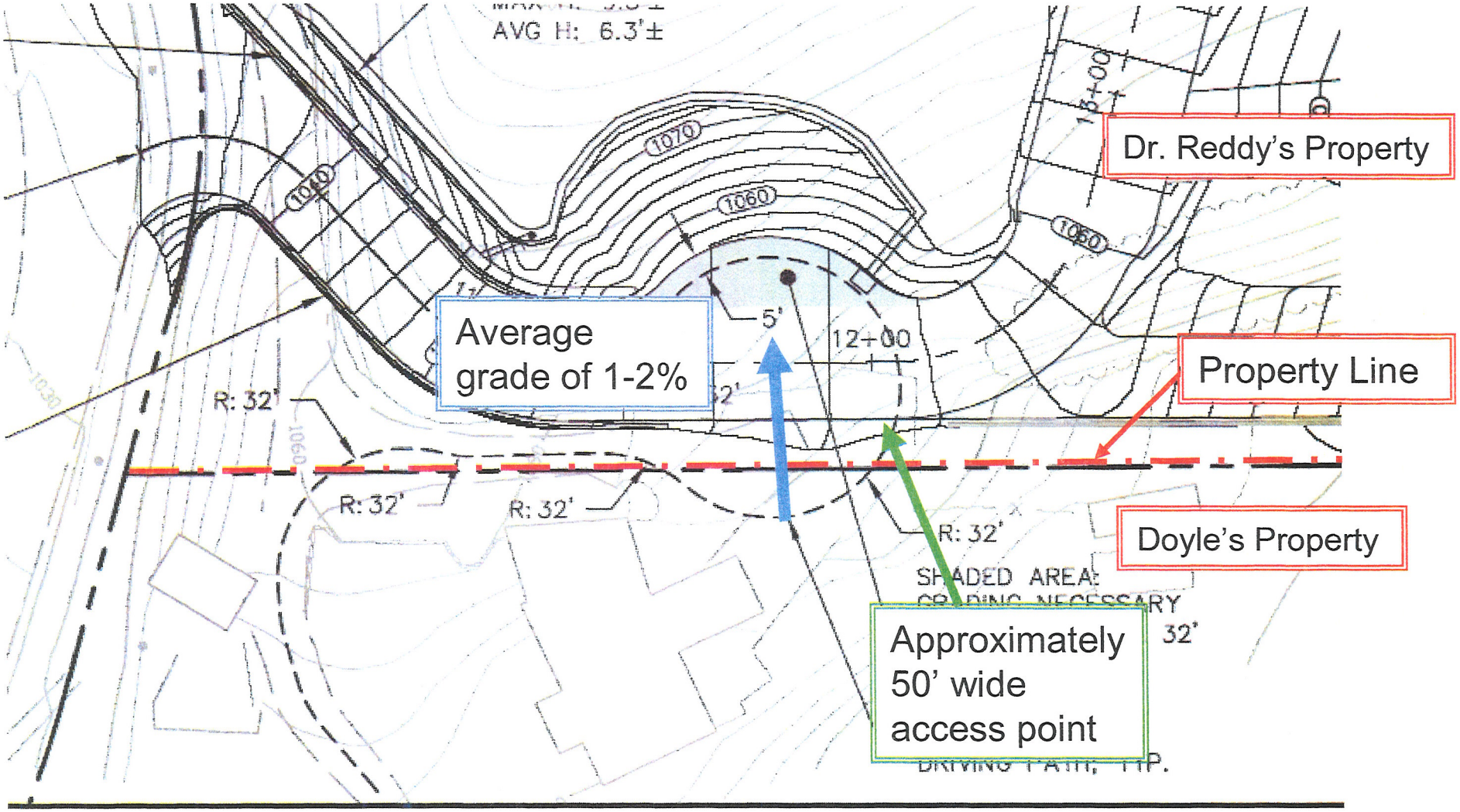


Exhibit B: Doyle's access point will have an average grade of 1-2%



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July 2, 2009

John R. Fletcher, Esq.
Fletcher, White & Adair
28925 Pacific Coast Highway, Second Floor
Malibu, CA 90265

Re:
- Vesting Tentative Tract Map No. 34289-(3)
- Conditional Use Permit Case No. 94-165-(3)
- Oak Tree Permit Case No. 2007-00011-(3)
- Environmental Assessment Case No. 2008-00132-(3)

Dear Mr. Fletcher:

As you know, this office represents Chilumula R. Reddy ("Reddy") with respect to his property located at Latigo Canyon Road, approximately 450 feet north of W. Ocean View Drive in the Malibu Zoned District (the "Reddy Property") and the above-referenced pending applications. This letter specifically responds to legal issues raised in your June 24, 2009 correspondence, sent on behalf of your client, Mike Doyle ("Doyle" or "your client"), to Don Schmitz.

A.) <u>Doyle's Property Right is the Easement, Not the Driveway.</u>

Your June 24, 2009 letter incorrectly describes your client's easement. As you know, vehicular access to the Doyle property is via a nonexclusive express easement located on and across the Reddy Property. The applicable Grant Deed, recorded in the Los Angeles County Recorder's Office on August 7, 1985 at Document No. 85-911324, describes the applicable nonexclusive easement as follows:

> "An easement consisting of a paved driveway and the paved parking areas for ingress, egress, parking and water lines appurtenant to Lots 128, 129 and 130, of Tract 9289, as per map thereof recorded in Book 133, Pages 70, 71 of Maps, in the Office of the County Recorder of said County, for the purpose of providing ingress to, egress from and parking for the dominant tenement, in perpetuity... " (the "Doyle Easement")

In your letter, you state that "Mr. Doyle has a vested, recorded property right to access his property utilizing the existing driveway." That is not true. In fact, a more accurate statement would be that Doyle has a property right to access his property via the Doyle Easement. A great majority of the proposed realigned driveway, as you've seen, is located within the metes and bounds legal description of the Doyle Easement. As such, even though your client would no longer be accessing his property via the existing driveway, he will continue to access his property via the Doyle Easement. Doyle, as the grantee of an express ingress/egress easement, does not have the right to use the full width (or, in this case, the existing driveway) of the grant when it is not required for access. Here, the existing driveway will not be "required" for access given that new and improved access will be provided to your client's property.

B.) Proposed Alternative Access Road-3 is Not a "Taking" of Doyle's Property.

Your June 24, 2009 letter also incorrectly states that "proposed Alternative Access Road-3 is a "taking" of Mr. Doyle's property and his property rights." A "taking" is defined as when a government action directly interferes with or substantially disturbs the owner's use and enjoyment of the property. Here, the County of Los Angeles (the "County") is not denying Doyle viable use of his property and Doyle will suffer no damages; the County is placing a condition of approval on the Reddy Property, and whether Reddy can meet that condition is a private matter for Reddy and Doyle to determine. Your argument that Doyle's access will allegedly be impaired as a result of the proposed driveway realignment, a majority of which will continue to remain within the Doyle Easement, does not fall within the purview of California's legal authority on government takings.

C.) The Only Burden Doyle Faces as a Result of Driveway Realignment is Temporary Inconvenience.

Notwithstanding inevitable inconvenience that comes along with construction of any kind, Reddy will make all reasonable efforts to minimize any negative impacts to Doyle during the driveway realignment process. The only "burden" that Doyle may suffer is temporary inconvenience during the road construction process. Ultimately, your client's access will not be compromised by the driveway realignment and there will be no unreasonable interference with Doyle's use of the Doyle Easement. The County requirements, both in the subject Mitigated Negative Declaration and proposed conditions of project approval, ensure that Reddy takes adequate measures to address inconveniences suffered by Doyle during project construction.

As always, please do not hesitate to contact me at any time with any questions or comments you may have.

Sincerely,

GAINES & STACEY LLP

By Fred Gaines by KAR
FRED GAINES

cc: Jodie Sackett, County Department of Regional Planning

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Sender's E-Mail:
jfletcher@fwalaw.com

June 24, 2009

Don Schmitz
SCHMITZ & ASSOCIATES
29350 Pacific Coast Highway, Suite 112
Malibu, CA 90265

Re: Access Alternatives for Doyle Property

Dear Mr. Schmitz:

I met with Mr. Doyle this afternoon to review and scrutinize your letter dated, June 18, 2009, as well as the Proposed Alternative Access Road -3, and Exhibit A.

The modifications depicted in Alternative Access Road -3, do not markedly change what was previously proposed by the developer and therefore it fails to address the issues raised by Mr. Doyle. It appears that a large portion of his wall and his pilasters have to be destroyed for you to create a 32' turning radius, most of which is on his property. He will be exiting his property with a 17 foot drop off in front of him. The majority of the change is that you have modified Mr. Doyle's property to create the first of the two 32' turning radii.

No steps have been taken to address the issue of the connection between Baller Road and the proposed road. Traffic past Mr. Doyle's house will increase and while at one time you indicated that a connection between Baller Road and the proposed road would be prevented, it is now part of your plans as a fait accompli.

As a bottom line, Mr. Doyle has a vested, recorded property right to access his property utilizing the existing driveway. Your proposal might work well for the developer but it comes as a high cost to Mr. Doyle, a cost he is not willing to incur for the benefit of the developer. The proposed Alternative Access Road-3 is a "taking" of Mr. Doyle's property and his property rights. Mr. Doyle does not agree to sign off on the proposed road or to sign off on extinguishing his property rights which provide access to his property.

The developer cannot simply extinguish Mr. Doyle's recorded easement because he believes that it is the most feasible of a small number of alternatives. There are two ways to address this problem. Mr. Doyle can voluntarily extinguish his easement, or the potential exists that it can be extinguished by operation of law. However, no taking will be permitted by any court without compensation and no one has ever considered the fact

that it is Mr. Doyle and his property which singularly suffer the burden of the proposed development with respect to the proposed driveway. Mr. Doyle has all of the burden and the developer has all of the benefit of this proposal. This simply is not tenable and has not been addressed.

At this point, Mr. Doyle is firmly pitted against the developer's proposal regarding access as it doesn't address the principal issues which he has consistently raised. We have looked at the proposed driveway with you on a number of occasions and the modifications you now propose are extremely minor, and do not allay the concerns of Mr. Doyle and do nothing to address the taking of his property.

I trust that there has to be an alternative that works for your client that does not come at the sole expense of my client.

Very truly yours,

FLETCHER, WHITE & ADAIR

John R. Fletcher

JRF/mic

cc: Jodie Sackett (via email)

Exhibit A: Fletcher, White & Adair 05/20/2009 Submission

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#8

RECEIVED
MAY 20 2009
REGIONAL PLANNING COMMISSION

Sender's E-Mail
pwhite@fwlaw.com

May 20, 2009

VIA PERSONAL DELIVERY

LOS ANGELES COUNTY DEPARTMENT OF REGIONAL PLANNING
320 West Temple Street
Los Angeles, CA 90012

Re: Public Hearing Date: May 20, 2009
Vesting Tentative Tract May No. 34289-(3)

Dear Commissioners:

My law firm represents Mike Doyle, the owner of Lots 128, 129 and 130 of Tract 9289. Lot 130 borders the south boundary of the proposed Tract 34289. Mr. Doyle currently accesses his property over a short recorded easement. [See yellow highlighted area on Exhibits A, B, C and H] The developer intends that "relocate" Mr. Doyle's easement so that it can create a road from Latigo Canyon Road to Baller Road. [See Exhibit D] Unfortunately, the proposed road unnecessarily creates a very dangerous condition and negatively affects Mr. Doyle's property in several manners.

Dangerous Condition re Access to Latigo Canyon Road from the Proposed Road
The proposed access road will connect to Latigo Canyon Road at an essentially blind curve in the road making it very dangerous for motorist on Latigo Canyon Road and those attempting to turn on to Latigo Canyon Road. [See Exhibit E]

There is a much safer alternative. The proposal calls for the road to join Baller Road which already connects to Latigo Canyon Road at a safe location. [See Exhibit F] The location where Baller Road meets Latigo Canyon Road has very clear visibility. Unlike the proposed intersection, the existing intersection has a safe line of sight.

The proposed development will obviously increase traffic over Mr. Doyle's existing easement. However, this issue involves more that just the proposed building sites. The new road will open the area north of the proposed development to traffic on the proposed road which will also add to the number of people attempting to utilize the proposed road and make the dangerous turn on to Latigo Canyon Road.

Dangerous Condition re Access to the Proposed Road from Doyle Property
In order for Mr. Doyle to access the proposed road from the "relocated easement", he will have to make a right turn, then a sharp U-turn. [Exhibit D] The significant grade of the proposed road (approximately 20%) and sharp curves with very limited visibility will make this exceedingly difficult and dangerous. [See Exhibit G]
I

Relocation of Easement/Lack of Consent

The proposed road will render Mr. Doyle's existing recorded easement unusable which is why the developer has proposed a new easement. The developer intends to create a 17-foot dropoff across Mr. Doyle's easement.

Mr. Doyle's easement cannot be extinguished without his consent or a court order. [Exhibit H] Mr. Doyle expressly refuses to consent to relocating his easement. In order to relocate the easement, it will be necessary for the developer to file an action to quiet title.

Lack of Access to Doyle's Property

The proposed relocation of the easement to Mr. Doyle's property will significantly reduce Mr. Doyle's access. The developer proposes that Mr. Doyle make right turn and a subsequently U-turn. The right turn has a 32' radius and the U-turn has a 26' radius. [Exhibit D]

Mr. Doyle frequently pulls a trailer. He will not be able to make the initial right-hand turn exiting his property (or it will be extremely difficulty) and he will not be able to make the proposed "U-turn" necessary to access the proposed road. Moreover, as discussed above, the danger of trying to make a U-turn/left-turn onto the proposed road will be multiplied when Mr. Doyle is attempting to do so towing a trailer.

Mr. Doyle does not feel that the 32' initial turn radius is sufficient. The developer has conceded that the suggested 26' U-turn radius is not large enough for the vehicles Mr. Doyle operates.

