

# Chapter 3: Concentration and Location of Development

## OVERVIEW

In carrying out the Coastal Act, the Commission reviews new development proposals for compliance with policies which govern the location and amount of new development in the coastal zone and requires that cumulative impacts from development are mitigated to assure the protection of coastal resources.<sup>1</sup> Several planning studies done for the Commission in the late 1970s (Williams and Bricker, 1978; McClure, 1979) identified the potential for cumulative impacts as a major concern in the Santa Monica Mountains coastal zone. The concern originated from several factors:

- 1) the large number of lots (12,685) then in existence in the Los Angeles County portion of the Santa Monica Mountains coastal zone;
- 2) the presence of numerous small lots in existing “rural villages”; and
- 3) the significant constraints to development on many of the existing parcels, including the presence of sensitive resources, steep slopes, limited infrastructure, and periodic wildfires.

Unless specifically noted in the text, the terms “*parcel*” and “*lot*” are used interchangeably in this report.

These studies found that about two thirds of the existing parcels were vacant, and that buildout of these existing parcels would lead to significant cumulative impacts on coastal resources, including public access, water quality, and sensitive habitat. Development of the lots in the “rural villages” (referred to as small lot subdivisions in this report) were especially problematic. With steep slopes and average lot sizes ranging between 4,000 and 7,000 square feet, the ability to site development within the small lot subdivisions to avoid impacts to resources is limited. Further, if fully developed, the densities in these small lot subdivisions would exceed the capacity of the narrow winding access roads and the local watershed’s ability to assimilate the septic system effluents. These studies also recognized that the creation of additional lots through new subdivisions would add even more to the overall density of the region and lead to additional cumulative impacts. In their 1978 analysis of the Santa Monica Mountains region, Williams and Bricker state:

[D]ue to the cumulative impacts of development in the Santa Monica Mountains on coastal resources, ... land divisions should be permitted ... only in cases where the cumulative adverse impacts on coastal resources are mitigated elsewhere [in the coastal zone of the Santa Monica Mountains] through such means as lot combinations and/or transferable development credits, with the total developable lots in the study area being the same or less after the division (pg. xi).

<sup>1</sup> Public Resource Code Section 30250-30255.

Section 30250 of the Coastal Act specifies that new development shall be located “within, contiguous with, or in close proximity to, existing developed areas” and that “land divisions shall be permitted only where 50 percent of the usable parcels in the area have been developed...”. This policy serves to focus development in areas with available services and reduce the spread of development into rural regions. The Commission’s District Interpretive Guidelines (1981) described the boundaries of existing developed areas (EDAs) (see Figure 3-1) and also explained the term “usable parcels” as areas which could “physically be developed under applicable land use regulations,” (CCC 1981a, pg. 25) excluding park lands or areas otherwise restricted from development. As described in the Commission’s 1981 Interpretive Guidelines, the area of useable parcels included “all of the Malibu-Santa Monica Mountain coastal zone west of the City of Los Angeles, east of Point Mugu and outside of the designated existing developed areas” (CCC 1981a, pg. 26). In 1981, only approximately 23% of the existing parcels in the area were developed, thus indicating that any new land divisions outside of the identified EDAs may not be consistent with the Coastal Act (CCC 1981a).

Based on Section 30250 of the Coastal Act, and the cumulative impacts that would occur from creating additional development potential in the region, the Commission denied a number of proposed subdivisions in the Santa Monica Mountains coastal zone in the mid-1970s. Faced with continuing applications for subdivision, and development in general, the Commission needed to address the cumulative impacts of growth in the region. To do so, the Commission had to address the most appropriate location and densities for development. To mitigate the increased densities from new subdivisions, the Commission developed, and implemented through its permitting authority, a transfer of development credit (TDC) program for the Los Angeles County portion of the Santa Monica Mountains, including the area now within the City of Malibu. As explained in the Commission’s Interpretive Guidelines “the [TDC] program is designed as a method of mitigating the adverse cumulative effects of new land divisions in the Santa Monica Mountains/Malibu coastal zone. Absent such mitigating measures no new land divisions could be found consistent with the provisions of the Coastal Act...” (CCC, 1981a, pg. 27; CCC, 1978a,b).

The process for the TDC program is discussed later in this chapter; however, in general, the program requires that for each new lot created under an approved subdivision, the applicant must extinguish, or retire, the development potential of existing lot(s). This mechanism not only keeps the ultimate density in the overall region from increasing, but focuses development in the more suitable areas (receiver areas) by retiring lots in those areas less suitable for development (donor areas). Initially, the program focused on ten of the existing small lot subdivisions as donor areas. As previously noted, these lots face significant constraints to development and, if developed, would lead to significant cumulative impacts on resources (McClure, 1979). The program was later expanded to include parcels within significant watersheds and environmentally sensitive habitat areas (CCC, 1981a; CCC, 1996a).

In addition to addressing cumulative impacts from increased densities, the Commission needed to address the cumulative impacts from development specifically *in* small lot subdivisions. In his analysis, McClure noted that the size of the existing lots in small lot

subdivisions prevented “on-site mitigation” for impacts from development, and notes that “[s]ince many of these small lots are composed of uniformly steep slopes and there is no ‘best building site,’ larger lots often present the builder a better choice for house placement” (McClure, 1979). To address this problem, the Commission developed a slope intensity/gross structural area (GSA) formula. As described in the Commission’s Interpretive Guidelines (1981a), use of the GSA formula “is intended to limit the size and intensity of residential development corresponding with the size and slope of the land” (pg. 13). By correlating the building size to the parcel size and slope, the GSA formula provides incentives to develop a single residence on more than one lot, allowing better site development on a larger parcel. The incentives of the GSA formula also reduce overall density buildout in the region, further reducing cumulative impacts on resources by reducing the extent of development, septic systems, and traffic. Although both programs focus mitigation in the small lot subdivisions, the TDC and GSA work as separate programs, mitigating the impacts from different types of development.

Finally, the Commission has used several other mechanisms to address the cumulative impacts of buildout, including:

- 1) denying permit proposals to extend roads and water lines into undeveloped areas;
- 2) analyzing development proposals on a case by case basis, occasionally denying proposals, but more often requiring modifications (such as reductions in the amount of grading) or attaching conditions to the permit that allow development to proceed with fewer impacts to coastal resources;
- 3) reviewing planning designations in the Land Use Plan (LUP) for Los Angeles County to recommend a reduction of the allowable density of development over much of the mountainous area; and
- 4) certifying a Local Coastal Plan (LCP) for Ventura County that also addressed density of new subdivisions in the mountains.

The development pressures in the Ventura County portion of the ReCAP area have historically been less than in the remainder of the area. Similar to the Los Angeles County portion, development in the Ventura County portion of the project area is also constrained by a limited infrastructure (County of Ventura, 1994). Mountain roads within the area are generally substandard and subject to slides and erosion. The Ventura County certified LCP regulates new subdivisions by limiting the extension of public services (roads, water, and sewer), and through the use of a slope intensity formula.

#### *Development within the Region from 1978 to 1996*

Under the policies and mitigation measures discussed above, the Commission approved 2,686 new residential units in the entire ReCAP area from 1978 through 1996.<sup>2</sup> Since certification of its LCP in 1983, Ventura County approved an additional 145 residential units. An additional 391 second units have been approved in the project area.

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<sup>2</sup> The Commission also approved the removal of 59 residential units, generally as part of conversions of multi-family units to single-family units.

Approximately 24% of the new units are located within the EDAs as described in the Commission’s District Interpretive Guidelines for the Malibu-Santa Monica Mountains (1981a) (Figure 3-1). An additional 10% of the approved residential units have been located in those areas identified as “Potential Expansion to EDA” areas. Although the Coastal Act policies seek to concentrate development, and the Commission’s 1981 Interpretive Guidelines illustrated the EDAs as guidance for where development should be concentrated, encouraging residential development to be located in these areas as a result of Commission permit actions, has been difficult due to the large number of existing residentially zoned parcels. Approximately two-thirds of the residential units were approved outside of the areas described in the Interpretive Guidelines as EDAs and Potential Expansion areas.

