Agenda Item No. 6
September 16, 2009

ADDITIONAL CORRESPONDENCE

Pacific Heights
Project No. 92027–(4)
TR 51153

Puente Hills Landfill
Native Habitat Preservation Authority

September 14, 2009

Elsa Trujillo, Project Manager
Pacific Communities Builder Inc.
1000 Dove Street Suite 300
Newport Beach, CA 92660

Pacific Heights Open Space Dedication

Dear Ms. Trujillo:

As we recently discussed, the Habitat Authority is still interested in being a recipient of the undisturbed open space dedication in fee title or of the conservation easement as required for the development of the Pacific Heights project. The open space element from this project is directly adjacent to open space and connecting trails of the Habitat Authority to the south.

Should the Habitat Authority receive the fee title, we continue to recommend a qualified public conservation agency such as the California Department of Fish and Game or the Watershed Conservation Authority to hold the conservation easement. If necessary the Habitat Authority will hold the conservation easement if another qualified conservation agency holds the fee in title.

As mentioned, if patrol or management is required for the property then the Habitat Authority requests funding to cover these costs.

As always, I can be reached at (562) 945-9003 for further discussion. Thank you for your ongoing consideration over the years of these possibilities.

Sincerely,

Andrea Gullo
Executive Director

C: Board of Directors, Habitat Authority
Ramon Cordova, Los Angeles County Planning Dept.

SHEPPARD MULLIN
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September 15, 2009

Our File Number: 0JYV-070914

BY EMAIL

Mr. Sorin Alexanian
Acting Deputy Director of Planning
Los Angeles County Department of
Regional Planning
320 West Temple Street
Los Angeles, California 90012

Re: Pacific Heights Project No. 92-027-(4)

Dear Mr. Alexanian:

As you know, this firm represents Pacific Communities Builder, Inc. ("Pacific Communities") regarding its Pacific Heights project (the "Project") referenced above. On September 10, 2009, Mr. Ramon Cordova issued a supplemental report (the "Supplemental Report") to the Regional Planning Commission (the "Planning Commission") that explains correspondence he received regarding: (1) Pacific Communities' offer to donate open space land to the Department of Parks and Recreation; and, (2) potential brush clearance requirements associated with the Project. While the Supplemental Report is generally accurate, it requires some clarification and further discussion that we believe will assist the Planning Commission's deliberation at the public hearing scheduled for September 16, 2009.

I. OPEN SPACE DONATION.

For many years, Pacific Communities has offered to voluntarily donate a portion of its land to the Department of Parks and Recreation to use in any manner it desires, including as a mitigation parcel for a potential County library project. That portion of land was in the northeast area of the Project site. During the Project entitlement process, however, Ms. Patricia Keane from the County Counsel's office advised us that legal requirements would preclude the Department of Parks and Recreation from accepting the open space donation as a mitigation parcel. Notwithstanding this advice, Pacific Communities remained willing to donate the land.

On September 8, 2009, Mr. Larry Hensley, the Chief of Planning at the Department of Parks and Recreation, submitted a letter to Mr. Cordova requesting that Pacific Communities donate an alternative 10-acre parcel of open space located in the southeastern area of the site. According to that letter, the Department of Parks and Recreation believes that the alternative parcel is more desirable for park and open space purposes because it is undisturbed

and would not contain manufactured slopes. Pacific Communities is willing to accommodate this request if the Department of Parks and Recreation issues a revised Park Land Obligation Report stating that Pacific Communities has satisfied its parkland obligation and is therefore not required to pay a parkland in-lieu fee.

As supporting evidence, Pacific Communities has satisfied its parkland obligation for at least two reasons. Section 21.24.350(C) of the County Code states in part that

> "[i]f the subdivision contains 50 or fewer residential lots, provision of the park space designated by the advisory agency shall be at the **option** of the subdivider. If the subdivider elects to provide the park space designated by the advisory agency, the amount of park space provided **shall** be credited against the local park space obligation for the subdivision."

Also, Section 21.24.340 of the County Code defines local park space as including hiking trails and other natural open space areas as recommended by the Director of Parks and Recreation. The Project contains 47 residential lots so these County Code provisions apply to it as follows.