Construction Noise

Assuming the proposed road is approved, Mr. Doyle will have to endure significant construction traffic passing his property every day. This would be eliminated if access is obtained using Baller Road.

Petition in Opposition to Changes

Mr. Doyle is not alone in his objections. Attached hereto is a Petition of 63 individuals who will be affected and are opposed to the proposal. [Exhibit I]

The proposed entrance comes at a great cost to Mr. Doyle in terms of safety, inconvenience, access, privacy, noise and diminution in value. Baller Road presents a safe, viable alternative with no impact on Mr. Doyle.

Very truly yours,

FLETCHER, WHITE & ADAIR

Paul S. White

Enclosures (Exhibits A-I)
cc: Mike Doyle

A

Google Maps Address

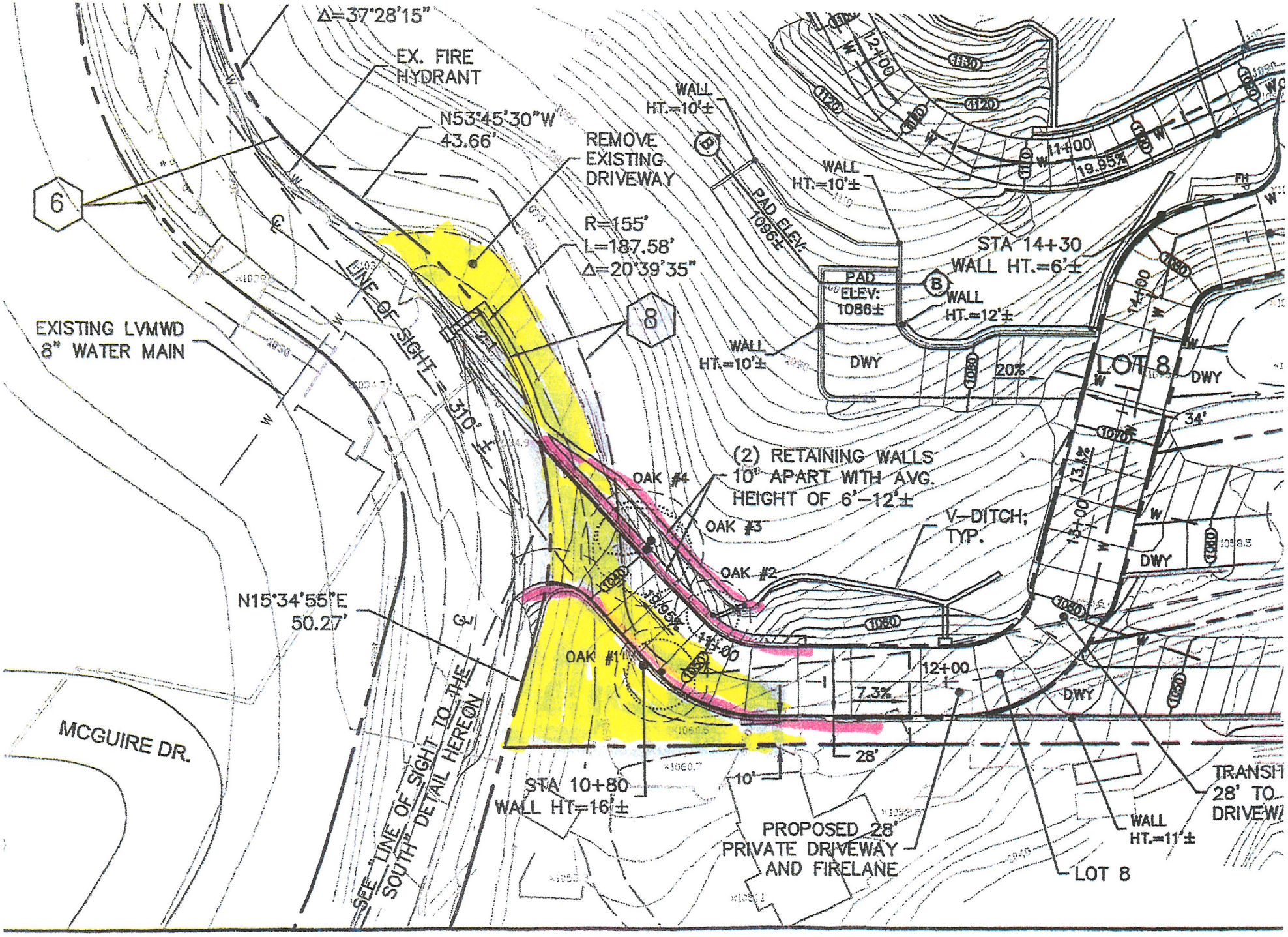
To see all the details that are visible on the screen, use the "Print" link next to the map.

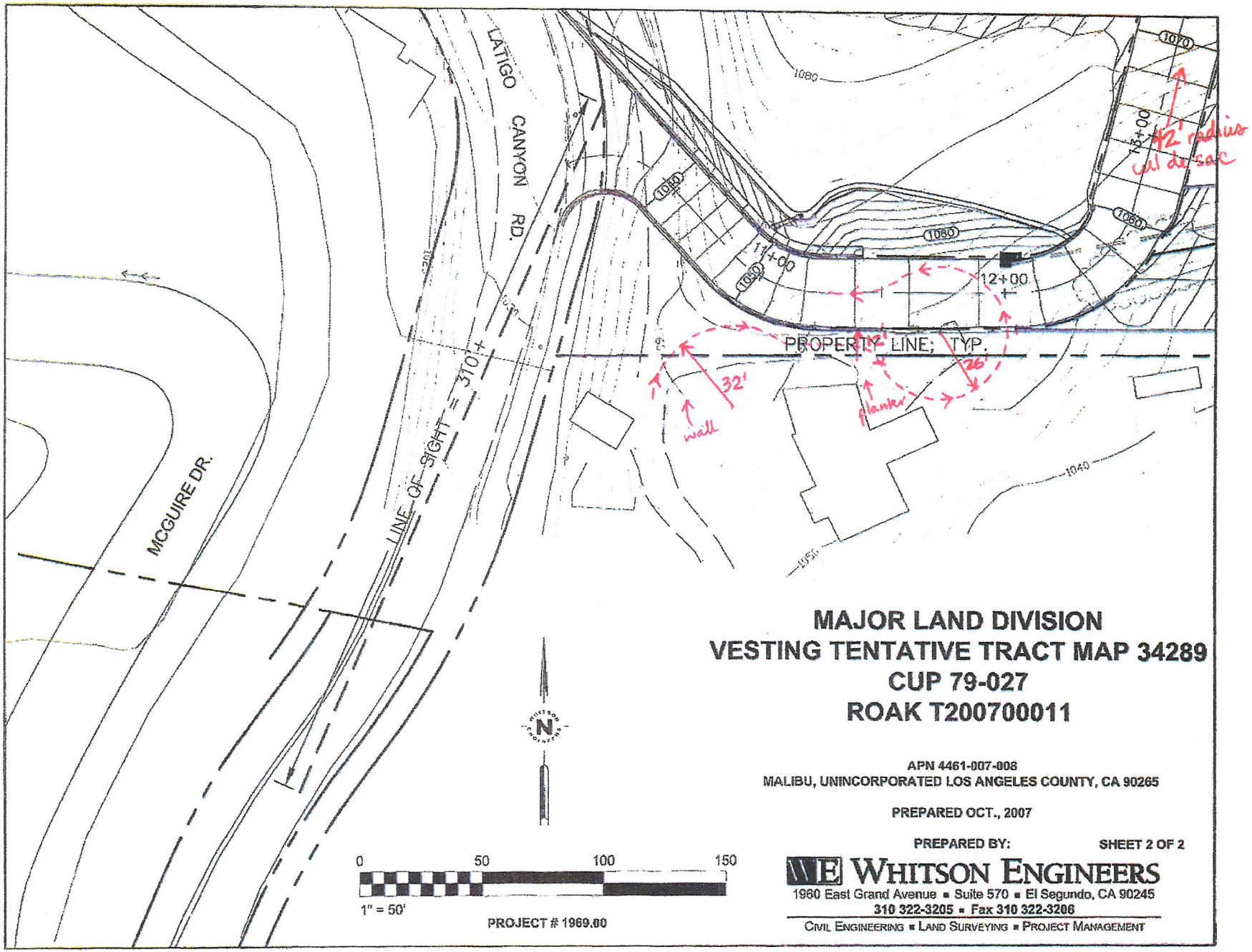
A

Google Maps

Address

To see all the details that are visible on the screen, use the "Print" link next to the map.


Δ=37°28'15"
EX. FIRE HYDRANT
N53°45'30"W 43.66'
REMOVE EXISTING DRIVEWAY
R=155'
L=187.58'
Δ=20°39'35"
6
8
EXISTING LVMWD 8" WATER MAIN
LINE OF SIGHT = 310' ±
WALL HT.=10'±
PAD ELEV: 1096±
WALL HT.=10'±
PAD ELEV: 1086±
WALL HT.=12'±
WALL HT.=10'±
STA 14+30 WALL HT.=6'±
12+00
11+00
19.95%
20%
DWY
LOT 8
34'
14+00
13.1%
13+00
DWY
(2) RETAINING WALLS 10' APART WITH AVG. HEIGHT OF 6'-12'±
OAK #4
OAK #3
OAK #2
OAK #1
V-DITCH; TYP.
N15°34'55"E 50.27'
19.55%
11+00
12+00
7.3%
DWY
MCGUIRE DR.
28'
10'
STA 10+80 WALL HT=16'±
SEE "LINE OF SIGHT TO THE SOUTH" DETAIL HEREON
PROPOSED 28' PRIVATE DRIVEWAY AND FIRELANE
WALL HT.=11'±
LOT 8
TRANSIT 28' TO DRIVEWA



MAJOR LAND DIVISION
VESTING TENTATIVE TRACT MAP 34289
CUP 79-027
ROAK T200700011

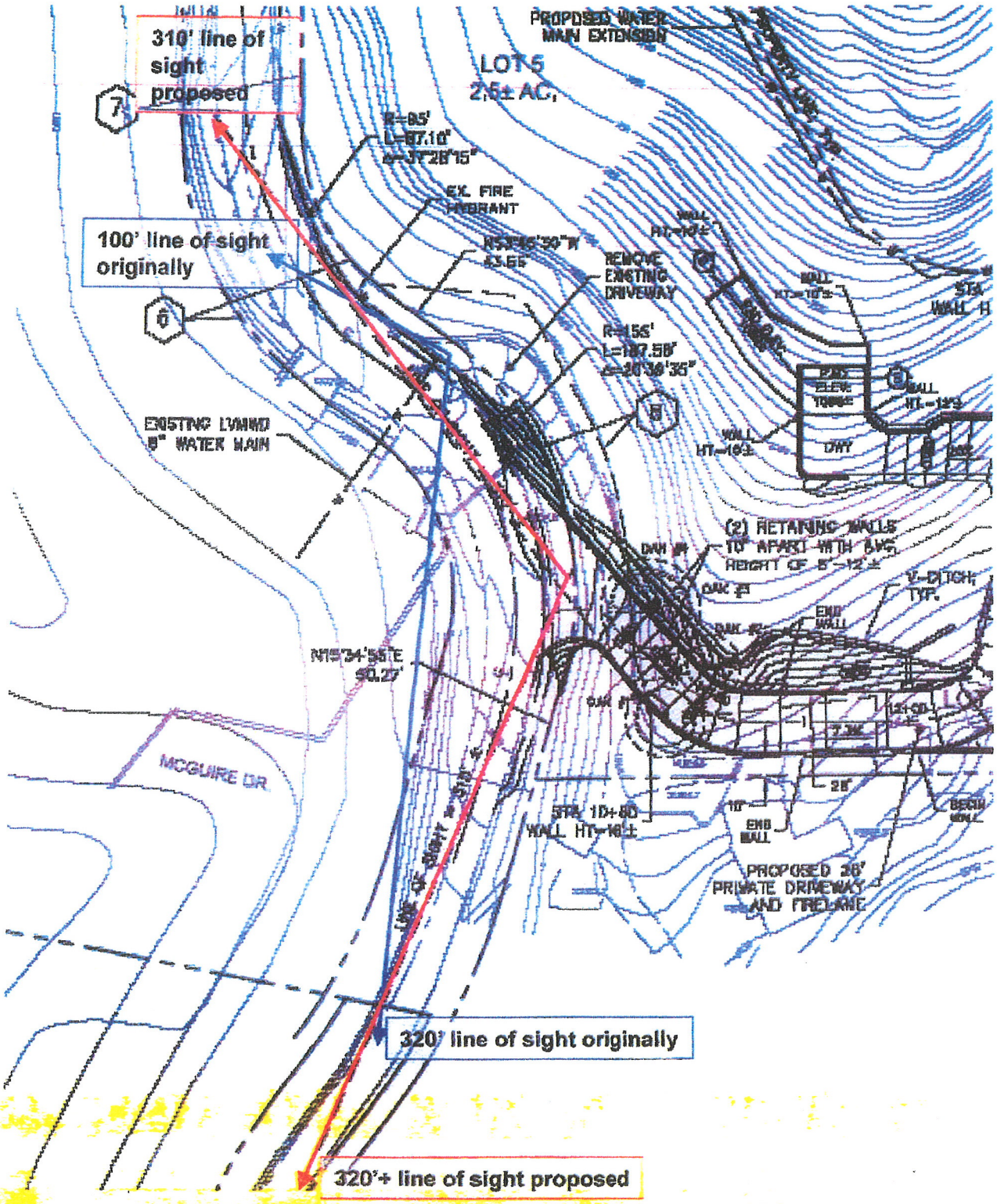
APN 4461-007-008
MALIBU, UNINCORPORATED LOS ANGELES COUNTY, CA 90265

PREPARED OCT., 2007

PREPARED BY:

SHEET 2 OF 2

WHITSON ENGINEERS
1960 East Grand Avenue ▪ Suite 570 ▪ El Segundo, CA 90245
310 322-3205 ▪ Fax 310 322-3206
CIVIL ENGINEERING ▪ LAND SURVEYING ▪ PROJECT MANAGEMENT