ReCAP staff included as *second units* those units on a lot with an existing primary residential unit. Second units may lack full facilities, such as kitchens.

From 1978 through 1996, the Commission approved the creation of approximately 943 new lots through subdivisions in the ReCAP project area. Since certification of its LCP, Ventura County approved an additional 11 new lots through new subdivisions, and legalized an additional 44 lots through certificates of compliance. Twenty-four of these lots were non-conforming lots. Approximately 518 of the lots approved through subdivisions (55%) are located within or contiguous to the areas identified as EDAs or Potential Expansion Areas in the Commission’s 1981 Interpretive Guidelines. In addition, the average size of new lots created within EDAs was smaller (0.8 acres) than the size of lots approved outside of EDAs (5.3 acres average), consistent with the intent of concentrating development in existing developed areas.

A *certificate of compliance* is a document issued and recorded by a local agency certifying that the subject parcel is a legal lot that complies with the requirements of the Subdivision Map Act and related local ordinances or certifying that the lot will comply with such requirements upon satisfaction of certain conditions.

ReCAP staff used the EDAs and the “usable parcels” as discussed in the Interpretive Guidelines as a means of describing and understanding the development patterns occurring in the ReCAP region. Based on ReCAP staff’s estimates, the percentage of “usable parcels” that were developed rose from 23% to 42% since 1981. This change is due in part to development approved by the Commission and local governments and, in part, due to the elimination of large areas from the calculation due to park land acquisition (see Figure 4-1, Chapter 4). Based on its analysis, ReCAP found that the percentage of parcels developed is still below 50%. This indicates that when evaluated for compliance with the policy in Section 30250, new subdivisions in the Santa Monica Mountains coastal zone outside of existing developed areas may not comply with that provision of the Act. However, the 50% threshold would be reached if an estimated 653 additional parcels outside of the official EDAs become developed, or sooner if the total number of usable parcels is reduced through lot retirement or parkland acquisition. Regardless of when the 50% threshold is reached, the cumulative impacts of development

in the region will continue to occur, due to the total number of parcels in the region and the constraints to development initially identified in the late 1970s, and will need to be mitigated. Therefore, the Commission and local governments face a growing need to address the cumulative impacts of growth by managing any increase in the overall number of new lots that can be created and addressing the impacts of development of existing lots.

*Potential Buildout Scenarios*

Currently, the ReCAP study area supports an estimated 9,300 residential units (see Figure A-1, in the Appendix). Based on the allowed development in the land use planning documents for the area,<sup>3</sup> an additional 8,400 new units could be built, nearly doubling the level of development (see Table 3-1, next page, and Figure A-2, in the Appendix). Most of this development potential lies in the overall Malibu/Los Angeles County portion of the ReCAP area. In the mountainous portion of the area within the County of Los Angeles, over 5,000 potential new residential units could be added to the existing 3,200 units, more than doubling the level of development. Figure 3-2, following page 18, shows the location of this development. These estimates for additional development in the ReCAP area do not include additional second units and lots legalized through certificates of compliance.

Several terms and concepts are used throughout this report for purposes of discussion, including, but not limited to, “*buildable*”, “*potential buildout*”, “*subdividable*”, and “*develorable*”. Use of such terms does not imply any entitlement to or future approval of proposed development on any parcel. Further, Figures 3-2 and 3-3 do not imply any entitlement to or future approval of any subdivision or proposed development on any parcel. ReCAP staff’s analysis of potential buildout scenarios represents a theoretical maximum for discussion purposes only. Any discussion utilizing such terms, whether in the text or referenced in a figure, is based solely on the maximum density limitations specified in the applicable LUP or zoning ordinance for each jurisdiction, as applied to the estimated acreage of each parcel. The analysis of potential buildout or subdivision does not take other potentially relevant policies or facts into account that could entirely preclude development or significantly limit allowable density or use. For example, neither the applicability of resource protection policies to a particular lot, the legality of a lot, nor the exact location of any parcel have been determined or taken into account in the analysis or discussion herein.

For the purposes of this section of the report, a “*Non-Subdividable Vacant Residential lot*” is a vacant, privately owned residential lot that is not large enough to qualify for more than one residential unit under the density limitations specified in the applicable LUP or zoning ordinances. A “*Potentially Subdividable Parcel*” is a residential parcel that may be vacant or have existing unit(s), but is large enough to support the creation, through division of the lot, of one or more additional lot(s) under density limitations specified in the applicable LUP or zoning ordinances.

<sup>3</sup> Derived using the LUP maps for Los Angeles County and Ventura County, and the General Plan zoning for the City of Malibu.

**Table 3-1:**  
Summary of Two Different Potential Buildout Scenarios for the ReCAP Area

<b>Buildout Scenario #1: No Further Subdivisions</b>				
	<b>L.A. County</b>	<b>City of Malibu</b>	<b>Ventura County</b>	<b>Total ReCAP Area</b>
<b>Current Dwelling Units</b>	<b>3,193</b>	<b>5,846</b>	<b>313</b>	<b>9,352</b>
<b>Number of new residential units from buildout of all existing vacant residential lots<sup>4</sup></b>	<b>3,841</b>	<b>1,370</b>	<b>311</b>	<b>5,522</b>
<b>TOTAL RESIDENTIAL UNITS under this scenario (and % increase over current units)</b>	<b>7,034 (+120%)</b>	<b>7,216 (+23%)</b>	<b>624 (+99%)</b>	<b>14,874 (+60%)</b>

<b>Buildout Scenario #2: With Potential Subdivisions</b>				
	<b>L.A. County</b>	<b>City of Malibu</b>	<b>Ventura County</b>	<b>Total ReCAP Area</b>
<b>Current Dwelling Units</b>	<b>3,193</b>	<b>5,846</b>	<b>313</b>	<b>9,352</b>
<b>Number of new residential units from buildout of non-subdividable vacant residential lots<sup>5</sup></b>	<b>3,578</b>	<b>1,222</b>	<b>216</b>	<b>5,016</b>
<b>Number of new residential units from buildout of potentially subdividable residential parcels<sup>6</sup></b>	<b>1,481</b>	<b>1,209</b>	<b>690</b>	<b>3,380</b>
<b>TOTAL RESIDENTIAL UNITS under this scenario (and % increase over current units)</b>	<b>8,252 (+158%)</b>	<b>8,277 (+42%)</b>	<b>1,219 (+289%)</b>	<b>17,748 (+90%)</b>

*Constraints Analysis*

To begin assessing the cumulative impacts that would occur from this new development, ReCAP staff analyzed how constrained the potentially developable land in the region is, focusing on residentially zoned areas. ReCAP staff defined as “constrained” those areas which:

<sup>4</sup> Assumes one dwelling unit per existing vacant lot or parcel, regardless of whether a parcel may be potentially subdividable under current LUP designation.

<sup>5</sup> Assumes one dwelling unit per existing non-subdividable vacant lot or parcel. This number is lower than the “Number of new units from buildout of all existing vacant residential lots” under the first scenario because it excludes those parcels which could potentially be subdivided.

<sup>6</sup> Assumes subdivision of parcels to maximum extent provided for under LUP designation (without considering other LUP and Coastal Act policies) and subsequent development of one dwelling unit on each new vacant lot.

- 1) have slopes over 30% or 25% for Ventura and L.A. Counties, respectively, which represents potential exposure to high fire hazards and increased erosion and landform alteration impacts; or
- 2) are within mapped Environmentally Sensitive Habitat Areas (ESHAs), or within a 100 foot buffer from mapped inland ESHAs, for Ventura and Los Angeles Counties, respectively.