First, the Project proposes approximately 1.03 acres of new hiking trails. See Exhibit 1: New Hiking Trails. At the August 19, 2009 public hearing, Pacific Communities presented these hiking trails to the Planning Commission as part of the Project's public amenities. The Planning Commission, as the advisory agency, did not object to these trails and directed the Staff to prepare for project approval. The Parkland Obligation Report indicates that the Project's parkland obligation is only 0.49 acres. See Exhibit 2: Parkland Obligation Report. Accordingly, Pacific Communities' election to provide 1.03 acres of hiking trails satisfies its parkland obligation under the County Code.

Second, even if the hiking trails were not credited (which they must be) against the parkland obligation, the 10-acre open space donation more than satisfies Pacific Communities' parkland obligation. As discussed above, the Department of Parks and Recreation specifically identified the parcel of natural open space that it wanted to expand Scharbarum Park. The 10-acre parcel far surpasses the Project's .49-acre parkland obligation and is a financial windfall for the County. For example, according to Section 21.28.140 of the County Code, the representative value for parkland calculations in the Hacienda Heights planning area is $220,640 per acre.[1] Applied to the Project, the corresponding in-lieu fee is approximately $108,113 (.49 acres x 220,640). In comparison, the 10-acre open space parcel is worth approximately $2,206,400 (10 acres x 220,640). In other words, Pacific Communities is providing the County with parkland that is approximately twenty times more valuable than that required by law.

[1] The February 10, 2009 Parkland Obligation Report contains an outdated residual land value of $222,869 per acre. The current and correct value is $220,640 per acre pursuant to County Code Section 21.24.340, which is effective as of July 1, 2009.

Furthermore, at the specific request of Ms. Keane, Pacific Communities is willing to donate an additional .49 acres of contiguous open space to the Department of Parks and Recreation to directly satisfy the acreage calculation in the Parkland Obligation Report. Thus, the total donation would be 10.49 acres of undisturbed open space.

It is clear – from a legal and financial standpoint – that Pacific Communities has satisfied its parkland obligation and is not required to pay an in-lieu fee. Accordingly, we respectfully request that the Department of Parks and Recreation revise its Parkland Obligation Report and present that to the Planning Commission before the September 16, 2009 hearing.

II. BRUSH CLEARANCE.

At the August 19, 2009 hearing, Commissioner Valadez made it clear that she did not want any net loss or disturbance of County parklands due to a private development project. In response, Pacific Communities drafted a condition of approval that requires it to donate an equal amount of undistributed open space to Scharbarum Park if the County Fire Department determines that development on Lot 15 would trigger brush clearance on adjacent parkland. The proposed language for that condition, as well as Staff's alternative brush clearance condition, is contained in Attachment "A" of the Supplemental Report. We believe that Pacific Communities' proposed condition adequately responds to the Planning Commission's concerns. More importantly, however, we believe that the entire brush clearance issue is now moot.

As a threshold matter, we want clarify for the Planning Commission that the Project does not automatically trigger brush clearance on Scharbarum Park. The County Fire Department's brush clearance requirements range from 30-feet to 200-feet from a structure. As currently designed, there is approximately 138-feet of clearance between a proposed structure on Lot 15 and the property line. It follows that there is likely an adequate amount of space between a structure on Lot 15 and the property line to accommodate brush clearance requirements without impacting Scharbarum Park. See Exhibit 3: Fuel Modification – Existing Brush Clearance.

Under the most conservative scenario (i.e., 200-foot buffer required) the Project would only require brush clearance on 9,779 square feet (0.22 acres) of land – which is adjacent to ongoing brush clearance activity – within Scharbarum Park. Adopting Pacific Communities' recommended brush clearance condition would ensure that any impacted parkland is fully replaced by undisturbed parkland of equal size. Stated differently, Pacific Communities would donate 0.22 acres of parkland to the County if, and only if, the Project triggered brush clearance activity within Scharbarum Park. Therefore, even under a worst-case scenario, the Project would result in no net loss of parkland.