Latigo Line of Sight

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

Name: Ronald Christy
Street Address: 26615 Ocean View Drive
City & State: Malibu, California 90265

MAIL TAX STATEMENTS TO

Name: SAME AS ABOVE
Street Address:
City & State:

88 00530

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN. PAST 9 A.M. JAN 5 1988

FEE $9 L 3

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CAT. NO. NN00582
TO 1973 C.A. (2-83)

Individual Grant Deed

THIS FORM FURNISHED BY TICOR TITLE INSURERS

THIS IS A CONVEYANCE OF AN EASEMENT AND THE CONSIDERATION AND VALUE IS LESS THAN $100.00 R & T 11911

The undersigned grantor(s) declare(s):
Documentary transfer tax is $ NONE - ~~CONSIDERATION~~
( ) computed on full value of property conveyed, or
(XXX) computed on full value less value of liens and encumbrances remaining at time of sale.
(XXX) Unincorporated area: ( ) City of _____, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Gladys M. Heller, Trustee of the Heller Trust No. 1 as to an undivided 21/25ths interest and to David J. Heller, as Trustee of the Heller Trust No. 2 as to the remainder,
hereby GRANT(S) to

Ronald Christy

the following described real property in the County of Los Angeles, State of California:

An easement consisting of a paved driveway and the paved parking areas, for ingress, egress, parking and water lines appurtenant to Lots 128, 129 and 130, of Tract 9289, as per map thereof recorded in Book 133, Pages 70, 71 of Maps, in the Office of the County Recorder of said County, for the purpose of providing ingress to, egress from and parking for the dominant tenement, in perpetuity, over the following described property: The Northeast quarter of the Southwest quarter of Section 28, Township 1 South, Range 18 West, San Bernardino Meridian, according to the Official Plat of said land filed in the District land Office on April 4, 1900. EXCEPTING THEREFROM that portion thereof lying westerly of the center line of Latigo Canyon Road, as shown on Map of Tract No. 5801, as per Map recorded in Book 149 Pages 23 to 28 inclusive of Maps, in the Office of the Recorder of said County.
See Attached Rider A for Legal Description, which rider is incorporated herein by reference and is made a part of this Easement Grant Deed.
See Attached Rider B for Map to accompany Legal Description of Easement for ingress, egress, parking and utilities, which is made a part of this Easement Grant Deed.

Dated: 12-18-87

Gladys M. Heller
Gladys M. Heller, Trustee
David J. Heller, Trustee

STATE OF CALIFORNIA
COUNTY OF Los Angeles } ss.
On December 18, 1987 before me, the undersigned, a Notary Public in and for said State, personally appeared Gladys M. Heller and David J. Heller
personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged that they executed the same.
WITNESS my hand and official seal.
Signature

OFFICIAL SEAL
O C GATE
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires MAR 11, 1991

(This area for official notarial seal)

Title Order No. _____ Escrow or Loan No. _____

MAIL TAX STATEMENTS AS DIRECTED ABOVE

2

RIDER A

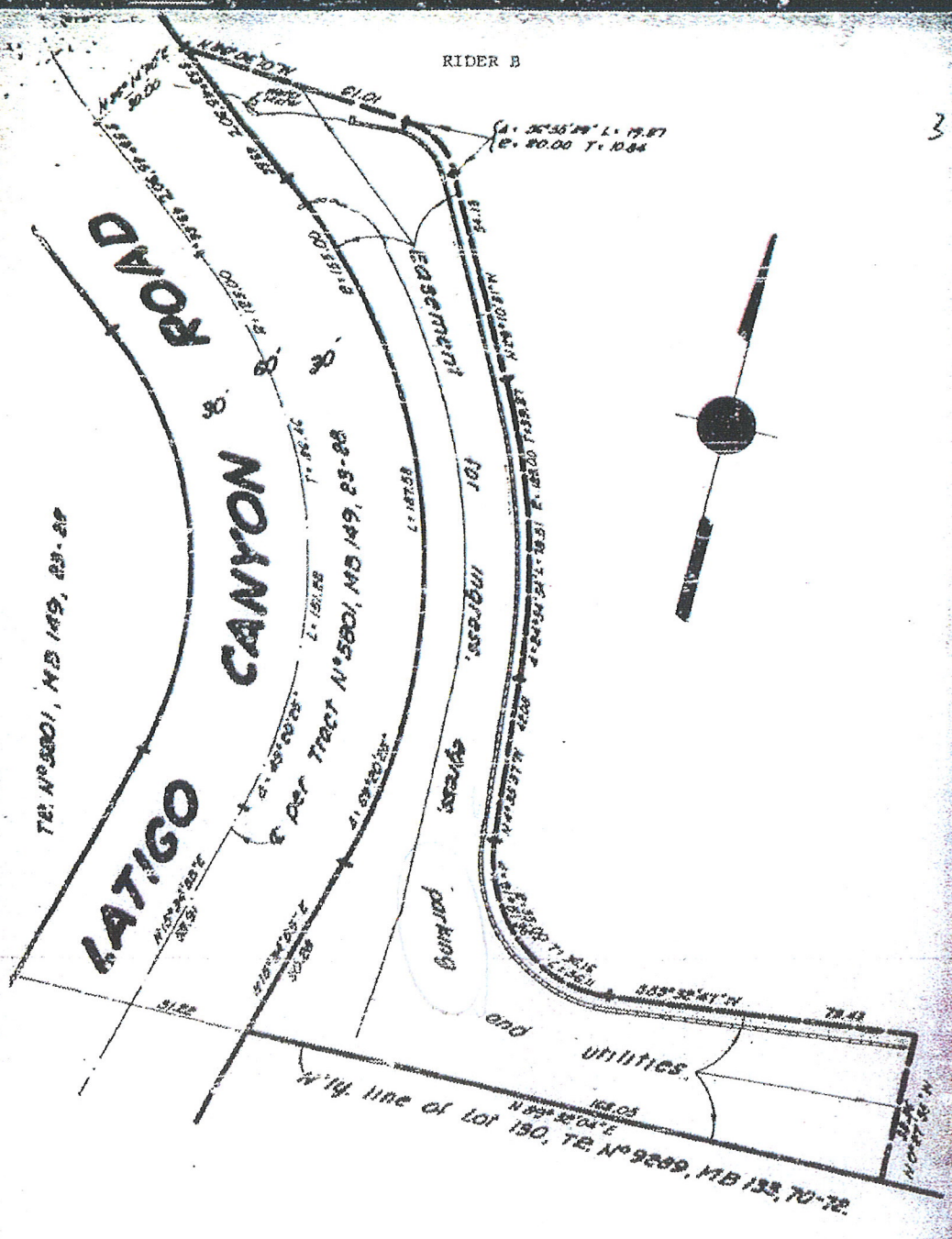
Legal description of easement for ingress, egress, parking and utilities as shown on attached copy of map 272-3-B.

Beginning at the northwesterly corner of Lot 130 of Tract No. 9289, as shown on map recorded in Map Book 133, pages 70 to 72 inclusive, records of said county, thence North 89° 32' 04" East along the northerly line of said Lot 130 a distance of 168.05 feet; thence normal to said northerly line North 0° 27' 56" West 38.36 feet; thence South 83° 32' 47" West 79.43 feet to the beginning of a tangent curve concave to the northeast having a radius of 35 feet; thence northwesterly along the arc of said curve through a central angle of 91° 51' 36" a distance of 56.11 feet; thence tangent North 4° 35' 37" West 42.08 feet to the beginning of a tangent curve concave to the west having a radius of 183 feet; thence northerly along the arc of said curve through a central angle of 24° 34' 54" a distance of 78.51 feet; thence tangent North 29° 10' 31" West 54.13 feet to the beginning of a tangent curve concave to the southwest having a radius of 20 feet; thence northwesterly along the arc of said curve through a central angle of 56° 55' 38" a distance of 19.87 feet; thence tangent North 86° 06' 10" West 61.01 feet to a point on the northeasterly line of Latigo Canyon Road, 80 feet wide, said point being distant North 36° 14' 30" East 30.0 feet from the northwesterly extremity of the center line course of said Latigo Canyon Road, shown as "South 53° 45' 30" East 43.66 feet" in map of Tract No. 5801, recorded in Map Book 149, pages 23 to 28 inclusive, records of said county; thence southeasterly and southerly along the northeasterly and easterly line of said Latigo Canyon Road to the point of beginning.

88- 008530

RIDER B

3



MAP TO ACCOMPANY LEGAL DESCRIPTION OF EASEMENT FOR INGRESS, EGRESS AND UTILITIES THRU PORTION OF THE NE ¼ OF THE SW ¼ OF SEC. 28, T1S, R19W, TO SERVE LOTS 128, 129 AND 130 OF TR. No 9869, MB 133, 70-72

MALIBU

LOS ANGELES COUNTY, CALIFORNIA

SCALE 1" = 30' OCTOBER, 1980

compiled by:
Mrs. Heller
By: Mario C. Quiros
Lic. Surv. No 6743
22249 Pacific Coast H.
Malibu, CA 90265
Phone (213) 456-2078

Mario C. Quiros

88- 006530

EXE-3-B

CERTIFIED RECORD OF DOCUMENT

RE: Vesting Tentative Tract Map No. 34289-(3)
Conditional Use Permit Case No. 94-165-(3)
Oak Tree Permit Case No. 2007-00011-(3)
Vesting Tentative Tract Map No. 34289, Latigo Canyon Road, approximately 450 feet north of W. Ocean View Drive

We, the undersigned, are vehemently opposed to the above referenced development and the zoning changes related thereto for a number of reasons including critical issues of public safety.

NAME	ADDRESS	SIGNATURE	DATE
Robert King	4200 Latigo Cyn Rd 90265		May 1, 2009
Carol King	4200 Latigo Cyn. Rd. 90265		5/1/09
Cheryl Cordber	26533 Ocean View Dr. 90265		5/2/09
Chris Davidson	4248 OCEAN VIEW 90265		5/2/09
Martha Dardeda	4248 Ocean View Dr. 90265		5/2/09
Ann Lakstigala	4347 Ocean View Dr. 90265		5/
Mary Priamon	430 Ocean View Dr.	Malibu, CA	5/2/09
Dede Fisher	4341 Ocean View Dr	Malibu CA	5/2/09
[illegible]	4345 OCEAN View Dr	MALIBU CA	5/2/09
PATRICK CADY	4317 Ocean View D	[illegible] CA	5/2/09
Jim Ketchum	26624 Ocean View Dr		5/2/09
Cathy Hutchinson	26569 Ocean View Dr.	Malibu, CA 90265	5/2/09
Monika Peters	26573 Ocean View Dr.	Malibu CA 90265	
Christine + Andy Walshe	26535 Ocean View Dr.,	Malibu, CA 90265	
Jeffrey Pierson	26514 OCEAN View Dr	MALIBU, CA 90265	5/2/09
Kim Caplinger	26514 Ocean View Drive	Malibu CA 90265	
David Reeder	26575 Ocean View Drive	Malibu CA 90265	
Jill Reeder	26575 Ocean View Dr.	Malibu CA 90265	
Landau Murphy	26600 Ocean View Dr	Malibu CA 90265	
JAMES GROTH	4015 LATIGO	MALIBU CA	90265
Cathy Doyle	4150 Latigo Cyn Rd. Malibu CA 90265		5/2/09
Mike Doyle	4150 LATIGO CYN MALIBU		5-2-09
BOB PORTER	4121 PARTEN DRIVE, MALIBU, CA		5-2-09
Jon Pelle	4121 Parten Dr.	Malibu CA 90265	

M

I

RE: Vesting Tentative Tract Map No. 34289-(3)
Conditional Use Permit Case No. 94-165-(3)
Oak Tree Permit Case No. 2007-00011-(3)
Vesting Tentative Tract Map No. 34289, Latigo Canyon Road, approximately 450 feet north of W. Ocean View Drive

We, the undersigned, are vehemently opposed to the above referenced development and the zoning changes related thereto for a number of reasons including critical issues of public safety.