The Coastal Act defines *ESHA* as “any area in which plant or animal life or their habitat are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development” (PRC 30108.5).

Figure 3-3, previous page, overlays these factors onto the map of the buildout scenario of potential new development. (For a more detailed explanation of the methods used in this analysis, refer to Appendix Section II.) The results of this analysis, summarized in Figure 3-4, previous page, indicate few areas without significant constraints to development, particularly inland of the terrace area. The more constrained land is, the more difficult it would be to site development while minimizing impacts to resources. Based on the percent of the parcel constrained by steep slopes or the presence of ESHA, ReCAP staff’s analysis shows that most of the constrained parcels are within the unincorporated Los Angeles County portion of the ReCAP area. Further, the largest percentage of the *most* significantly constrained lots (90-100% constrained) are within this area. Almost 60% of the potential new development in the overall region could occur from existing lots in the Los Angeles County portion; nearly half of potential new development could occur on lots that are 80 to 100% constrained.

As a comparison, ReCAP staff analyzed the level of constraints on lots created by parcel subdivisions approved by the Commission. On average, these new lots are approximately 40% constrained, significantly less than the remaining potentially developable land. Subdivision of the remaining more constrained parcels would therefore lead to proportionately greater cumulative impacts than have occurred through past subdivisions.

In addition to the constraints of steep slopes and ESHAs, in the Santa Monica Mountains a significant cumulative impact to vegetation and habitat can occur as a result of brush clearance in response to fire hazards. Currently, the County requires a 50 foot clearance to bare earth around all structures, with selective thinning within an additional 150 foot area. ReCAP staff found that there are approximately 470 parcels which are of a size that, if developed, the required brush clearance would encroach into state or federal park lands or into ESHAs.

Developing to the maximum densities designated through the various plans for the region would result in the same significant cumulative impacts documented in the late 1970s. The use of the various regulatory tools discussed above can reduce the level of impacts. However, because of the total number of parcels that could be developed, these regulatory tools *alone* will not decrease the level of development enough to adequately address the impacts. While development of the existing parcels will lead to additional impacts, any *further* increase in the potential density of the region, created through

additional subdivisions, will lead to further impacts. Therefore, an objective in addressing cumulative impacts of growth and development in the ReCAP region is to prevent a further increase in the overall number of lots that can be developed. Two mechanisms that the Commission has already used to address cumulative impacts of new development are the TDC and GSA programs. The following findings and recommendations address ReCAP staff’s analysis of these mechanisms, and focus on how to improve implementation of the programs to further improve management of cumulative impacts in the region.

**MANAGING THE AMOUNT OF POTENTIAL GROWTH**

**As discussed above, the large number of lots in existence in the region creates the potential for significant cumulative impacts on coastal resources. Any increase in the number of parcels would further contribute to those potential impacts. The Commission’s programs, especially the TDC and GSA programs, have been very effective in reducing the potential cumulative impacts of development in the region by allowing no net increase in, and even reducing, the total number of developable parcels in the ReCAP study area. These programs should be continued.**

<b>Recommendation III-1</b>	The Commission should continue use of the TDC program, as structured across the City of Malibu and Los Angeles County, with the modifications proposed through Recommendations III-3 through III-13, until Local Coastal Programs are certified for Los Angeles County and the City of Malibu in order to meet the objective of no net increase in parcels in the Santa Monica Mountains region.
<b>Recommendation III-2</b>	The Commission should continue use of the slope intensity formula/GSA program as an effective means to reduce the cumulative impacts of development in the small lot subdivisions.

**Findings:**

As one method of keeping the total number of parcels in the ReCAP region from increasing and thereby addressing cumulative impacts, the Commission has required TDC conditions on all approved subdivisions since 1978. Through these conditions, the development potential on approximately 1,051 lots (approximately 1,673 acres) in the Santa Monica Mountains has been retired; of these, 879 lots (approximately 228 acres) are in the small lot subdivisions.<sup>7</sup> The lots created through new subdivisions total approximately 700 new lots.<sup>8</sup> The GSA program has effectively removed another 41 lots

<sup>7</sup> See Appendix Section II for methods used to calculate the number of lots retired.



from development, 39 of which are in the small lot subdivisions.<sup>9</sup> Figure 3-5, following page 22, and Table 3-2, below, show the locations and extent of lots restricted under the TDC and GSA programs.

**Table 3-2:  
Lot retirement through the TDC and GSA programs**

<b>Small Lot Subdivision</b>	<b>No. retired lots (1998) (includes TDC and GSA lots)</b>	<b>% of total number of lots retired in subdivision (includes TDC and GSA lots)</b>
Vera Canyon	11	10%
Malibu Mar Vista	102	74%
Malibu Vista	154	30%
Malibu Lake	132	67%
Malibu Bowl	6	3%
El Nido	177	51%
Monte Nido	50	12%
Fernwood	138	9%
Topanga Woods	18	8%
Topanga Oaks	81	9%
Las Flores Heights	50	50%
<b>Subtotals</b>	<b>918</b>	<b>20%</b>
Lots not in small lot subdivisions	174	
<b>TOTAL</b>	<b>1092</b>	

Sources: McClure, 1979; Coastal Commission TDC Database, 1998; GIS layer for Los Angeles parcels, 1998.

Approximately 20% of all existing lots in the small lot subdivisions have been retired. Without the retirement of these lots, approximately 1,145 additional units could have been built in the project area. This number is higher than the total number of lots restricted under both programs (1,051) because it includes the additional units that could have been built if the retired parcels had been subdivided and built with the total number of units allowed under the LUP as described in 1986.

<sup>8</sup> Although the Commission has approved the creation of approximately 960 new lots through subdivision permits, not all projects were completed. To determine whether a parcel proposed for subdivision was actually subdivided, ReCAP staff relied on assessor parcel maps, supplied by TRW Experian. The number of lots retired through the TDC program is greater than the number of new lots created through subdivisions due to the specifics of how a TDC is calculated; each new subdivisions is required to retire an equivalent number of TDCs to the number of new lots; however, one TDC may involve more than one lot. (See the Commission’s Interpretive Guidelines (1981) for an explanation of how lots are qualified for a TDC.)

<sup>9</sup> Under the GSA program, the development potential of lots is not always retired as it is under the TDC program. In a GSA action, several lots are recombined together, and a house may span several lots. For this analysis, while the lots may have development on them, if a residence is built on three lots, two additional residences are precluded from being developed. Therefore, the GSA program reduced by two the total number of lots that could be developed.

Implementation of the TDC program has been successful not only in reducing the overall density of development in the region, but also in directing new development to more appropriate locations. Lots retired through the TDC program are, on average, 87% constrained, based on ReCAP staff's criteria. As noted previously, the new parcels created through Commission approved subdivisions are approximately 40.5% constrained. Therefore, through the use of TDCs, the Commission has directed development in the Santa Monica Mountains region to locations which, when developed, lead to less significant impacts on coastal resources.

While the existing TDC and GSA programs have been effective at addressing cumulative impacts, implementation of the following recommendations would further improve the Commission's and local governments' mitigation of impacts from development on coastal resources.

**MODIFY CRITERIA FOR DONOR AREAS**

While the TDC program has been very successful, several modifications could be made to the program to assure its continued effectiveness in the future. Some of these involve the criteria by which TDC donor lots are qualified. These recommendations are intended to respond to changed circumstances since the TDC program was initially conceived and reflect two decades of experience in implementing the program.