Although we believe this analysis is sufficient to support adopting Pacific Communities' recommended brush clearance condition, it is also superfluous to the heart of the brush clearance issue. Simply put, the issue boils down to balancing fire protection, project design, and the Planning Commission's desire to retain undisturbed parkland. As noted above,

the donation of a 10.49-acre parcel of undisturbed open space to Scharbarum Park more than justifies removing the brush clearance condition altogether. The donation parcel is approximately fifty times larger than the parkland area that could be impacted by brush clearance associated the Project.

Furthermore, the donation, in conjunction with removal of the brush clearance condition, creates a "**win-win-win**" scenario whereby: (a) the Fire Department can impose the strictest and safest setback standards if needed, (b) Pacific Communities can retain its dwelling unit count and project design; and (c) the Planning Commission can take credit for significantly expanding the County's parklands. Therefore, we respectfully request that Staff support this position and remove the proposed brush clearance conditions from the Supplemental Report.

III. STAFF EVALUATION.

We appreciate, and concur, with the Staff's recommendation that the Planning Commission certify the Final EIR and approve the Project. In advance of the hearing, Pacific Communities will be working closely with Staff to reach agreement on the Project's conditions of approval. We respectfully request that Staff submit a revised set of conditions to the Planning Commission once we have collectively reached consensus.

IV. CONCLUSION.

As discussed above, we strongly believe that we have arrived at a point where all parties can benefit from the Project. We thank all of the members of the Planning Department and the Planning Commission for working diligently through the Project's lengthy entitlement process.

If you have any questions regarding the issues discussed in this letter, please do not hesitate to contact me.

Respectfully,

James E. Pugh

James E. Pugh

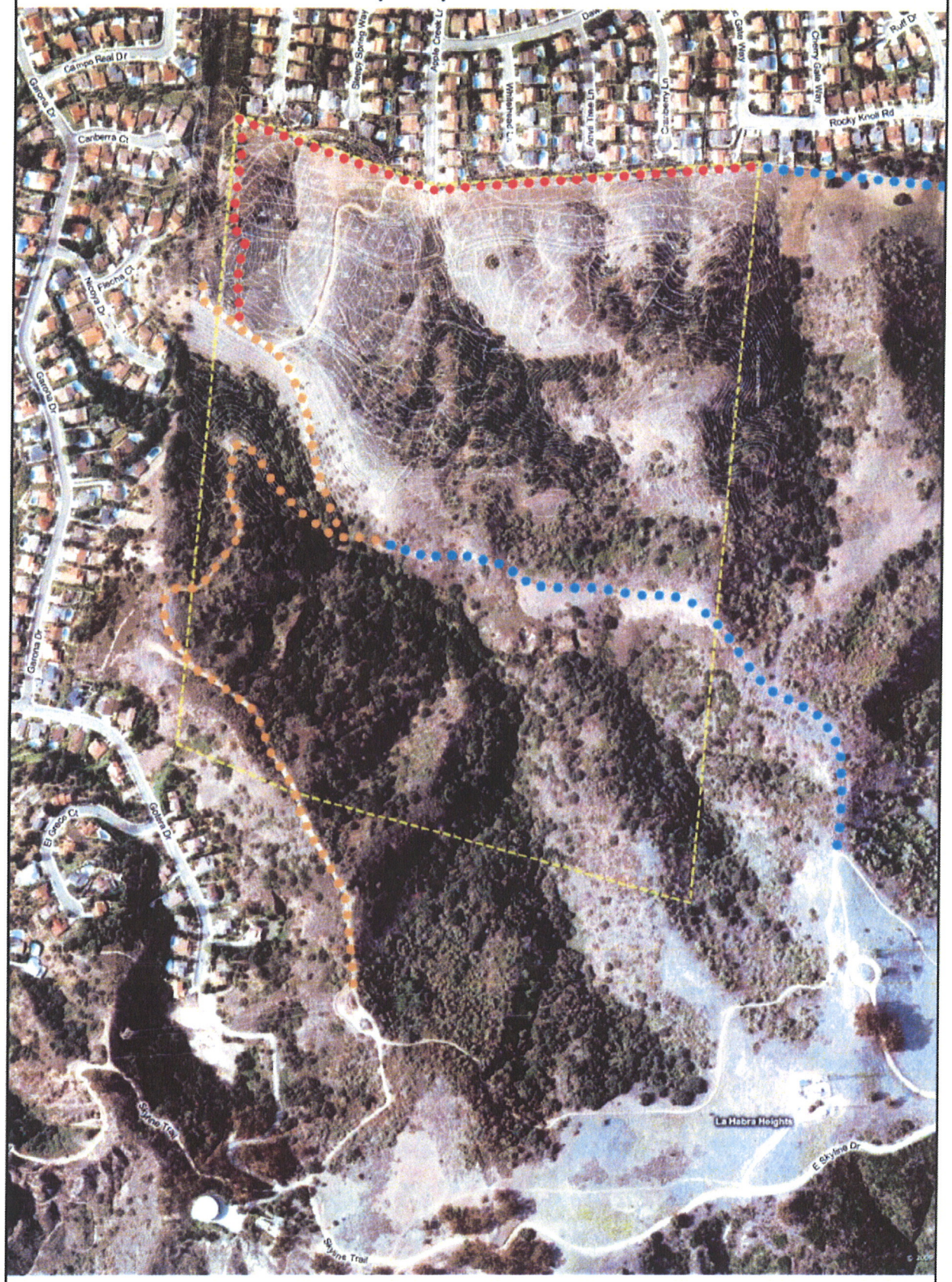
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