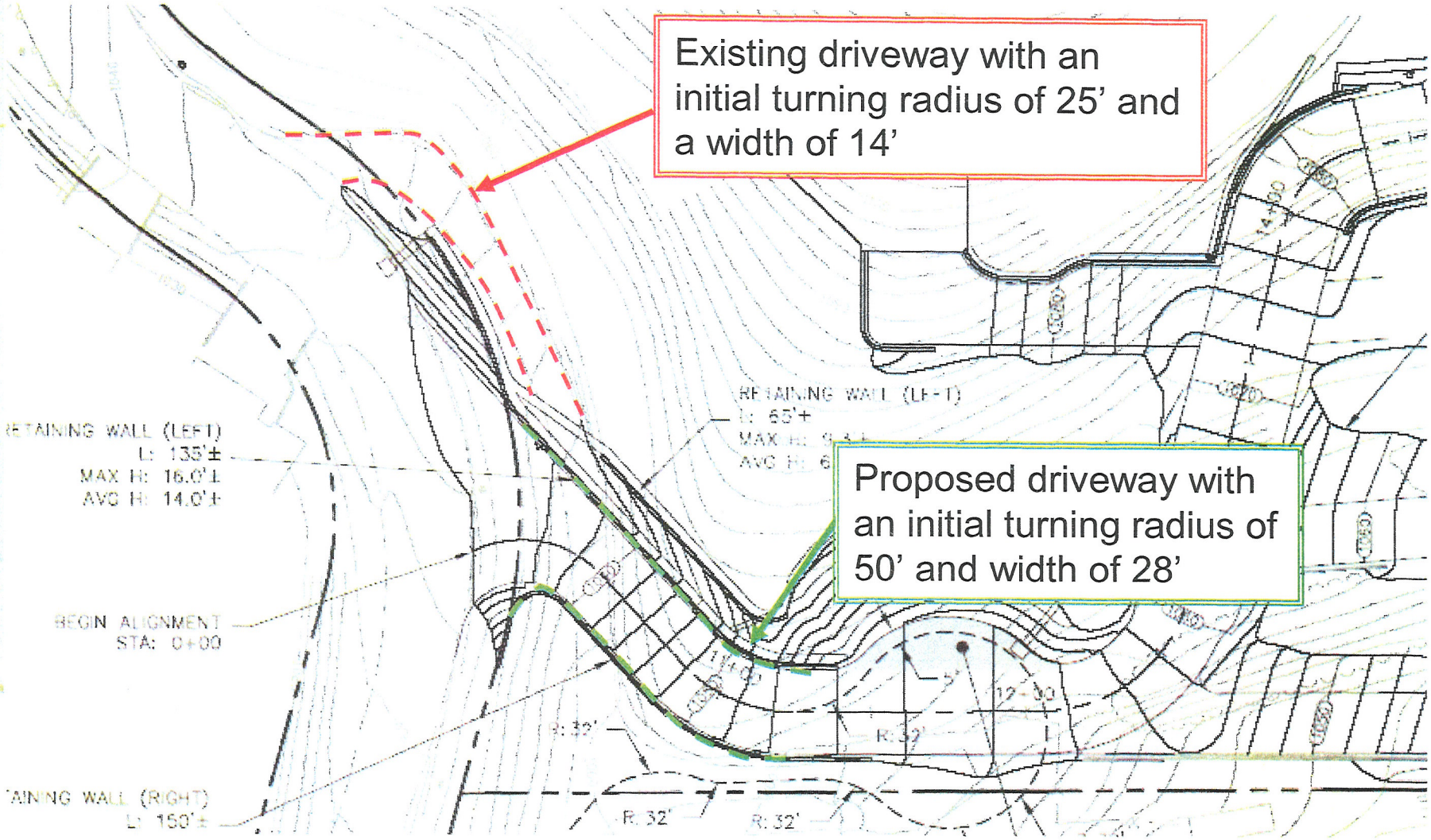
NAME	ADDRESS	SIGNATURE	DATE
MARK GRIFFIN	4125 PARTON		5-2-0
BRUCE OCHMANEK	4119 PARTON		5/2/09
LISA SERWIN	3804 LATIGO CANYON Rd.		5/2/09
JAZ MANAK	4310 HILLVIEW DR		5/2/09
MANJIT MANAK	4310 HILLVIEW DR		5/2/09
DAMON MANAK	430 HILLVIEW DR		5/2/09
CYNTHIA AVILA	4324 HILLVIEW DR		5/2/09
T. SCOTT AVILA	4324 HILLVIEW DR.		5/2/09
MYRNA KATZ	4200 OCEANVIEW DRIVE		5/2/09
LINDA CADY	4317 OCEANVIEW DR		5/2/09
[illegible]	4325 Ocean View Dr		5/3/09
Trudy L. [illegible]	4325 Ocean View Dr.		5/03/09
KEVIN HUGHES	4360 HILLVIEW DR		5/3/09
JOHN HUGHES	4367 HILLVIEW CIR		5/3/09
Vivo Byrnes	4366 Hillview Dr		5/3/09
RICHARD BAYS	4361 HILLVIEW DR		5/3/09
Sergei EVERKOV	3960 Second		5/3/09
DAVID PEPPER	3925 LATIGO CYN.		5/3/09
Anthony J. McEwan	3911 Latigo Canyon Rd		5/3/09
Mary Tafi	4119 Parton Dr.		5/4/09
ERIC ERICKSON	26615 Ocean View Dr.	Malibu, CA 90265	5/4/09
DAVID A. DeJate	26615 Ocean View Dr.	Malibu CA 90265	5/4/09
Janice B. DeJate	26615 Ocean View Dr.	Malibu, CA 90265	5/4/09

RE: Vesting Tentative Tract Map No. 34289-(3)
Conditional Use Permit Case No. 94-165-(3)
Oak Tree Permit Case No. 2007-00011-(3)
Vesting Tentative Tract Map No. 34289, Latigo Canyon Road, approximately 450 feet north of W. Ocean View Drive

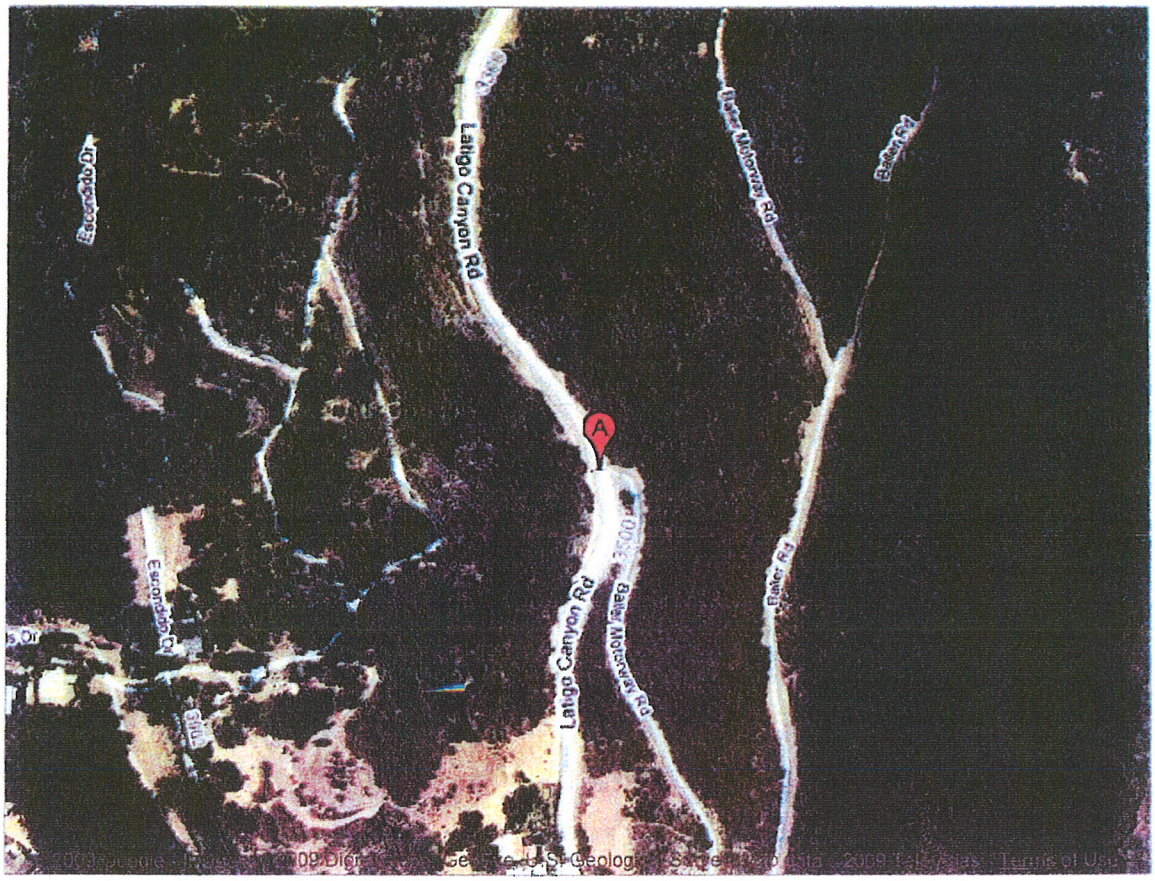
We, the undersigned, are vehemently opposed to the above referenced development and the zoning changes related thereto for a number of reasons including critical issues of public safety.

NAME	ADDRESS	SIGNATURE	DATE
MARCIA SINCLAIR	4025 LATIGO CYN		5/6/09
Joel LEVINSON	4025 LATIGO CYN		5/6/09
Heather Anderson	4238 Ocean View Dr		5/7/09
David L Anderson	4238 Ocean View Dr		5/7/09
Ben Bostrom	4025 Latigo Canyon Rd		5-11-09

Exhibit E: Project Improves Initial Width and Turning Radius



Google Maps Address



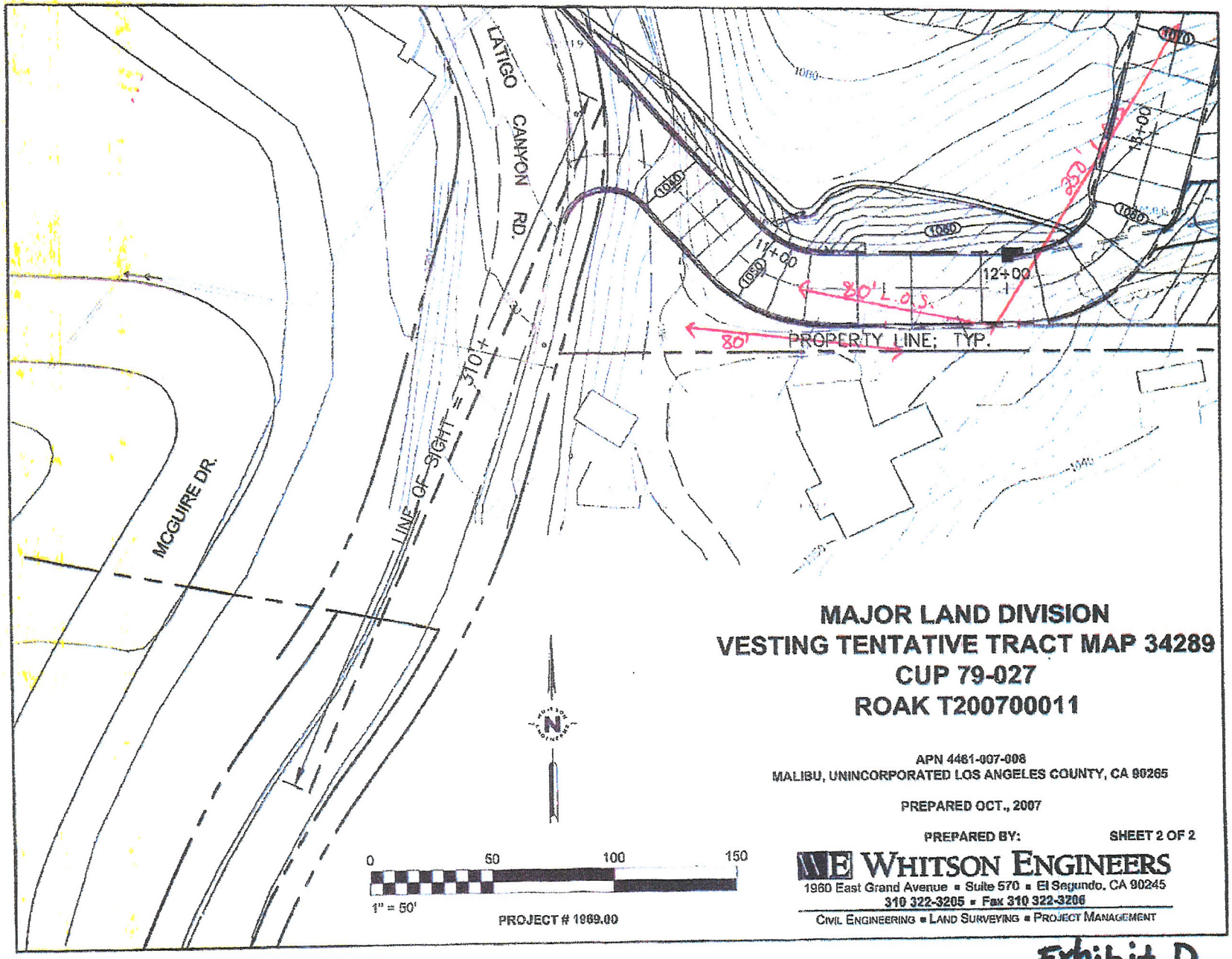


Exhibit D
Doyle Driveway Line of Sight

RE: Vesting Tentative Tract Map No. 34289-(3)
Conditional Use Permit Case No. 94-165-(3)
Oak Tree Permit Case No. 2007-00011-(3)
Vesting Tentative Tract Map No. 34289, Latigo Canyon Road, approximately 450 feet north of W. Ocean View Drive

We, the undersigned, are vehemently opposed to the above referenced development and the zoning changes related thereto for a number of reasons including critical issues of public safety.