<p><b>Recommendation III-3</b></p>	<p>Revise the approved donor areas for TDC retirement to exclude certain small lot subdivisions that are substantially built out and/or have had sufficient lot retirement to reduce density at buildout, and focus lot retirement under the TDC program in other areas. The small lot subdivisions proposed for removal as donor areas are: Malibu Mar Vista, Malibu Lake, Las Flores Heights, and El Nido. However, within these small lot subdivisions, TDC credits should be given where the lots to be retired are all adjacent to each other and contain sensitive habitat. Continue to use the slope intensity formula/GSA in all small lot subdivisions to further reduce densities and prevent cumulative impacts.</p>
<p><b>Recommendation III-4</b></p>	<p>(a) Revise the approved donor areas for TDC retirement to include parcels in wildlife corridors and parcels adjacent to parkland where development could not be sited to avoid fire abatement requirements encroaching into public parkland. Propose revisions to the Commission to expand the approved donor areas as information identifying critical habitat linkages is developed by the National Park Service or through the LCP planning process.</p>

<p><b>Recommendation III-4, con't.</b></p>	<p>(b) The County of Los Angeles should coordinate with the National Park Service, California Department of Parks and Recreation, and the Santa Monica Mountains Conservancy to ensure the integrity of wildlife corridors and habitat linkages. Identification and mapping of habitat linkages should be included in the LCP along with measures to protect such areas, including potential designation as donor areas under a TDC program.</p>
<p><b>Recommendation III -5</b></p>	<p>Where TDC credit is given for lots in small lot subdivisions, the value of a TDC should be based solely on the acreage (i.e., the size and slope) and the existence of services to the lot (i.e., the proximity of roads and water), as described in the 1981 District Interpretive Guidelines. Additional TDC value should not be given for the presence of sensitive habitat on lots within the small lot subdivisions.</p>

**Findings:**

*Small lot subdivision donor areas*

Since 1979, 879 lots in small lot subdivisions have been retired; many of these retirements have occurred in Malibu Mar Vista, Malibu Lake, and El Nido. A significant number of lots have also been retired in Las Flores Heights, although this subdivision was not designated as one of the official donor areas. Given the ongoing implementation of the TDC program and the ongoing development in the Santa Monica Mountains, it is important to periodically assess whether some subdivisions have been developed to the point that few parcels remain vacant and/or have had a sufficient number of lots retired to meet the objectives of the TDC program. In these cases, the small lot subdivision should no longer be considered a donor area so that lot retirement can be focused elsewhere. However, lots in these small lot subdivisions would still be available for retirement under the GSA/slope intensity formula.

The decision of which small lot subdivisions should be removed as a donor site cannot be determined based solely on one factor, such as percent of lots remaining or ultimate density, but must be based on a combination of these factors and on the specifics of each small lot subdivision. Table 3-3, next page, illustrates the degree to which each small lot subdivision is currently developed and the ultimate density if all remaining vacant, non-retired lots were developed (see also Table 3-2 for percent of lots retired). This analysis does not factor in any existing or future retired GSA lots, which would further reduce densities. Most lots in Las Flores Heights, El Nido, Malibu Lake, and Malibu Mar Vista, are already developed or have had their development potential extinguished through the TDC program. In each case, approximately one-third or less of lots remain potentially

developable,<sup>10</sup> and the density from the projected 1979 buildout has been significantly reduced. ReCAP staff’s analysis shows that approximately 17 parcels remain vacant in the Malibu Lake small lot subdivision. A significant amount of this subdivision has been retired and protected from development; many of the retired lots are now part of the park system. Mitigation for future development can continue to occur through the use of the GSA program: in many cases, one owner owns more than one remaining vacant parcel, which could facilitate compliance with any required GSA conditions and allow better siting for development of the parcels.

**Table 3-3:  
Potential Buildout of Small Lot Subdivisions<sup>11</sup>**

Name	Approx. % of lots Potentially Developable	Projected Density in 1979 (units/acre)	Existing Density (1998) (units/acre)	Planned Densities under LUP (estimated) (units/acre)	Future Projected Buildout (units/acre)
Malibu Lake	24	16.77	0.66	0.6	1.76
Las Flores Heights	26	.66	.07	.073	.25
Malibu Mar Vista	31	4.60	0	.18	1.17
El Nido	35	6.77	1.72	.725	3.04
Fernwood	35	6.47	1.91	.64	4.22
Malibu Bowl	41	3.21	1.67	.64	2.85
Monte Nido	58	10.28	2.58	.95	7.11
Malibu Vista	57	4.83	.81	.66	3.31
Vera Canyon	66	4.12	.72	.82	4.54
Topanga Woods	65	6.91	1.87	.63	6.45
Topanga Oaks	74	8.74	1.07	.56	3.96

Sources: McClure, 1979; Santa Monica Mountains/Malibu LUP designated densities; GIS layers for Los Angeles parcels, vacant and developed parcels, and TDC parcels.

<sup>10</sup> For its analysis, ReCAP staff defined “potentially developable lots” as existing, vacant lots that are not already retired under the TDC or GSA programs, and are not identified as national, state, or other parkland. Other public land and land owned by the Mountains Restoration Trust are included in this analysis.

<sup>11</sup> The boundaries for the Malibu Lake and Topanga Oaks subdivisions, as identified in 1979 (McClure, 1979) extend beyond the coastal zone. Calculations for buildout densities in 1979 includes the entire subdivision. Due to data available, the ultimate densities projected under the LUP are based on those portions of the subdivisions located in the coastal zone. Vera Canyon shows a higher density after retirement of lots through the TDC program due to a discrepancy in the available data sources for the baseline number of parcels in the subdivision. For this analysis, the potential buildout is based on whether parcels are currently developed or vacant and whether they are retired under the TDC/GSA programs. ReCAP staff did not analyze specific parcels with regards to constraints to development or with regards to policies in the Coastal Act or the Santa Monica Mountains/Malibu LUP, which may affect the development potential on parcels.

In the El Nido small lot subdivision, an estimated 59 parcels remain vacant. In spite of this number of parcels, a significant number of parcels have already been retired under the TDC program (51% of the total number of parcels in the small lot subdivision), reducing the overall density of the subdivision. As a comparison, Malibu Vista, the small lot subdivision with the next highest level of retirement, has only had 30% of parcels in the subdivision retired. The remaining small lot subdivisions have between 3% and 12% of their respective parcels retired. Given the extent of retirement in El Nido, and the remaining development potential in the other small lot subdivisions and sensitive resource lands, ReCAP staff has concluded that the emphasis of the program should be directed towards other resource areas.

Although only an estimated one-third of the lots in Fernwood remain potentially developable (similar to the percent developable in El Nido), ReCAP staff is not recommending that this subdivision be excluded as a donor area, due to the overall large size of the subdivision and the remaining high densities if no additional retirement were to occur.

Although Las Flores Heights was never designated an official donor site, the Commission allowed significant lot retirement through the TDC program. The Mountains Restoration Trust plan for Las Flores Heights (1982) analyzed the suitability of development in this subdivision. The restoration plan<sup>12</sup> identified five zones in the subdivision, with a potential of a maximum of seven building sites. ReCAP staff's analysis shows that ten parcels within the subdivision are already developed, based on ReCAP staff's assessment of vacant and developed lands (see Section II of Appendix). An additional 16 parcels in the subdivision are vacant and not restricted from development under the TDC or GSA programs. Although this leads to a higher potential development than that identified as suitable under the restoration plan, the lots in this subdivision are generally larger than lots in the typical small lot subdivisions. The size of the remaining vacant, non-retired parcels generally range from one acre to 9.5 acres; five lots are less than one acre in size. These larger parcel sizes allow better site planning for development and mitigation of impacts. Combined with the fact that approximately 50% of both the acreage and the number of lots in the subdivision have been retired, mitigation of impacts from development can be addressed through mechanisms other than the TDC program.