cc: Mr. Jon Sanabria, Ph.D. (w/encls.)
Commissioner Wayne Rew (w/encls.)
Commissioner Esther L. Valadez (w/encls.)
Commissioner Leslie G. Bellamy (w/encls.)
Commissioner Harold V. Helsley (w/encls.)
Commissioner Pat Modugno (w/encls.)
Mr. Larry R. Hensley (w/encls.)
Ms. Patricia Keane, Esq. (w/encls.)
Ms. Julie Moore, AICP (w/encls.)
Mr. Nelson Chung (w/encls.)
Ms. Elsa Trujillo (w/encls.)
Mr. Robert H. Philibosian, Esq. (w/encls.)

Exhibits:

Exhibit 1: New Hiking Trails
Exhibit 2: Parkland Obligation Report
Exhibit 3: Fuel Modification – Existing Brush Clearance

Open Space Trail Access



LEGEND:

- PROPOSED TRAIL/ ACCESS ROAD
- EXISTING TRAIL
- EXISTING OPEN SPACE ACCESS

2009/06/11

LOS ANGELES COUNTY
DEPARTMENT OF PARKS AND RECREATION

PARK OBLIGATION REPORT

Tentative Map # 51153	DRP Map Date: 01/07/2008	SCM Date: 02/25/2008	Report Date: 02/10/2009
Park Planning Area # 9	HACIENDA HEIGHTS		Map Type: REV. (REV RECD)

Total Units [47] = Proposed Units [47] + Exempt Units [0]

Sections 21.24.340, 21.24.350, 21.28.120, 21.28.130, and 21.28.140, the County of Los Angeles Code, Title 21, Subdivision Ordinance provide that the County will determine whether the development's park obligation is to be met by:

1) the dedication of land for public or private park purpose or,
2) the payment of in-lieu fees or,
3) the provision of amenities or any combination of the above.

The specific determination of how the park obligation will be satisfied will be based on the conditions of approval by the advisory agency as recommended by the Department of Parks and Recreation.

Park land obligation in acres or in-lieu fees:

ACRES:	0.49
IN-LIEU FEES:	$109,206

Conditions of the map approval:

The park obligation for this development will be met by:
The payment of $109,206 in-lieu fees.

Trails:

No trails.