NAME	ADDRESS	SIGNATURE	DATE
Candace Brown	26975 Old Chimney Rd	Candace	5/6/09
Jefferson Wagner	26980 Old Chimney Rd	Jefferson Wagner	5/6/09
Jon Gndick	4237 Escondido Dr.	Malibu, Ca	5/7/09
Bill Bixler	27065 Old Chimney Rd	Malibu	5/7/09

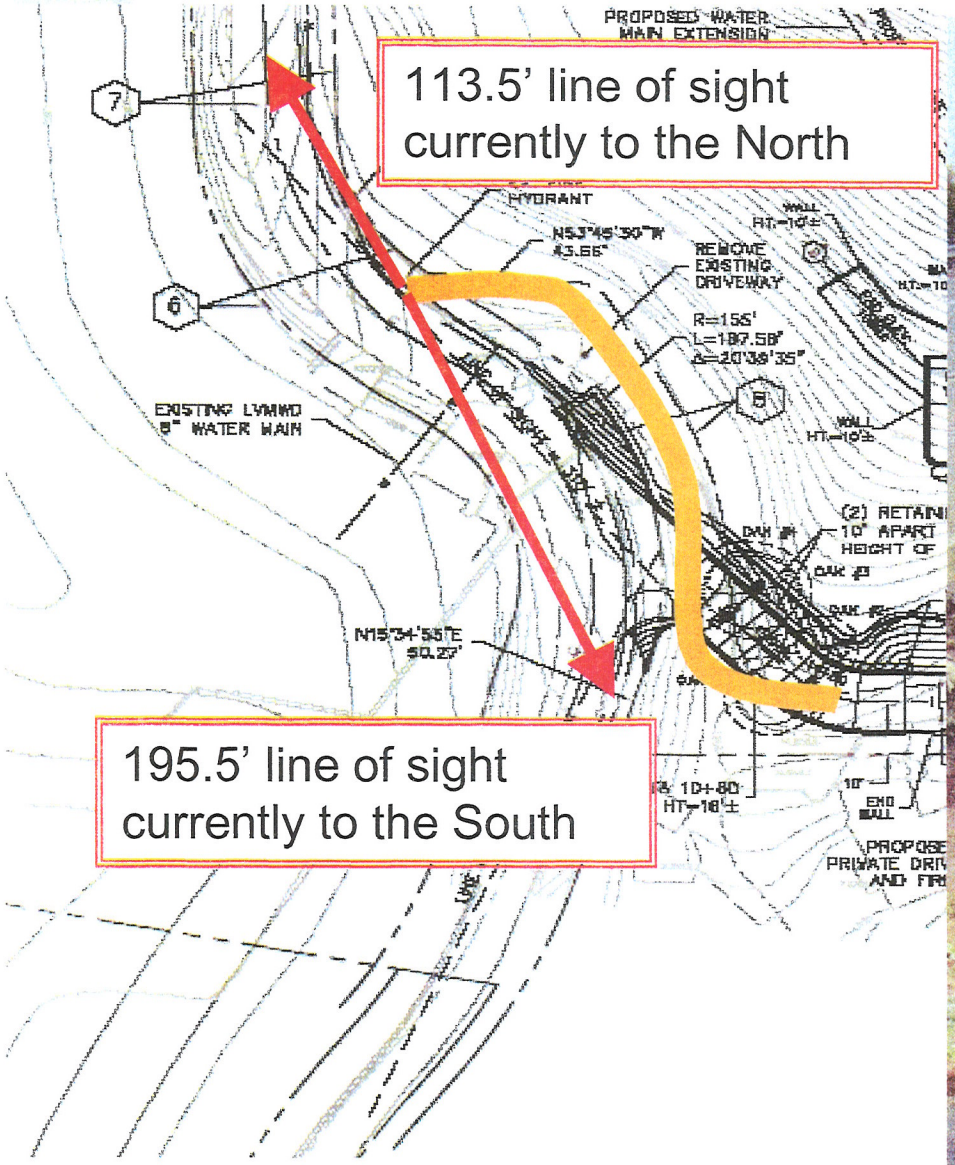
Stop Subdivision in Latigo Canyon

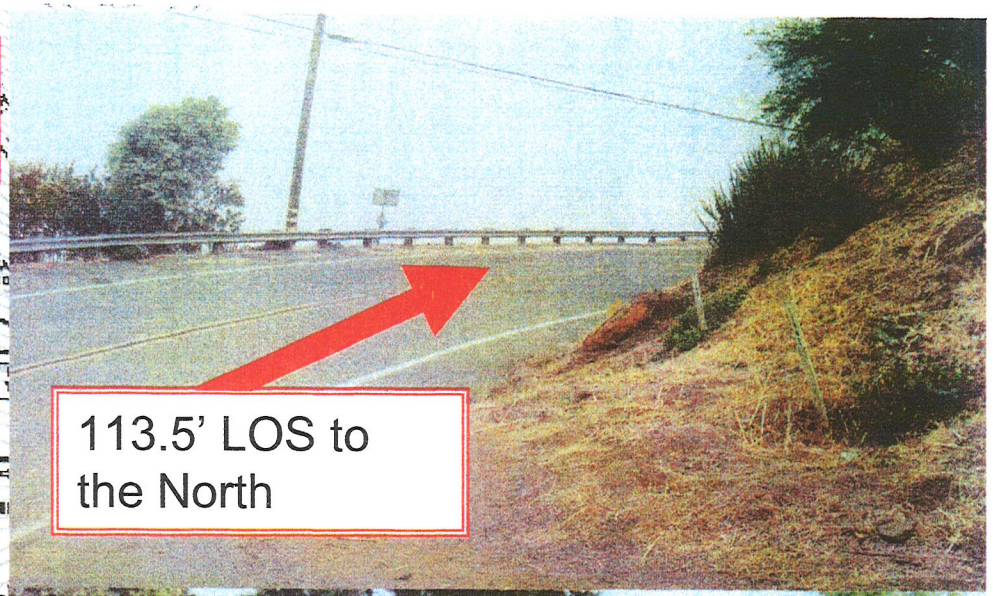
RE: Vesting Tentative Tract Map No. 34289-(3)
Conditional Use Permit Case No. 94-165-(3)
Oak Tree Permit Case No. 2007-00011-(3)
Vesting Tentative Tract Map No. 34289, Latigo Canyon Road, approximately 450 feet north of W. Ocean View Drive

We, the undersigned, are vehemently opposed to the above referenced development and the zoning changes related thereto for a number of reasons including critical issues of public safety.

NAME	ADDRESS	SIGNATURE	DATE
TOM GORBRIDGE	4022 ESCONDIDO		5/10/0
LAURIE GORBRIDGE	"	"	5-10-0
JOHN ABBENE	4101 ESCONDIDO DR	MALIBU CA 90265	5/10/0
LISA Abbene	4101 "	" "	5/10/0
ANNA OWCZAREK	4096 MAGUIRE DR	MALIBU, CA 90265	5-12-09
JOHN OWCZAREK	— " —	— " — CA 90265	5-12-09
JAKUB OWCZAREK	— " —	— " — CA 90265	5-12-0

Exhibit B: Current Substandard Lines-of-Sight





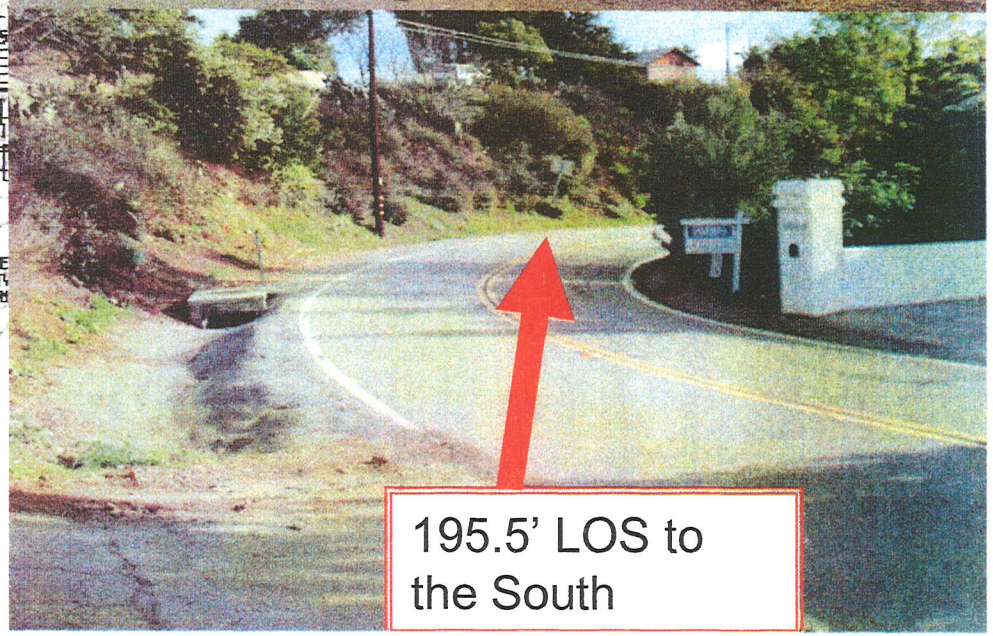
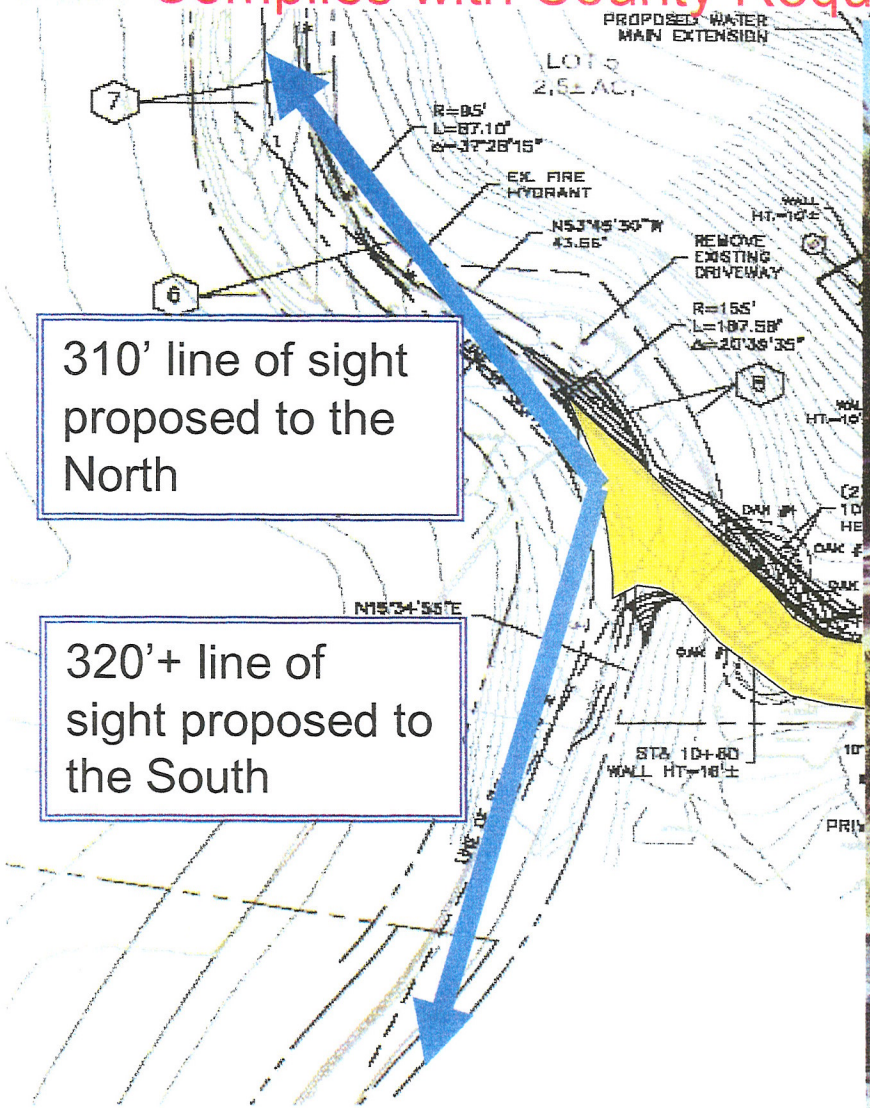
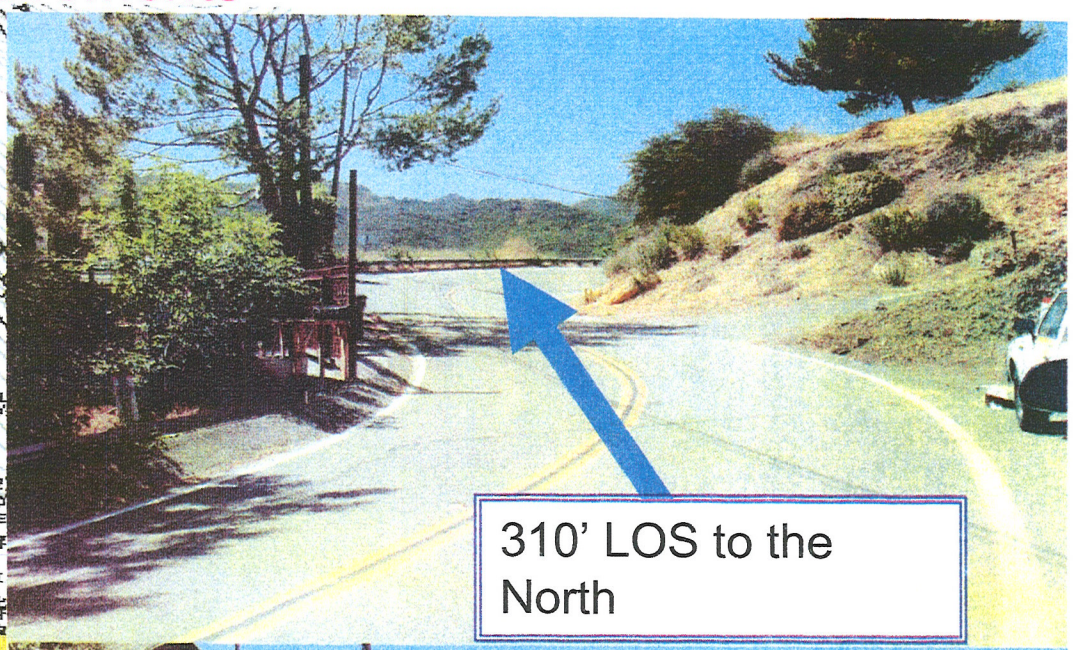


Exhibit C: Project Significantly Improves Lines-of-Sight and Complies with County Requirements