Ideally, the TDC and GSA programs would reduce the density of buildout in all small lot subdivisions to equal the density suggested in the LUP. While densities have been reduced from the projected 1979 levels in all the small lot subdivisions, due in part to the retirement of lots and in part to density designations suggested in the LUP, most of the retirement has focused on Las Flores Heights, El Nido, Malibu Lake, and Malibu Mar Vista. Additional retirement in these subdivisions would continue to reduce the density of buildout. However, by allowing additional lot retirements in these small lot

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<sup>12</sup> Coastal Restoration Plans are developed to "correct undesirable development patterns in the coastal zone" (Public Resources Code Section 31007). In the Santa Monica Mountains, these plans are developed to address the impacts from development in the small lot subdivisions; the lots addressed in these restoration plans have generally been used as TDC donor lots.

subdivisions, fewer lots would be retired in the remaining subdivisions, where density has not been reduced as much. As shown in Table 3-3, the potential for development in other small lot subdivisions is generally higher than in the four proposed for exclusion of future TDCs. While the future projected buildout in Malibu Bowl is less than the projected buildout in the subdivisions proposed for exclusion of TDCs, the actual extent of retirement in Malibu Bowl has been minimal. Therefore, the initial concern over cumulative impacts in this small lot subdivision has not been addressed, and ReCAP staff is not proposing that Malibu Bowl be excluded for future TDC transactions.

The four small lot subdivisions proposed for removal from the TDC program either have a significant number of lots already retired, are essentially built-out, or a combination of these two factors. Since most of the past TDC transactions have occurred in these four small lot subdivision, the remaining donor small lot subdivisions have had a minimal number of lots retired, and therefore, have *not* had densities in the subdivision significantly reduced. By eliminating the proposed four small lot subdivisions as donor areas, future TDC transactions will have to occur in the other donor areas, including the remaining small lot subdivisions, and will better address the need to reduce densities in those areas. Further, removing the four small lot subdivisions from the TDC program assures a continued pool of lots available under the GSA program. Without lots available for use under the GSA program, future applicants will be severely restricted in the extent of development that could be authorized on individual lots. The GSA program should continue to be applied in all small lot subdivisions to minimize and mitigate impacts from development and to further reduce densities.

#### *Lot Retirement and Sensitive Habitat*

The TDC program has generally focused the retirement of lots in the small lot subdivisions. For these lots, the Commission gives fractional TDC values based on the acreage of the lot and the existence of services to the lot.<sup>13</sup> However, the Commission has also recognized that significant watersheds and environmentally sensitive habitat areas (ESHAs) can be severely impacted by buildout in the region; as a result, these areas “were designated as donor areas [under the TDC program] in order to preserve and protect the most critical resource areas where continued build-out would adversely impact sensitive coastal resources” (CCC, 1996a, pg. 12). The current TDC program recognizes eight significant watersheds, which are mapped in the certified Santa Monica Mountains LUP, and *all* designated ESHA areas. In the Santa Monica Mountains, ESHA includes those riparian woodland, streams, *undisturbed* oak woodland and savanna areas which are consistent with the Coastal Act definition of environmentally sensitive areas.<sup>14</sup>

Except where lot retirement occurs as part of a Coastal Conservancy restoration plan, the retirement of lots in small lot subdivisions has usually been done incrementally, and

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<sup>13</sup> The Commission’s 1981 District Interpretive Guidelines and the Commission’s 1996 report reviewing the TDC program describe in more detail how lots are valued for TDC credit.

<sup>14</sup> Not all oak woodlands are designated as ESHA in the certified LUP nor would all oak woodlands meet the Coastal Act definition of environmentally sensitive area. These areas, which do not qualify as ESHA, and therefore would not qualify as TDC donor lots, are designated as “significant oak woodland” or “disturbed sensitive resource” in the LUP.

retired lots are often scattered throughout the subdivision. While some of these lots may have habitat designated as ESHA on them, often riparian or oak woodlands, the quantity and quality of the habitat may be minimal and fragmented from other ESHA. Retiring larger connected areas rather than small, single isolated lots may more effectively mitigate impacts by increasing protection and viability of the resource. In spite of these factors, in some cases, the Commission has granted a full TDC value, rather than the fractional credit, for lots in small lot subdivisions with ESHA. In granting extra TDC value to these lots, the Commission has in effect authorized a reduction in the total number of lots retired, without obtaining significant gains in resource protection, and reduces the effort to retire larger lots with more sensitive habitat value. In addition, the practice of granting additional TDC credit for small lots with sensitive habitat has made administration of the TDC program cumbersome and difficult, and has resulted in delays in finalizing TDC transactions. For each small lot with ESHA which is proposed as a TDC, staff must evaluate whether the habitat qualifies as ESHA and must judge whether the presence of a small quantity of ESHA should qualify the lot for additional TDC credit. This process has led to lengthy disagreements between staff and applicants over the qualification of lots.

Because the practice of granting additional credit for small lots with ESHA has had a minimal benefit in protecting ESHA lands and has made administration of the TDC program difficult, the Commission should base the TDC value of lots in small lot subdivision only on the acreage and proximity to services of the lot as discussed in the 1981 District Interpretive Guidelines. In those cases where Commission staff has *already* determined the TDC value of a lot in writing, that value will not be changed as a result of this recommendation.

Further, the Commission should revise the approved donor areas to include parcels in the two wildlife corridors in the region (see Figure 3-6). These wildlife corridors are an important resource in the Santa Monica Mountains, and are described in the LUP to “provide corridors for wide-ranging mammals to forage through large, uninterrupted areas of the mountains and for all manner of terrestrial creatures to move freely during fire episodes” (CCC, 1986, pg. 15). To more fully ensure the protection of the resources and the intent of providing wildlife corridors, the corridors should be expanded to form habitat linkages. These linkages would serve not only as seasonal migration routes for wildlife, but as an extension of core habitat. Expansion of these designations could enhance protection of sensitive resources in the area.

Within the two major wildlife corridors, illustrated in Figure 3-6, the Commission has authorized permits for the new development of, or additions to, 35 single family residences and 14 subdivisions. An additional 211 units could be developed, excluding the potential increased density from additional subdivisions.<sup>15</sup> This potential for additional development in the Santa Monica Mountains will continue to place pressure on

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<sup>15</sup> This number is based on the buildout potential of lots entirely within the mapped boundaries of the wildlife corridors. An additional 119 units could be built on parcels with their boundaries partially within the wildlife corridors.

sensitive resources and wildlife. Because the wildlife corridors are not identified as donor areas, the TDC program is not currently utilized to address the cumulative impacts from additional development.

Table 3-4, below, and Figure 3-6, on the following page, show the extent to which resource lands have been retired through the TDC program. Although only 15% of the lots retired under the TDC program fall within the resource areas outside of the small lot subdivisions, approximately 86% of the total acreage retired under the TDC program is located outside of the small lot subdivisions. Designating the wildlife corridors as donor areas under the TDC program and continuing to retire additional parcels in significant watersheds, particularly west of Point Dume where no retirement has occurred to date, would further reduce the development potential in these areas and the associated cumulative impacts, and improve protection of these resource areas.

**Table 3-4:  
Extent and Location of Resource Lands Retired Under TDC Program**

Resource Type <sup>16</sup>	Number of Lots within each Resource Type <sup>17</sup>	Approximate Acreage
Coldcreek area	12	242
Significant Watersheds and Savannas	20	342
Significant Oak Woodlands	82	14
ESHA	1	0.12

Sources: GIS layers for ESHA and TDC layers.

*Lot Retirement and Public Park Lands*

Fire abatement standards in the Santa Monica Mountains extend up to 200 feet from the proposed development. Due to the small size of many lots in the Santa Monica Mountains, fire abatement requirements may cross onto an adjacent property from the one being developed. Development on larger parcels may also lead to fire abatement requirements encroaching onto adjacent parcels if the site specific limitations necessitate the proposed development to be sited near the property lines. For parcels located

<sup>16</sup> Under the Santa Monica Mountains/ Malibu LUP, some riparian areas and oak woodlands meet the definition of ESHA under the Coastal Act, and are identified as “ESHA”. The LUP recognizes other areas not meeting the definition of ESHA as sensitive resources, including significant oak woodlands and savannas, significant watersheds, Coldcreek resource management area, and wildlife corridors.