Comments:

****The In-Lieu Fee has been updated to $109,206 from $105, 738 to reflect the fee schedule at the time Map 51153 was advertised for public hearing in February 2009**

*****Advisory: the Representative Land Values (RLVs) in Los Angeles County Code (LACC) Section 21.28.140 are used to calculate park fees and are adjusted annually, based on changes in the Consumer Price Index. The new RLVs become effective July 1st of each year and may apply to this subdivision map if first advertised for hearing before either a hearing officer or the Regional Planning Commission on or after July 1st pursuant to LACC Section 21.28.140, subsection 3. Accordingly, the park fee in this report is subject to change depending upon when the subdivision is first advertised for public hearing.**

Contact Patrocenia T. Sobrepeña, Departmental Facilities Planner I, Department of Parks and Recreation, 510 South Vermont Avenue, Los Angeles, California, 90020 at (213) 351-5120 for further information or an appointment to make an in-lieu fee payment.

For information on Hiking and Equestrian Trail requirements contact Trail Coordinator at (213) 351-5135.

By: James Barber

James Barber, Developer Obligations/Land Acquisitions

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LOS ANGELES COUNTY
DEPARTMENT OF PARKS AND RECREATION

PARK OBLIGATION WORKSHEET

Tentative Map # 51153	DRP Map Date: 01/07/2008	SMC Date: 02/25/2008	Report Date: 02/10/2009
Park Planning Area # 9	HACIENDA HEIGHTS		Map Type: REV. (REV RECD)

The formula for calculating the acreage obligation and or In-lieu fee is as follows:

(P)eople x (0.003) Goal x (U)nits = (X) acres obligation

(X) acres obligation x RLV/Acre = In-Lieu Base Fee

Where:

P = Estimate of number of People per dwelling unit according to the type of dwelling unit as determined by the 2000 U.S. Census*. Assume * people for detached single-family residences; Assume * people for attached single-family (townhouse) residences, two-family residences, and apartment houses containing fewer than five dwelling units; Assume * people for apartment houses containing five or more dwelling units; Assume * people for mobile homes.

Goal = The subdivision ordinance allows for the goal of 3.0 acres of park land for each 1,000 people generated by the development. This goal is calculated as "0.0030" in the formula.

U = Total approved number of Dwelling Units.

X = Local park space obligation expressed in terms of acres.

RLV/Acre = Representative Land Value per Acre by Park Planning Area.

Total Units [47] = Proposed Units [47] + Exempt Units [0]

	People*	Goal 3.0 Acres / 1000 People	Number of Units	Acre Obligation
Detached S.F. Units	3.50	0.0030	47	0.49
M.F. < 5 Units	2.70	0.0030	0	0.00
M.F. >= 5 Units	2.30	0.0030	0	0.00
Mobile Units	2.78	0.0030	0	0.00
Exempt Units			0	
			Total Acre Obligation =	0.49

Park Planning Area = 9 HACIENDA HEIGHTS

Goal	Acre Obligation	RLV / Acre	In-Lieu Base Fee
@(0.0030)	0.49	$222,869	$109,206

Lot #	Provided Space	Provided Acres	Credit (%)	Acre Credit	Land
None					
			Total Provided Acre Credit:	0.00	

Acre Obligation	Public Land Crdt.	Priv. Land Crdt.	Net Obligation	RLV / Acre	In-Lieu Fee Due
0.49	0.00	0.00	0.49	$222,869	$109,206