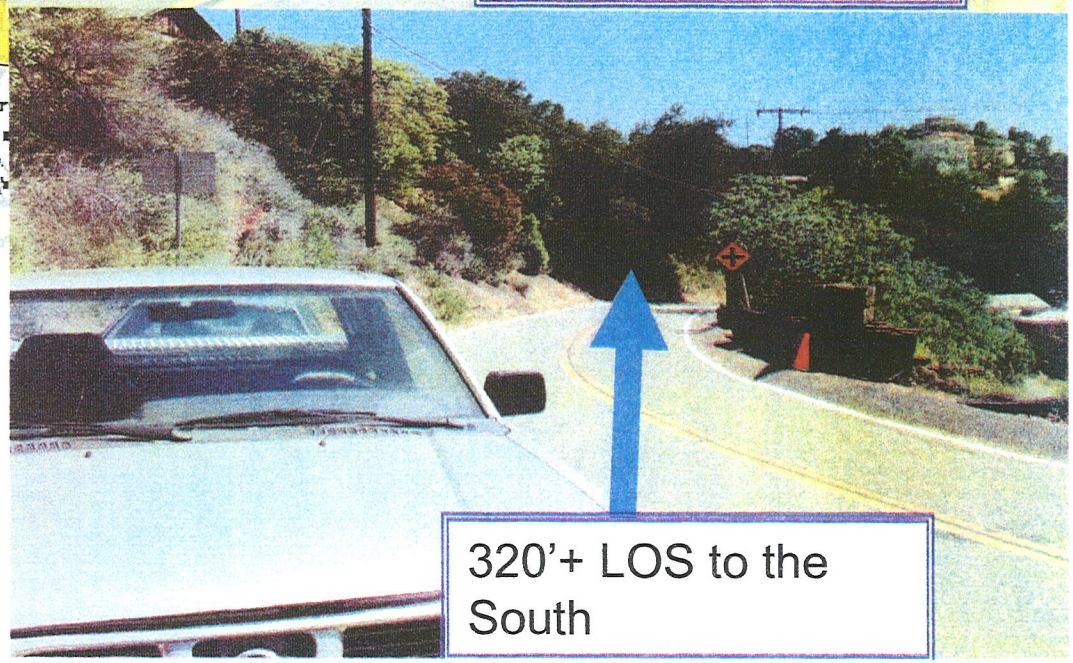


Exhibit D: Project Improves Average Grade and Width of Access

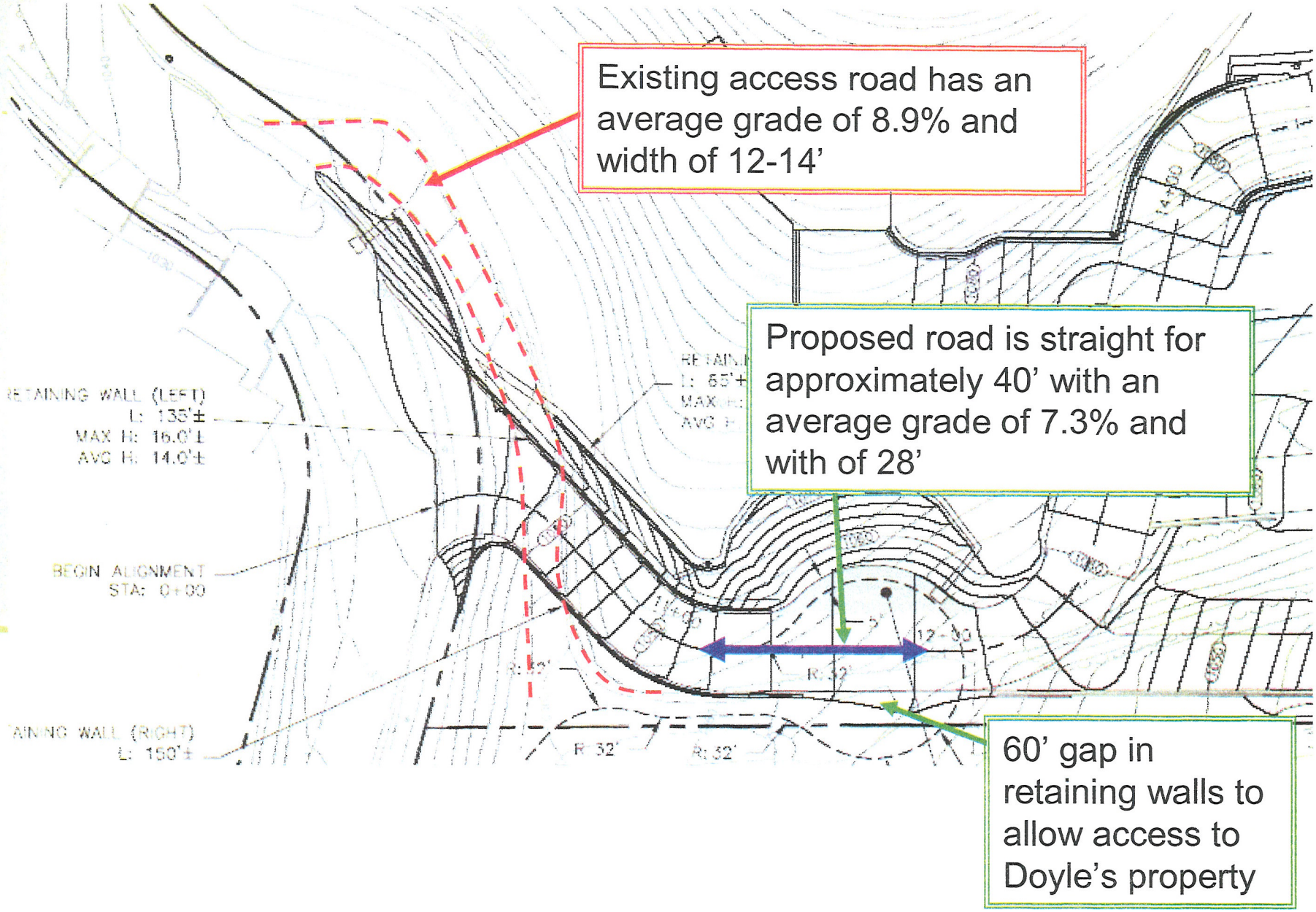
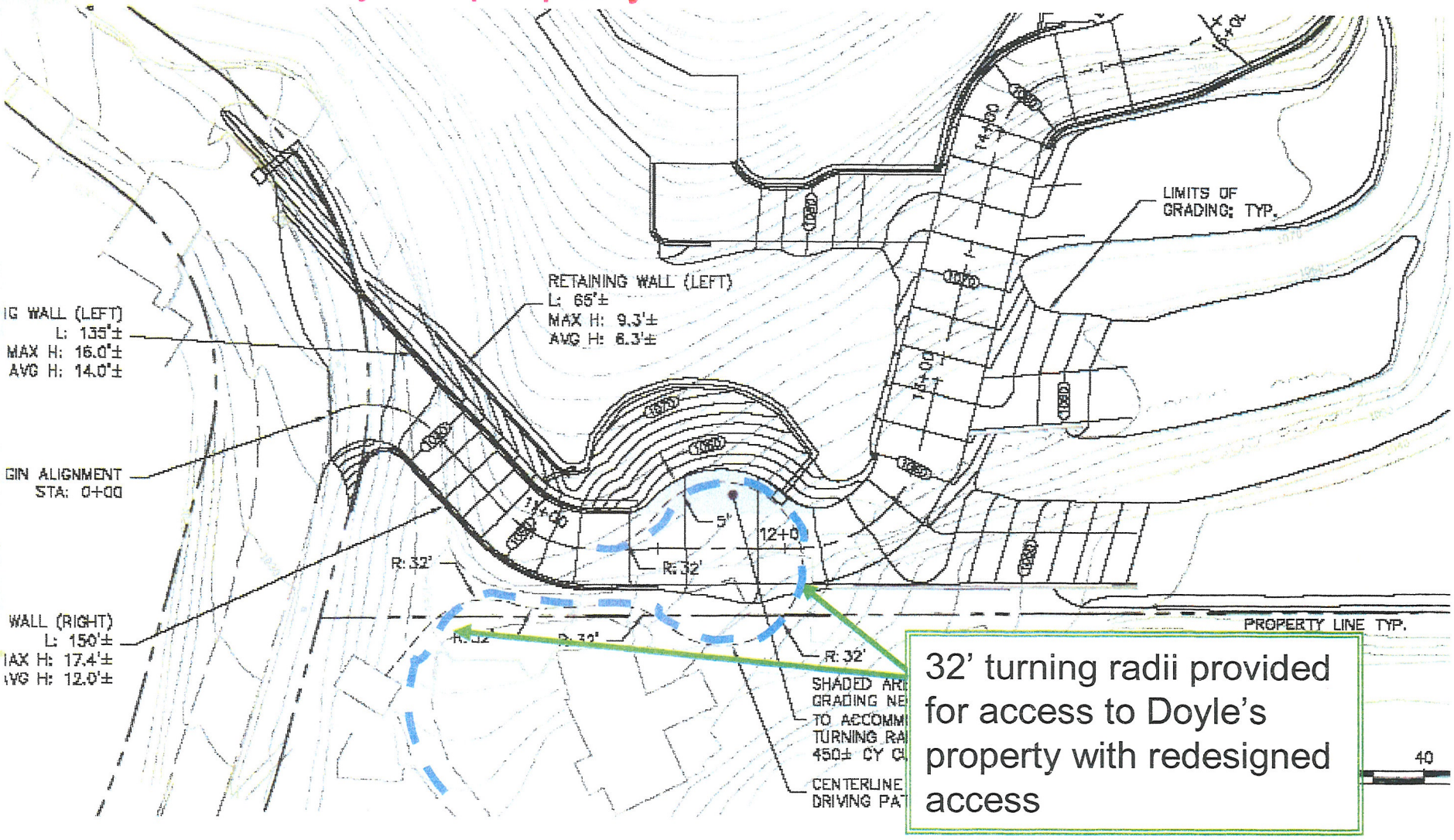
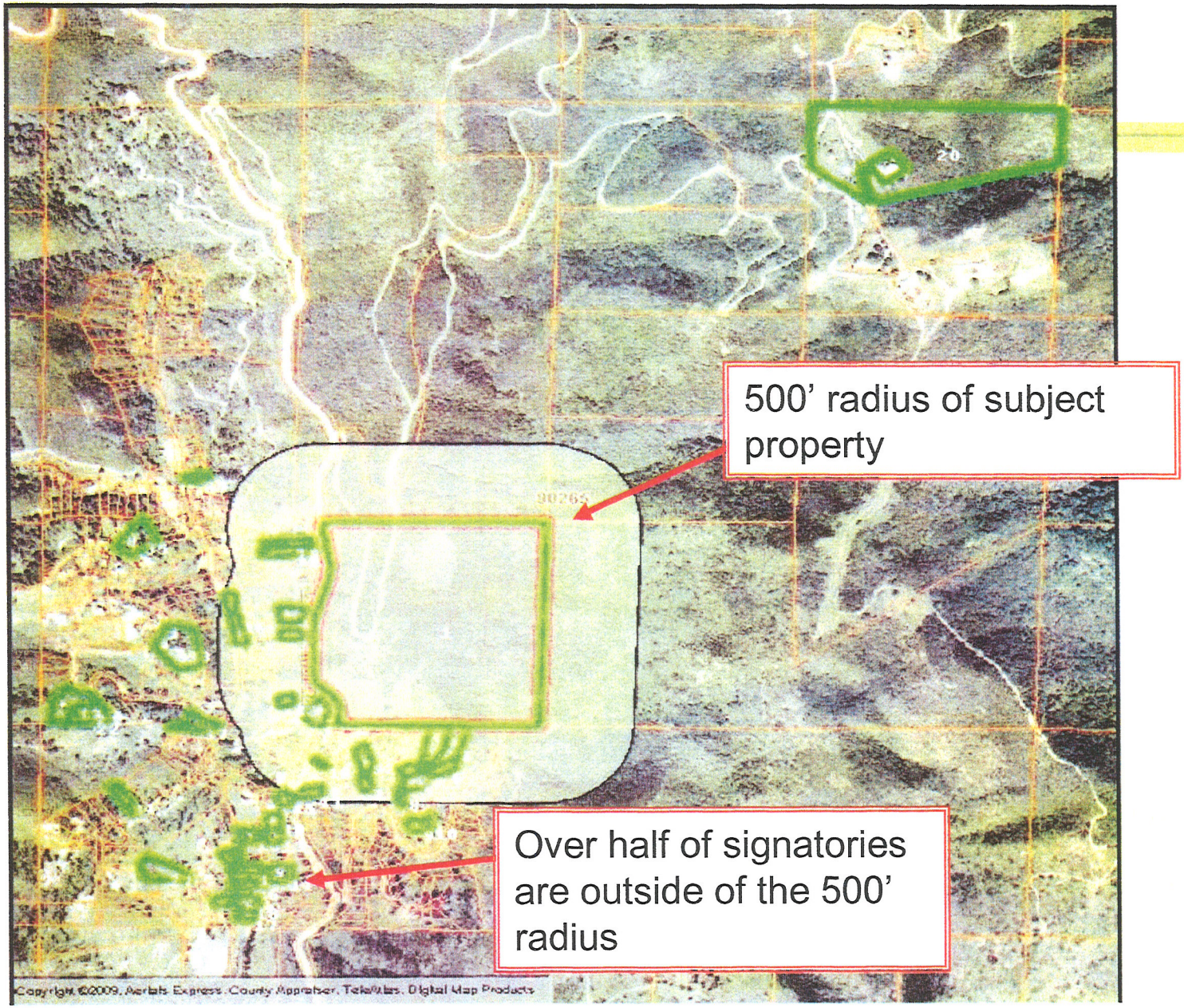


Exhibit F: Proposed redesign provides two 32' turning radii into Doyle's property



32' turning radii provided for access to Doyle's property with redesigned access

Exhibit G: Petition signatories



Via Hand Delivery

June 22, 2009

Regional Planning Commission
c/o Jodie Sackett
LA County Department of Regional Planning
320 West Temple Street, Room 1360
Los Angeles, CA 90012

DEPT OF REGIONAL PLANNING
JUN 22 2009
RECEIVED CS INDEX NO.

RE: Vesting Tentative Tract Map 34289

Dear Honorable Commissioners:

We are writing to you on behalf of our client, Dr. Reddy, in response to the correspondence dated May 20, 2009 (Exhibit A) submitted by the firm of Fletcher, White & Adair representing Mr. Mike Doyle (hereinafter "Doyle") to the Regional Planning Commission at the hearing on the same date. We would specifically like to address the allegations raised by Doyle that the proposed access road for project VTTM 34289 would cause dangerous access conditions to exist and would limit his access to his property. In short, we believe that the following and the referenced exhibits will illustrate that Doyle's claims are inaccurate and unsubstantiated.