<sup>17</sup> The acreage in Table 3-4 is based on the parcels entirely within the specified resource type, except for the Cold Creek area. Additional acres may be retired where a parcel lies only partly within the mapped boundaries of the resource area. For the Cold Creek area, the extent of retired lots was extended beyond the mapped boundaries, to include the entire Cold Creek Management Area, as defined by the State Coastal Conservancy’s restoration plan. Because the entire management area is not mapped, these figures are estimates based on staff identification of parcel locations.



adjacent to public parklands, fire abatement requirements can affect the public resource. Including those parcels which, if developed, would lead to fire abatement practices on public parkland as donor areas under the TDC program would further protect the public parkland in the region.

**IMPROVING THE IMPLEMENTATION OF MITIGATION**

**In addition to the modifications to the TDC lot qualification process discussed above, ReCAP staff have identified a number of other opportunities to improve implementation of the TDC and GSA programs. These involve working with other agencies to ensure adequate follow-up and to improve tracking of TDC implementation.**

<p><b>Recommendation III-6</b></p>	<p>(a) Work with L.A. County to ensure that lots retired under the TDC and GSA program are actually recombined into one parcel (for example, through an expedited reversion to acreage process).</p> <p>(b) Once a program is developed with L.A. County, the Commission should update its special condition language to require that, prior-to-issuance of the permit, any necessary TDC transactions be completed through the lot recombination stage.</p>
<p><b>Recommendation III-7</b></p>	<p>(a) Explore options for developing a Memorandum of Understanding (MOU) with appropriate agencies, including Los Angeles County, the Coastal Conservancy, the Santa Monica Mountains Conservancy, and/or other non-governmental organizations to accelerate acceptance of existing OTDs and future dedications of open space easements for TDCs. The MOU should also designate one or more of the agencies as an on-going “accepting managing entity”.</p> <p>(b) If an MOU is developed designating an entity as an accepting managing entity, the Commission should revise its special condition language to provide that when an open space easement is required, the easement be dedicated directly to the accepting entity. This strategy should include a monitoring program to track whether offers-to-dedicate are accepted.</p>

<p><b>Recommendation III-8</b></p>	<p>Improve the tracking and monitoring of all prior to issuance conditions, including TDC and GSA mitigation, by a) modifying the statewide permit tracking system to include a condition compliance component; b) encouraging the Mountains Restoration Trust to complete existing in-lieu fee TDC transactions; c) prohibiting use of in-lieu fees for future transactions; and d) maintaining and updating the Geographic Information System (GIS) layers for the TDC and GSA programs which were developed as part of ReCAP.</p>
<p><b>Recommendation III-9</b></p>	<p>(a) Develop a system to ensure that the local governments' planning department receives updated TDC/GSA layers showing the location of the restricted lots.</p> <p>(b) The City of Malibu and the County of Los Angeles, as part of their LCP planning, should develop and maintain a post-certification tracking system to track the location of approved development and required easements, and should transmit such information to Commission staff on a regular basis.</p>

**Findings:**

*Assuring mitigation measures are completed*

The TDC and GSA programs require two steps to fully retire the development potential on lots. The first step involves recordation of an open space easement over the lots to be retired; this easement extinguishes the development potential of the property. In addition, a declaration of restrictions (DR) is recorded against the property to recombine the retired lots into one parcel, and joins them to another lot that has not had its development potential extinguished (the “recombined” or “developable” lot). The DR therefore requires the extinguishment of the individual former lots and their recombination into one new parcel. Because at least one of the former lots does not have an open space easement over it (the “recombined” lot), the entire parcel maintains the development potential equivalent to that of the recombined lot.

*Lot Recombinations:* Recombination of lots through the declaration of restrictions is a substitute process to the standard reversion to acreage under the Subdivision Map Act that the Commission has allowed applicants to use to comply with a TDC condition. Under this process, a declaration of restrictions (DR) is recorded against the title to the TDC lots, recombining the lots into one parcel. The DR language states that the recombined lots “shall be considered and treated as a single parcel of land for all purposes with respect to the lands included therein, including but not limited to ... development, taxation, or encumbrance.” However, because the individual lots are not recombined under the Subdivision Map Act, the County does not always give this recombined parcel only one assessors’ parcel number (APN). As a result, the former

individual lots often retain separate APNs; this lack of a single APN can cause confusion for both individuals and for County planning staff. Because the recombination is not officially done through the County assessor’s office, an individual would need to acquire a title report to verify whether the former individual lots are part of a larger parcel or an individual unit. Such confusion can also raise enforcement issues. For example, in 1992, Commission enforcement staff was notified that 73 former lots recombined through a declaration of restrictions as TDC mitigation were sold individually, in violation of the DR. While the Commission ultimately won the enforcement action in court, the lots have not yet been recombined, thereby eliminating the mitigation for a previous subdivision. Under the current process, preventing a similar situation would be a very time-consuming and difficult effort.

Commission staff has worked with Los Angeles County to assure that the County assessor’s recognizes the recombined lots and assigns a single APN to the parcel after recordation of the DRs. However, the system is cumbersome and time-consuming for both Commission and County staff, and is dependent on the County receiving notice of the TDC lots and assigning a single APN quickly. The Commission staff believes that even with the revised procedures, the TDC lots are not necessarily secure. Since this new process was initiated, Commission staff has received notice that a former lot (one of the lots in the original enforcement action) was again sold in a tax default action.

As the Commission’s interpretive guidelines discuss, “where feasible [,] the combination should be accomplished by reversion to acreage procedures” (CCCa, 1981, pg. 33). Under the reversion to acreage process, the County would officially recombine the former lots into one parcel, with a single APN. While this process can be lengthy and expensive, under the Subdivision Map Act, the County could institute procedures for an expedited process that would accomplish the recombination with less cost to the applicant. Instituting this expedited procedure under the Subdivision Map Act would be the best method to assure that TDC lots are effectively recombined into one parcel, thereby assuring the mitigation required. After such a process is established, the Commission could require use of the County’s reversion to acreage process in cases where an application is conditioned to require a TDC.

*Open Space Easements:* A second part to the TDC or GSA process involves recording an offer-to-dedicate (OTD) an open space easement against the title to the property.<sup>18</sup> Once *accepted* by a managing entity, this document extinguishes the development rights on the lots to be retired. Because no agency has been identified as an available “accepting managing entity”, the Commission has generally required an

An *OTD* (offer-to-dedicate) is a document, recorded against the title to a property, which is an offer of dedication to the people of the State of California of the fee interest in, or an easement over, the property or a portion of the property. Generally, an OTD allows specific uses in the property. The offer conveys fee title or an easement in perpetuity only upon its acceptance on behalf of the people by a public agency or by a nonprofit private entity approved by the executive director of the Commission.

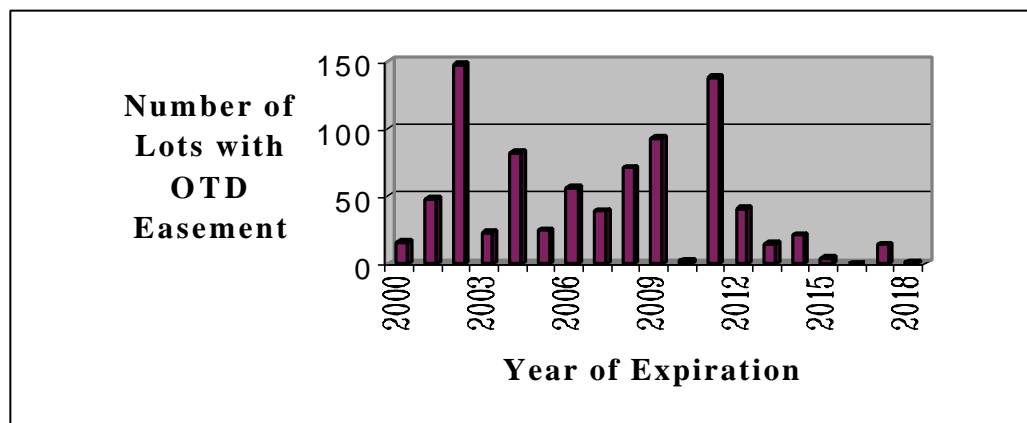
<sup>18</sup> Not all GSA permit conditions required an open space easement.