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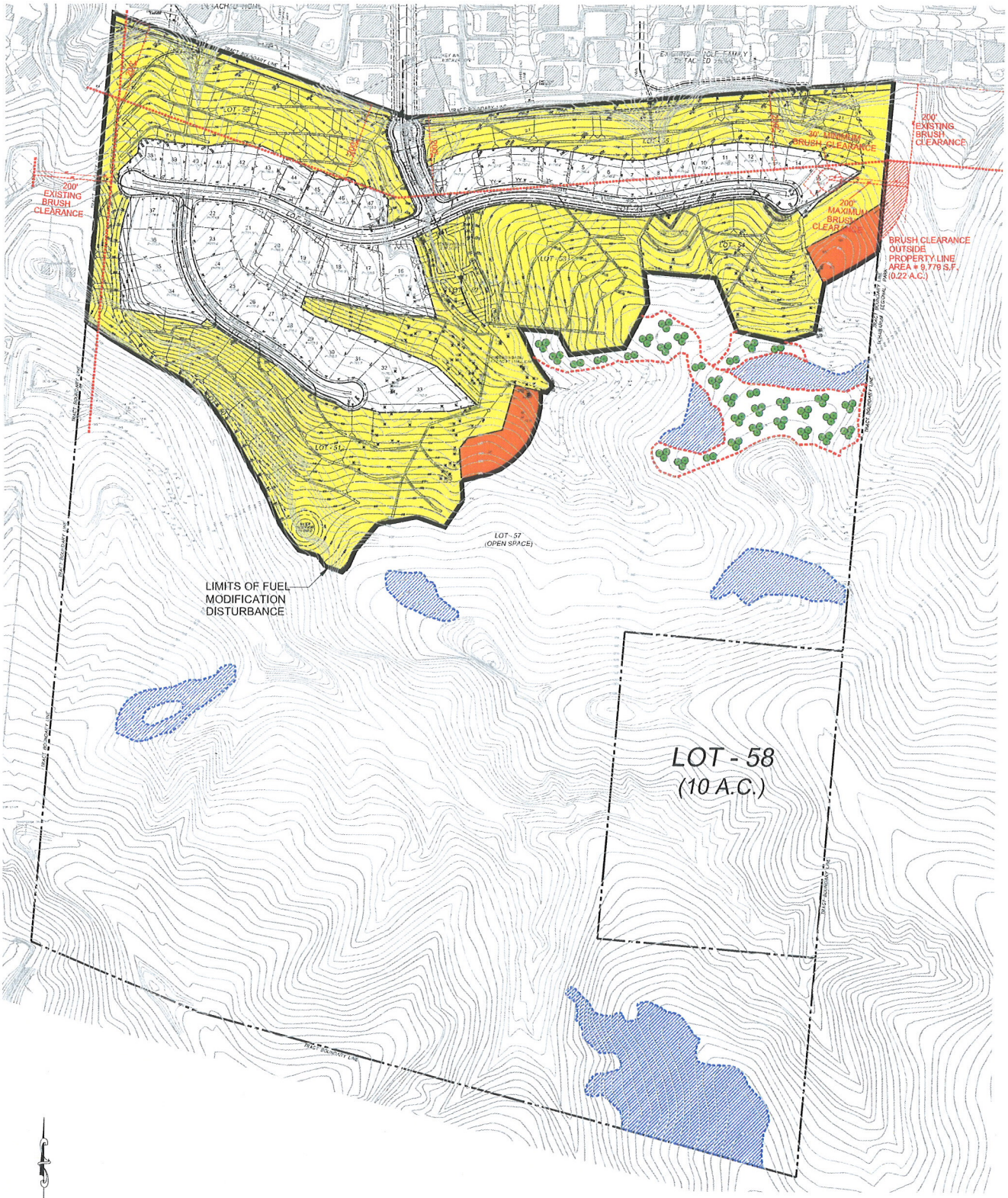
BIOLOGICAL MITIGATION PLAN/
FUEL MODIFICATION PLAN



FUEL MODIFICATION ZONES

- LOS ANGELES COUNTY FIRE DEPARTMENT ZONE A – SETBACK ZONE
- LOS ANGELES COUNTY FIRE DEPARTMENT ZONE B – IRRIGATION ZONE LANDSCAPE REQUIREMENTS.
- LOS ANGELES COUNTY FIRE DEPARTMENT ZONE C – THINNING ZONE LANDSCAPE REQUIREMENTS.

LEGEND:

- ZONE A = 549,262.96 S.F. / 12.61 AC. (VERSION 2008)
- ZONE B = 998,121.92 S.F. / 22.91 AC. (VERSION 2008)
- ZONE C = 43,130.72 S.F. / 0.99 AC. (VERSION 2008)
- COASTAL SAGE SCRUB RESTORATION AREA 222,620.82 S.F. / 4.8 AC.
- COASTAL LIVE OAK PLANTING AREA 277 15-GALLON OAK TREES 112, 920 S.F. / 2.59 AC.

2009/09/14
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