Erroneous Claim #1: Dangerous Condition Regarding Access to Latigo Canyon Road

It was alleged in Doyle's 05/20/2009 correspondence that the proposed access road will create a dangerous access point to Latigo Canyon for the residents of both the proposed subdivision and Doyle. An "Exhibit F" was included by Doyle which purported to illustrate the "dangerous condition." This referenced exhibit was, however, an exhibit prepared by Schmitz & Associates and provided to Doyle and his attorney to illustrate the significant improvements in the lines-of-sight afforded by the proposed access road over the currently existing access road that Doyle utilizes. Doyle does not explain how this exhibit illustrates that the proposed project poses a dangerous condition, particularly because it clearly illustrates the opposite.

The proposed access road will not create a "blind curve" in the road as described. The current line-of-sight from Doyle's existing access point is 113.5 feet to the north and 195.5 feet to the south (Exhibit B). This in itself is a dangerous condition as the required line-of-sight pursuant to Los Angeles County Department of Public Works is 310 feet (as Latigo Canyon Road has a posted speed limit of 30mph). As such, the existing access road's line-of-sight is substandard by close to 200 feet to the north and over 100 feet to the south. The **proposed access road remedies this dangerous situation** by providing the required 310 feet line-of-sight to the north and a line-of-sight in excess of 320 feet to the south (Exhibit C).

To clarify, despite Doyle's allegation that the proposed access road will "make it dangerous for motorist (sic) on Latigo Canyon Road and those attempting to turn on to Latigo Canyon Road," the converse is true and has been demonstrated to the satisfaction of County staff. The *current* access point utilized by Doyle is dangerous due to the deficiencies in the lines-of-sight as described above.

SCHMITZ & ASSOCIATES, INC.
PROVIDERS OF LAND USE PLANNING FOR A BETTER COMMUNITY

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

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

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

The proposed access road will be an improvement upon the existing access point, will meet and exceed LA County standards, and will significantly improve Doyle's and the public's safety.

Erroneous Claim #2: Dangerous Condition Regarding Access to Doyle's property from proposed Road

Doyle's 5/20/09 correspondence makes the erroneous assertion that the access to his property via the proposed road will be "difficult and dangerous" due to the "significant grade" of 20% of the proposed road and the "sharp curves with very limited visibility." In reality, at the point of access for Doyle's property, both the originally proposed access road and the redesign to allow for a 32 foot turning radius (please see Erroneous Claim #4 below) are straight for approximately 80 feet, at an average grade of 7.3% and 28' wide as can be seen in Exhibit D (Note: Doyle's existing access road has an average slope of 8.9% and a width of 12-14').

Doyle's current access has an initial right hand curve with a turning radius of 25 feet while being approximately 14 feet wide. The *proposed* access road, however, has an initial left hand curve with a turning radius of 50 feet while being 28 feet wide (Exhibit E). As such it can be seen that there will be no compromise in Doyle's initial access to his property and instead there will be a significant improvement from the currently dangerous situation that exists.

Erroneous Claim #3: Relocation of Easement/Lack of Consent

Please be advised that this claim will be addressed by Dr. Reddy's counsel, Fred Gaines, under separate cover.

Erroneous Claim #4: Access to Doyle's Property

Following the hearing on May 20, the proposed access road has been redesigned to further address Doyle's concerns. Specifically, Dr. Reddy spent additional resources to have the project civil engineer prepare grading plans to accommodate a 32 foot turning radius into Doyle's property, as can be seen in Exhibit F. The proposed redesign along with two other alternatives (improving Baller Road and improving Doyle's access in its current configuration) were vetted with County Staff including the Case Planner, Jodie Sackett, Andy Narag from Public Works and Juan Padilla from the Fire Department on 06/17/2009. The redesign proposing the 32 foot turning radius was determined to be the most feasible of the access alternatives as it provided a code compliant, unimpeded access for Doyle while having the least impact on resources. The proposed redesign was provided to Doyle for comment on 06/19/2009.

The proposed access point to Doyle's property would provide a Fire Department pumper truck, with a length of approximately 30 feet, a sufficient turning radius for ingress and egress. The applicant is also willing to allow Doyle to utilize to the proposed 42 foot radius cul-de-sac to the north to turn his trailers. Please note that the proposed cul-de-sac is a Fire Department compliant turnaround for multiple residences that can be utilized by a ladder truck with a length of up to 40 feet. Additionally, please note that pursuant to California Vehicle Code section 35400 (a), the maximum length of a

vehicle may not exceed 40 feet (apart from exceptions involving semi-trailers and truck tractors) and as such the turning radii provided should be more than sufficient for Doyle to access his **residential** property while pulling a standard trailer both safely and conveniently.

Given the already substandard existing access to Doyle's property, the proposed access road would not compromise his access, but instead substantially improve it both for Doyle and the Fire Department. Additionally, with the trailers that Doyle pulls onto Latigo Canyon Road, the improved line-of-sight both to the north and south provided by the proposed access road would substantially increase the safety of the public that uses Latigo Canyon Road.

Erroneous Claim #5: Construction Noise

Doyle's 5/20/09 correspondence claims that with the construction of the proposed road, he will have to "endure significant construction traffic passing his property every day." The applicant has, however, already agreed to implement a number of comprehensive project mitigation measures, including complying with all applicable sections of the County of Los Angeles noise control ordinance Title 12 Environmental Protection Noise and SCAWMD[1] measures to mitigate construction noise and maintain air quality. Additionally, staging and delivery areas will be located as far as feasible from nearby residences and all agreed upon measures will be taken to mitigate the effects of project construction on the neighbors.

County Department of Regional Planning (DRP) Staff has determined that with the implementation of the comprehensive mitigation monitoring program that constitutes part of the Mitigated Negative Declaration for the project, there will be no significant impact with regard to either construction noise or air quality.

Petition in Opposition to Changes

Exhibit G is a map of the project vicinity illustrating the location of the signatories of the petition that accompanied Doyle's 05/20/2009 correspondence. The 63 signatories constituted 40 'neighbors' out of which over half live over 500 feet away from the subject property and, as such, are unlikely to be directly impacted by the project's construction. Any possible effects on the neighbors with regard to traffic, noise, etc. have been deemed by DRP Staff to not have any significant impact due to the mitigation monitoring program to be implemented for the project. The neighbors who use Latigo Canyon Road, however, will **benefit** from the proposed project due to the significant improvements to the current, dangerous lines-of-sight that exist for Doyle's current access point.

Conclusion

It can be seen from the above that the claims made by Doyle in his 5/20/2009 were erroneous with regards to the proposed project reducing the safety of the public utilizing Latigo Canyon Road and compromising Doyle's access to his property. Exhibits provided to Doyle in attempts to negotiate an

[1] South Coast Air Quality Management District

equitable solution were misrepresented in Doyle's correspondence. Between April, 2008 and May, 2009 Schmitz & Associates conducted three site visits with Doyle and his representatives, and also made six calls and sent 12 correspondences to Doyle and his attorney with little to no response.

The above analysis and the referenced exhibits enclosed together with the redesign efforts that have been made by the project engineer since the May 20 hearing, illustrate that the applicant has gone to great lengths to not only ensure that Doyle's access remains unhindered to his property, but that access to his property and to Latigo Canyon Road has been improved to the benefit of Doyle and the public using Latigo Canyon.

Should you have any questions regarding the enclosed materials, please do not hesitate to contact me at (818) 338-3636 or ngunasekera@schmitzandassociates.net. Thank you for your time and attention into this matter.

Sincerely,
SCHMITZ & ASSOCIATES, INC.

Naren Gunasekera
Associate Planner II

CC: Jodie Sackett (County Department of Regional Planning)
Patricia Keane (County Counsel)
Dr. Reddy
File

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DEPT OF REGIONAL PLANNING
JUN 22 2009
RECEIVED CS INDEX NO.

June 18, 2009

VIA HAND DELIVERY

Leslie G. Bellamy, Chair
Regional Planning Commission
County of Los Angeles
320 West Temple Street
Los Angeles, CA 90012

Re:
- Vesting Tentative Tract Map No. 34289-(3)
- Conditional Use Permit Case No. 94-165-(3)
- Oak Tree Permit Case No. 2007-00011-(3)
- Environmental Assessment Case No. 2008-00132-(3)

Dear Chair Bellamy and Honorable Commissioners:

This office represents Chilumula R. Reddy ("Reddy" or "Applicant") with respect to his property located at Latigo Canyon Road, approximately 450 feet north of W. Ocean View Drive in the Malibu Zoned District (the "Reddy Property") and the above-referenced pending applications. The Applicant requests a Vesting Tentative Tract Map, Conditional Use Permit and Oak Tree Permit to create six single-family lots, one open space lot and one private street lot on the subject parcel, ensure compliance with the hillside management performance review criteria, and remove five non-heritage Oak trees (the "Project"). This letter, submitted in support of the Project, is specifically intended to address points raised in the May 20, 2009 correspondence to you from Paul White of Fletcher, White & Adair, legal counsel for Mike Doyle. Mr. Doyle owns Lots 128, 129 and 130 of Tract 9289 (the "Doyle Property"), which borders the south boundary of the Reddy Property.

A.) **The Doyle Easement.**

Presently, vehicular access to the Doyle Property is via a nonexclusive express easement located on and across the Reddy Property. The applicable Grant Deed, recorded in the Los Angeles County Recorder's Office on August 7, 1985 at Document No. 85-911324, describes the applicable easement as follows:

> "An easement consisting of a paved driveway and the paved parking areas for ingress, egress, parking and water lines appurtenant to Lots 128, 129 and 130, of Tract 9289, as per map thereof recorded in Book 133, Pages 70, 71 of Maps, in the Office of the County Recorder of said County, for the purpose of providing ingress to, egress from and parking for the dominant tenement, in perpetuity... " (the "Doyle Easement")

There is no dispute that the Doyle Easement is nonexclusive. No language is contained in the express easement that the Doyle Easement is exclusive to Doyle and, in the absence of such language, an easement is nonexclusive (*i.e.* it can be used by both the dominant tenement and the servient tenement, with certain limitations). Co-users of a nonexclusive easement have reciprocal rights and share responsibilities[1] similar to co-tenants. (*Noel v. Capobianco*, 218 Cal. 481, 483 (1933).) In this case, the Doyle Property is the dominant tenement and the Reddy Property is the servient tenement. As such, Reddy can make any use of the Doyle Easement that is not inconsistent with and does not interfere with its use by Doyle. (Miller and Starr, 6 Cal. Real Est. §15:56 (3d ed.).)

B.) <u>Reddy is Permitted to Relocate the Doyle Easement.</u>

The proposed improvements to the Reddy Property, which necessitate a reconfiguration of Mr. Doyle's driveway (which is now located on the Reddy Property)[2], as well as a retaining wall running

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[1] As the easement holder, one of Doyle's primary responsibilities is not to overburden the Doyle Easement. (*Blackmore v. Powell*, 150 Cal.App.4th 1593 (2d Dist. 2007) [the owner of the easement is not the owner of the property, but merely the possessor of a right to use someone's land for a specified purpose].) In this case, there is no question that Doyle's use of the Doyle Easement is inconsistent with the express purpose as described in the Doyle Easement. Specifically, the Doyle Easement is for the purpose of providing ingress to, egress from, parking and water lines for the dominant tenement (Lots 128, 129 and 130, of Tract 9289) which is developed and zoned for residential uses. However, it is our understanding that Doyle uses the Doyle Easement for commercial uses which are incompatible with the express easement language and, as a result, overburdens the Doyle Easement. The Doyle Property is not zoned for such commercial uses, nor were these commercial uses ever anticipated for the Doyle Property at the time the Doyle Easement was created. (*Red Mountain, LLC v. Fallbrook Public Utility Dist.*, 143 Cal.App.4th 333 (4th Dist. 2006) [uncontemplated uses of an easement which greatly increase the burden are not permissible].)

[2] Condition of Approval No. 7 provides that: "[t]he subdivider shall provide and maintain off site access to the existing residence located directly south of the subject property via the existing ingress and egress easement located on Lot Nos. 1 and 8. Prior to final map recordation, the subdivider shall submit an offsite access exhibit (Revised Exhibit "A") to the

roughly along the Reddy Property's southerly border, will result in an alteration to Mr. Doyle's vehicular access. The driveway improvements and reconfiguration, which will serve both the Doyle Property and the Reddy Property, are required by the County of Los Angeles for safety and engineering reasons and will result in safety and emergency access improvements to the Doyle Property.

If certain circumstances are present, a servient tenement owner can change an easement's location at the servient owner's expense - if the change does not significantly lessen the utility of the easement, increase the burden of the holder of the easement, or frustrate the purpose for which the easement was created. (12 Witkin, Summary 10th (2005) Real Prop, §409, p. 480.) Each of those conditions exists in this case. The change of the Doyle Easement will not in any way lessen the utility of the easement and, in fact, the utility of the Doyle Easement will be enhanced with the proposed safety improvements. A great majority of the realigned Doyle Easement will still be located within the existing easement area. The burden on Doyle will not be increased since ingress and egress to the Doyle Property will still be, in large part, via the Doyle Easement. Lastly, the purpose of the Doyle Easement will at all times remain unchanged and provide Doyle with the ingress, egress, parking and water lines he has enjoyed since taking ownership of the Doyle Property.

C.) **As Co-Owner of the Doyle Easement, Doyle is Obligated to Do Nothing that Injuriously Affects Reddy's Property Rights.**

Paul White of Fletcher, White & Adair, Doyle's attorney, makes misleading claims and ignores some basic fundamentals in his May 20, 2009 correspondence to you. Mr. White's letter states that "[t]he proposed road will render Mr. Doyle's existing recorded easement unusable..." and that"[i]n order to relocate the easement, it will be necessary for the developer to file an action to quiet title." Neither of these assertions is true. What is true, is that Reddy cannot terminate the Doyle Easement without Doyle's consent. However, Reddy is neither threatening nor intending to terminate the Doyle Easement. As stated in our May 18, 2009 letter to you, a majority of the ingress and egress to the Doyle Property will still fall within the legal description of the Doyle Easement and the Doyle Easement will be used for the same purposes that are permitted today.