OTD rather than an outright dedication of open space. However, most OTDs expire 21 years from the date of recordation. If no agency accepts the offers prior to their expiration date, the OTDs will expire, and the lots will be available for development. If lots are developed where the OTD has expired due to lack of acceptance, mitigation is not achieved for the development previously authorized and requiring the TDC condition.<sup>19</sup>

*Expiration of Offers-to-Dedicate*

Since the first TDC offers to dedicate were recorded in 1979, offers will begin expiring in 2000. Figure 3-7 shows the number of lots, by year, that will no longer be restricted from future development if the OTDs expire. OTDs for nine lots have been accepted by the Coastal Conservancy. Staff from both the Coastal Conservancy and the Coastal Commission believe that no other offers-to-dedicate from the TDC program have been accepted.<sup>20</sup> In order to prevent the mitigation required for new subdivisions from expiring, the Commission needs to identify one or more agencies willing to accept the existing OTDs. ReCAP staff recommends that the Commission develop Memorandums of Understanding (MOUs) with one or more appropriate agencies willing to be the managing entity for open space lots; once an MOU is completed, for future conditions requiring a dedication of an easement, the Commission should require that the easement be dedicated directly to the managing entity.

**Figure 3-7:  
Number of Open Space OTDs by Expiration Year on TDC/GSA lots<sup>21</sup>**



Sources: TDC database.

<sup>19</sup> ReCAP staff assessed OTDs for the TDC program and for public access (discussed in Chapter 5). No analysis was done on the Commission’s use of OTDs to address other issues, including the protection of recreational, scenic, visual, and sensitive habitat resources. The Commission has required, through permit conditions, approximately 168 open space easements in the ReCAP area for these other issues. Based on experience with this project and the Monterey Bay ReCAP, it is likely that many of those easements that have been recorded to comply with permit conditions have not been accepted.

<sup>20</sup> An additional 105 lots with TDC OTDs recorded are now in national, state, or other parkland. However, Commission staff believes that the OTDs for these lots have not been accepted.

<sup>21</sup> Where OTDs for a single permit are recorded in multiple years, Figure 3-7 assumes all OTDs were recorded in the earliest year.

*Use of in-lieu fees*

To ensure that mitigation for approved development is completed, the Commission requires completion of TDC and GSA requirements prior to the issuance of its permit for the proposed project; overall, these conditions are met. However, ReCAP staff's review of the permit requirements identified 16 cases where the Commission has no evidence that recordation of the required documents has been completed, due primarily to the use of the in-lieu fee process. The in-lieu fee program was established as part of a Coastal Conservancy restoration program, approved by the Commission (CCC, 1996a). Under that program, the in-lieu fee process was to be used to retire 100 lots in the Coldcreek management area as an alternative to the standard TDC procedures. An estimated 79 lots have been retired in this area. The Commission agreed that specific additional lots in the Fernwood area would be counted towards the 100 lots to be retired in Cold Creek.<sup>22</sup>

When a permit is conditioned to allow an in-lieu fee to comply with the TDC requirement, an applicant pays the in-lieu fee and a third party is responsible for generating and retiring the TDC lots.<sup>23</sup> While the applicant has complied with the permit conditions by paying the in-lieu fee, the mitigation for the impacts of the project is not complete. While the in-lieu fee process has made progress in meeting its objective to retire 100 lots, there has frequently been a delay in completing the TDC transaction, and a number of TDC requirements have not yet been completed. Commission staff experience indicates that retirement of lots through the in-lieu fee program has been difficult to implement and manage. Therefore, once Commission staff verifies that the 100 lots under the in-lieu fee process are completed, additional use of in lieu fees should be discouraged. Special conditions requiring a TDC transaction should require the retirement of development rights prior to the issuance of the permit.

Several other permits have been issued prior to completion of TDC requirements. Although this percentage is small, the Commission can improve its mitigation of impacts by modifying the Commission's statewide permit tracking system, developed and implemented under the Commission's previous ReCAP (1995) to include a component for condition compliance. This tracking mechanism would better ensure that all prior-to-issuance conditions, including TDC transactions, would be met prior to the permit being issued.

*Data Management and Inter-governmental Coordination*

In conjunction with improving condition compliance, the Commission should maintain the Geographic Information System (GIS) layer which identifies the lots affected under the TDC and GSA programs; this data layer was developed and completed as part of this

<sup>22</sup> The Commission has counted 14.5 TDCs in the Fernwood small lot subdivision as part of the in-lieu fee program. In general, three small lots are equivalent to one TDC. Therefore, an estimated 42 lots in Fernwood have been retired under the in-lieu fee process.

<sup>23</sup> The Mountains Restoration Trust has generally administered the in-lieu fee program, and has been responsible for completion of the in-lieu fee transactions to date.

ReCAP. To effectively plan for future development in the Santa Monica Mountains and to assure that the TDC and GSA programs work effectively, both the Commission staff and local government planning staff need to have accurate information regarding the location of restricted lots. Until ReCAP staff completed the GIS layer, this information was not easily available for either staff. Regularly updating this data if additional lots are retired, and ensuring that it would be available to local governments, would assist in their local review of development proposals. This information would also provide an important component to LCP planning; continuing to track the location of development and any restrictions on parcels should be incorporated in the LCPs for the area.

**RECOMMENDATIONS FOR LOCAL COASTAL PLANNING**

**Following certification, when they assume responsibility for coastal management under their LCPs, Los Angeles County and the City of Malibu will continue to face issues regarding the extent and location of development, and the associated cumulative impacts to coastal resources. The TDC and GSA programs could continue to be effective components of cumulative impact management if incorporated into LCPs for either or both jurisdictions.**

<p><b>Recommendation III-10</b></p>	<p>(a) The City of Malibu and the County of Los Angeles should adopt a TDC program which is implemented across jurisdictional lines in the Santa Monica Mountains, so as to ensure no net increase in the number of lots in the region as a whole. The program should be structured to incorporate the recommendations of the ReCAP report.</p> <p>If the City and County find that a TDC program cannot be structured across both jurisdictions, Los Angeles County should amend its LUP to include a TDC program within its jurisdiction to ensure no net increase in the number of lots in the area. The City of Malibu should also include in its proposed LCP a TDC program within its jurisdiction to ensure no net increase in the number of lots .</p> <p>(b) Los Angeles County should retain use of a slope intensity formula as described in the 1986 LUP.</p> <p>(c) The City of Malibu should include a slope intensity formula where applicable as part of its LCP planning.</p>
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**Findings:***Implementing a joint TDC program*

The Commission developed its current TDC program based on addressing the cumulative impacts of development over the region as a whole to best protect the resources. As a result, the Commission found that development was more appropriately focused on the coastal terrace rather than in the interior, more mountainous portion of the region where development was more constrained and would lead to more significant impacts on resources.

Until 1991, when the terrace area was incorporated into the City of Malibu, the entire Los Angeles County portion of the Santa Monica Mountains was under the jurisdiction of one local government, which would have been addressed through one LCP. Currently, with the change in political jurisdictions, an LCP is required for both the City of Malibu and the County of Los Angeles. In spite of the change in jurisdictions, ReCAP staff recommends that the TDC program continue to be implemented across both jurisdictions in order to most effectively address the cumulative impacts from development throughout the Los Angeles County portion of the ReCAP area. ReCAP staff's analysis shows that while the remaining vacant lots in both jurisdictions are significantly constrained, based on the presence of steep slopes and ESHA, the Los Angeles County portion of the region has significantly *more* highly constrained lots, while the City has more parcels that are less constrained, and therefore area more suitable for development (see Figure 3-4).