The improvements proposed by Reddy are required by the County of Los Angeles for public safety and engineering reasons. The proposed driveway configuration and subsequent realigned easement is required to ensure the Project is compliant with both the General Plan and the requirements of the hillside management performance criteria. Given that the Reddy Property is undeveloped and zoned for residential uses in an area of existing residential uses, it was certainly contemplated by the predecessors in interest to both the Reddy Property and Doyle Property that the Reddy Property

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Los Angeles County Department of Regional Planning ("Regional Planning") for review and approval depicting the proposed design in substantial conformance with the access depicted on the approved tentative map/Exhibit "A" to the satisfaction of Regional Planning."

would be developed with residential uses in the future. (*Red Mountain, LLC v. Fallbrook Public Utility Dist., supra.*, 143 Cal.App.4th at 350 (4th Dist. 2006) [normal future uses of an easement are within the reasonable contemplation of the parties and therefore permissible]. The proposed residential use is, therefore, no surprise to Doyle.

Doyle is using his position as the dominant tenement holder to illegally prevent the Reddy Project from coming to fruition. In refusing to agree to the relocation of the Doyle Easement, Doyle prevents the Reddy Property from being used to its full potential. Such actions violate the laws governing the relationship between dominant and servient tenement owners. In particular, when exercising the rights to use an easement, the owner of the easement must give due regard to the rights of the owner of the servient estate. The owner must use the easement in the manner that imposes the least burden on the servient tenement and he cannot do anything that causes unreasonable injury to the servient tenement or that interferes with the servient owner's use fo the property. The easement owner may be held liable for any damages suffered by the owner of the servient tenement by any wrongful or unreasonable acts on the servient tenement. (Miller and Starr, 6 Cal. Real Est. §15:66 (3d ed.); 2 Cal. Real Est. Digest 3d Easements and Licenses §7.)

Finally, in any legal action with respect to the Doyle Easement, a court is required to balance the equities of the servient and dominant tenement owners. (Miller and Starr, 6 Cal. Real Est. §15:63 (3d ed.).) The rights and duties between the owner of an easement and the owner of the servient tenement are correlative. Each is required to respect the rights of the other. Neither party can conduct activities that unreasonably interfere with the other party's use of the property. In this case, Reddy would prevail against Doyle should a court undertake the required balancing of relative hardship analysis.

D.) Doyle's Outright Refusal to Discuss the Easement Issue with Reddy Evidences that He Wants to Prevent Any Development of the Reddy Property.

It is unfair for the County of Los Angeles to hold Reddy hostage to Doyle, since Doyle has been entirely unresponsive to Reddy's outreach efforts. Since the parties met at the Property on January 5, 2009, Doyle's legal counsel has ignored all communications from Reddy's consultants. In all, the following efforts have been made on Reddy's behalf to discuss the Doyle Easement with Doyle's attorneys:

3/3/2008	Schmitz & Associates meeting with Fletcher and Doyle
3/5/2008	Schmitz & Associates provide Tract Map and other materials to Fletcher and Doyle
3/17/2008	Schmitz & Associates telephone call with Fletcher
3/18/2008	Schmitz & Associates email to Fletcher
3/19/2008	Schmitz & Associates email with Fletcher

3/19/2008	Schmitz & Associates site visit with Fletcher & Doyle
3/25/2008	Schmitz & Associates email with Fletcher
3/26/2008	Schmitz & Associates emails with Fletcher
4/4/2008	Schmitz & Associates email to Fletcher
4/7/2008	Schmitz & Associates left message for Fletcher
4/22/2008	Schmitz & Associates telephone call with Fletcher
5/5/2008	Schmitz & Associates telephone call with Fletcher regarding proposal
5/19/2008	Schmitz & Associates e-mail to John Fletcher
5/21/2008	Schmitz & Associates email to Fletcher
5/30/2008	Schmitz & Associates email to Fletcher
6/4/2008	Schmitz & Associates email to Fletcher
6/9/2008	Schmitz & Associates meeting with Fletcher and Doyle at ERB hearing
6/11/2008	Schmitz & Associates email to Fletcher
6/13/2008	Schmitz & Associates telephone call with Fletcher
12/18/2008	Gaines & Stacey telephone call with Fletcher
12/19/2008	Gaines & Stacey telephone call with Fletcher
1/5/2009	Schmitz & Associates site visit with Fred Gaines, Fletcher & Doyle
2/18/2009	Gaines & Stacey email to Fletcher
2/18/2009	Schmitz & Associates provides materials to Fletcher
3/18/2009	Gaines & Stacey left message for Fletcher
4/1/2009	Gaines & Stacey left message for Fletcher
4/20/2009	Gaines & Stacey left message for Fletcher
5/14/2009	Schmitz & Associates left message for Fletcher

To this day, Doyle has not responded to any of Reddy's outreach efforts following the January 5, 2009 site visit. The sheer lack of responsiveness on the part of Doyle demonstrates bad faith and, Reddy cannot help but think, a true desire to either unreasonably delay and/or prevent any development whatsoever of the Reddy Property.

E.) The County Has Proposed a Condition of Approval to Ensure that Access to the Doyle Property is Maintained.

Reddy agrees with proposed Condition of Approval No. 17, which states that "[t]he permittee shall provide and maintain offsite access to the existing residence located directly south of the subject property via the existing ingress and egress easement located on Lot Nos. 1 and 8. Prior to final map recordation, the permittee shall submit an offsite access exhibit (Revised Exhibit "A") to the Los Angeles County Department of Regional Planning ("Regional Planning") for review and approval depicting the proposed design in substantial conformance with the access depicted on the approved tentative map Exhibit "A" to the satisfaction of Regional Planning."

The issue regarding the Doyle Easement is a private matter between two neighboring property owners, which is properly addressed by proposed Condition of Approval No. 17. The Regional Planning Commission's delay or further conditioning of this Project as a result of the Doyle Easement is improper. Regional Planning staff states, and Reddy agrees, that the "proposed offsite access as depicted on the tentative map/Exhibit "A" is an improvement over the current driveway, which narrows to 10 feet wide in some areas and does not provide sufficient width for ingress and egress."

Reddy and Doyle, one way or another, will come to an agreement regarding the Doyle Easement. Any further relocation of the Doyle Easement would, of course, have to be in substantial conformance with approvals, the County of Los Angeles would be presented with a subsequent opportunity to review and approve the changes.

Thank you for your continued consideration of this Project and, as always, please do not hesitate to contact me at any time with any questions or comments you may have.

Sincerely,

GAINES & STACEY LLP

By

FRED GAINES

cc: Jodie Sackett, County Department of Regional Planning
Patricia Keane, County Counsel

Via UPS *(tracking # 1ZV203620197888484)*

June 18, 2009

Mr. Michael Doyle
c/o Fletcher, White, & Adair
28925 Pacific Coast Hwy
Second Floor
Malibu, CA 90265

DEPT OF REGIONAL PLANNING
RECEIVED GS INDEX NO.

RE: Access Alternatives for VTTM 34289-(3)

Dear Mr. Doyle:

I hope this correspondence finds you well. I am writing to you on behalf of our client, Dr. Reddy, to advise you on our efforts pursuant to the request made on 05/20/2009 by the Regional Planning Commission that Regional Planning Staff and the applicant for the above mentioned project further study alternative access locations to the project site from Latigo Canyon Road. Said efforts included further analysis of the alternatives and the commissioning of additional grading plans. On June 17, 2009, we met with representatives from LA County Departments of Regional Planning (Jodie Sackett), Public Works (Andy Narag) and the Fire Department (Juan Padilla) to review these alternatives to the proposed access.

Three alternatives for project access were reviewed with County Staff including utilizing Baller Road, improving the current driveway in its present location, and modifying the proposed driveway to provide a 32' turning radius. Utilizing Baller Road was deemed infeasible by the County due to the unreasonable resource impacts the widening would have with regard to increased grading and a 1,275' long retaining wall with a maximum height of 22' along a County-designated significant ridgeline. Improving the existing access driveway was also decided to be infeasible due to the substandard lines-of-sight that exist both to the north and south on Latigo Canyon Road and the substantial amounts of grading of the hillside that would be required to achieve the required line-of-sight. Mr. Sackett, Mr. Padilla and Mr. Narag all advised that the third alternative, modifying the currently proposed driveway to provide a 32' turning radius is the preferred alternative as it does not compromise your access in any way whilst allowing the most optimal project design as determined by the County.

The preferred access alternative, 'Alternative Access Road – 3' is enclosed for your review and comment. Please note that as shown in the enclosed plan and Exhibit A, the modified design now provides you with two 32' turning radii into your property located at 4128 Latigo Canyon from the proposed driveway. Mr. Padilla from the Fire Department advised that the access as shown is Fire Department compliant to allow the ingress and egress of a standard pumper truck (which are up to 30' in length).

SCHMITZ & ASSOCIATES, INC.
PROVIDERS OF LAND USE PLANNING
FOR A BETTER COMMUNITY

The proposed driveway modification will allow you unfettered access to your property and, with the improvements in lines-of-sight for access to Latigo Canyon Road, will increase both your safety and the safety of the public that utilizes Latigo Canyon.

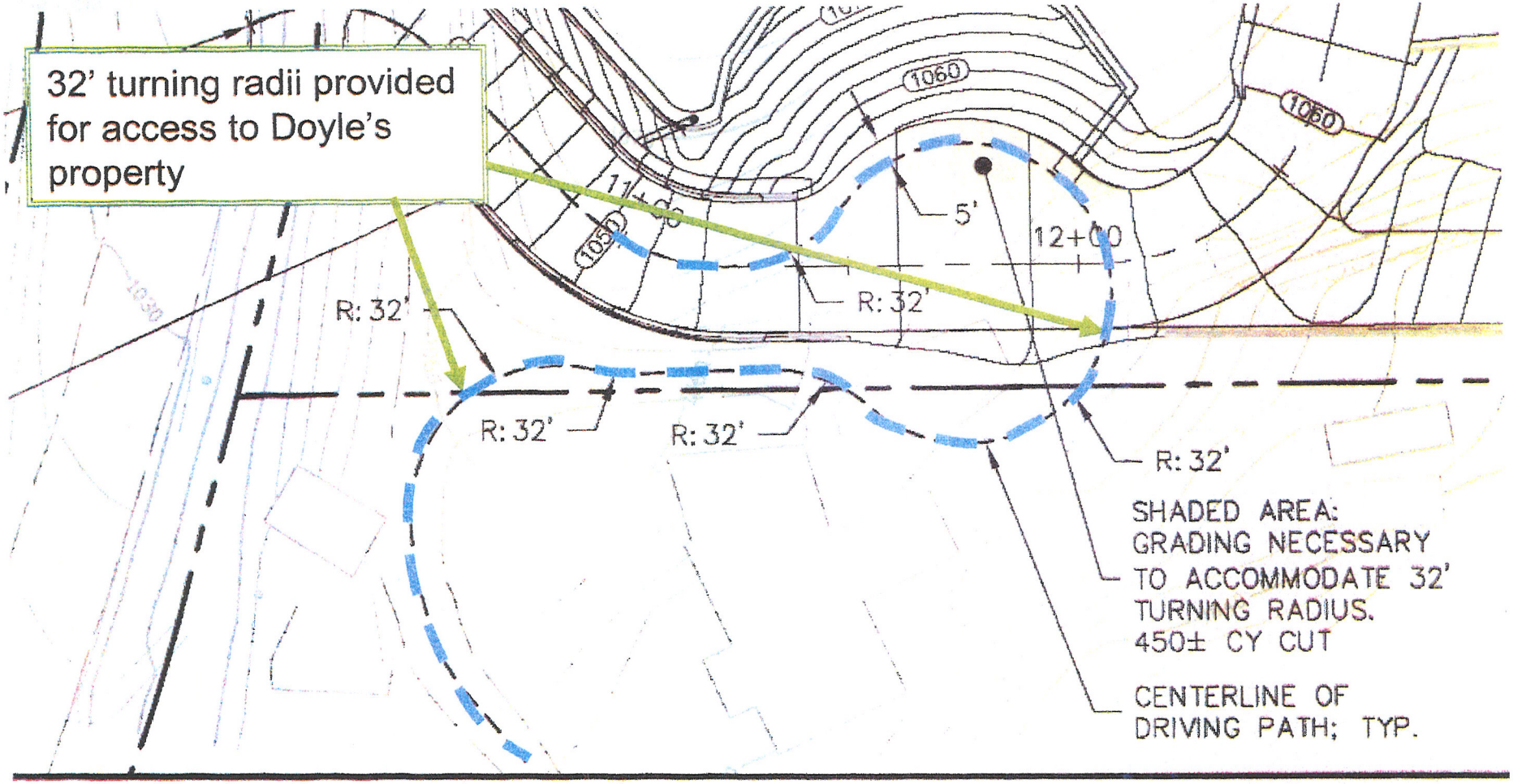
Please be advised that Mr. Jodie Sackett requested that you provide any comments to our proposed access alternative within two (2) weeks of receipt of this correspondence and the enclosed exhibits. Should you have any questions regarding the enclosed maps, please do not hesitate to contact either Mr. Sackett (jsackett@planning.lacounty.gov) or me at ngunasekera@schmitzandassociates.net or (818)338-3636.

Sincerely,
SCHMITZ & ASSOCIATES, INC.

Naren Gunasekera
Associate Planner II

CC: Jodie Sackett (w/encl.)
Dr. Chilumula Reddy (w/o encl.)

Exhibit A


32' turning radii provided for access to Doyle's property
1060
1060
1050
5'
12+00
R: 32'
R: 32'
R: 32'
R: 32'
R: 32'
SHADED AREA: GRADING NECESSARY TO ACCOMMODATE 32' TURNING RADIUS. 450± CY CUT
CENTERLINE OF DRIVING PATH; TYP.