By continuing to retire the development potential of parcels in the Los Angeles County portion of the coastal zone, the City of Malibu will benefit. Impacts from development will affect the entire region, and will not be isolated to the political jurisdiction where the development occurs. As discussed throughout these findings, a main problem in addressing cumulative impacts to coastal resources is the sheer number of parcels that could ultimately be developed in the region as a whole. By continuing to reduce the density in the mountain area, the overall density of the region continues to be held or reduced, thereby reducing the cumulative impacts from development. Further, due to the physical setting of the region, development of the terrace area, while not without impacts to resources, may have fewer resource impacts than development in the interior region.

*Updating the Santa Monica Mountains/Malibu LUP*

Although the LCP for Los Angeles County is not fully certified and the County has not yet begun issuing coastal development permits, the Santa Monica Mountains/Malibu LUP (1986) acknowledged the problem of cumulative impacts from buildout. However, the LUP, as certified in 1986, did not include the TDC program as a means of addressing these impacts, but implied that extensive development in the Santa Monica Mountains would be unlikely; the LUP stated that the "existing undeveloped parcels in the Santa Monica Mountains are not likely to be developed" and that the "pace of development in the small lot subdivisions ... has been very slow in recent years" (CCC, 1986, pg. 32).

The LUP further stated that it is “anticipated that a significant percent of these lots would not build out due to severe slopes, ... cost of development, ... and other constraints” (CCC, 1986, pg. 100).

Since certification of the LUP (December 11, 1986), the Commission has approved permits for new development on 1,326 parcels, excluding expansions, additions, or rebuilds for existing structures. Five-hundred ninety-four of those parcels are above the coastal terrace and 186 parcels are in the small lot subdivisions. Under this development, 970 single family residences, 21 multi-family residences, and 134 subdivisions were approved. While the Santa Monica Mountains/Malibu LUP stated that much of the area is unlikely to be developed, development *has* continued since certification of the LUP. Any additional development in the region continues to raise concerns of cumulative impacts. While the development analysis developed by ReCAP staff represents a scenario for the maximum extent of development that could occur in the region, it emphasized the need to continue addressing the impacts from development in the region.

Although the LUP did not include the TDC program as a means of addressing cumulative impacts, it included the following six alternatives to the TDC program:

1. Implementing a building cap. The LUP included an interim building cap of 1,581 residential units, after which additional development could not occur without improvements to Pacific Coast Highway. A final building cap of 6,582 residential units is also included, after which no additional residential development could occur. Under this policy, existing small lot subdivisions “shall not exceed 1200 residential units” (CCC, 1986, pg. 103).
2. Public agency acquisition of non-conforming lots and lots in designated significant watersheds. The LUP noted that this policy “will require the focusing of all public acquisition funds as rapidly as possible on outright purchase of the appropriate parcels”. The LUP also recognized that in order to be an “effective program, the small lot reduction effort by many public agencies simultaneously must be managed through a coordination system and should have a consolidated annual work program...”
3. Offer tax delinquent lots to adjoining owners. This practice would provide incentives for acquisition and consolidation into larger properties.
4. Lot consolidation where ownership is contiguous.
5. Redevelopment technique, involving replatting the properties to provide for clustered development and adequate services. Appropriate where “further buildout will be consistent with the Local Coastal Program”.
6. Lot exchange for surplus governmental properties in areas more suitable for development.

Since the LUP was certified, a number of changes in land use planning have occurred, including various court decisions and economic constraints on local governments, that may make some of the original alternatives to the TDC program less feasible than was thought in 1986. It is unlikely that the County will be able to address the cumulative impacts of development through an ultimate building cap, which would in effect



completely prohibit new residential development once that cap is achieved. Because the LUP was developed and certified by the Commission prior to the City of Malibu incorporating into its own jurisdiction, the LUP encompasses the Los Angeles County portion of the Santa Monica Mountains and the City of Malibu. Based on ReCAP staff's estimates, 1,452 units and 258 second units have been approved in the Los Angeles County/City of Malibu portion of the region since December 11, 1986. An additional 529 units can be permitted in the L.A. County/City of Malibu area under the interim cap and 5,100 units remain before reaching the ultimate cap.

Four thousand seven hundred parcels are currently vacant and potentially developable in the Los Angeles County portion of the ReCAP area (including the City of Malibu). Even if *no* new subdivisions were permitted in the area, and only one unit were built on the remaining vacant, residentially zoned parcels, this potential development would still exceed the prescribed building cap. Therefore, even without additional subdivisions, numerous parcels could not be developed once the final building cap is reached. Further, development beyond the interim building cap is based on improvements to Pacific Coast Highway, which may be difficult, due to resource impacts and significant constraints to widening the road. Once the building cap is reached, there is no mechanism specified for addressing the next permit applicant for a residence on an existing lot. Therefore, the use of this policy raises concerns for adequately addressing the cumulative impacts of development in the region.

Several of the other alternatives proposed in the 1986 LUP depend on the availability of funds to carry out the proposed programs. Due to a variety of factors, including ongoing economic constraints for local governments, implementing lot acquisitions or redevelopment plans may be difficult. In addition, until a strategy is in place to acquire lots, and money available, the impacts from approved new subdivisions must still be addressed. In some situations, the other options detailed in the LUP may work; however, the Commission has found that none of these options is self-implementing. Until the County establishes the programs, mitigation for all approved new subdivisions must be still be addressed. The most feasible method of mitigating the increases in density from new subdivisions is by assuring that no net increase in lots occurs by retiring existing lots under a TDC program.

Therefore, ReCAP staff recommends that Los Angeles County and the City of Malibu in their LCP planning adopt policies and measures to continue the TDC program, as modified by the above recommendations. This structure, covering the entire region, with the terrace remaining as the primary receiver area, would most effectively address the cumulative impacts from development in the region and would be the most protective of coastal resources. Because the TDC program by itself cannot fully address the problem of the extensive number of existing parcels, additional measures may need to be developed, preferably as part of L.A. County's LCP planning, to fully address cumulative impacts.

*TDC programs for separate jurisdictions*

While joint implementation of a TDC program would be preferred, the Commission recognizes jurisdictional issues may make the continued implementation of the program across two political jurisdictions difficult. If a joint TDC program cannot be implemented, both the County and the City should develop a TDC program within their jurisdictions, as part of their respective LCPs. Each program should ensure no net increase in the number of lots within each region. Development should be directed in those areas with the least resource impacts. Within the City of Malibu, a TDC program could consider directing development away from shorefront parcels unless the parcel is of an adequate size to ensure that development can be setback and will not require a shoreline protective device, including factoring in sea level rise. Other hazard areas could also be designated as donor areas. Within its jurisdiction, the County of Los Angeles could structure its TDC program to incorporate the preceding recommendations. In addition, the County should assess whether any areas within the County’s jurisdiction are so constrained, that subdivisions should not occur, even with the implementation of a TDC program to mitigate the increase in number of parcels.

**REDUCING IMPACTS FROM NEW DEVELOPMENT**

**ReCAP staff identified several additional opportunities to improve management of cumulative impacts outside of the TDC and GSA programs. These improvements would address weaknesses that currently exist in L.A. County’s LUP and in the way the Commission deals with open space easements.**

<p><b>Recommendation III -11</b></p>	<p>The County of Los Angeles should amend the Los Angeles County Santa Monica Mountains LUP to reduce the maximum building pad size, and implement the new standard throughout the coastal zone, rather than only in the significant watersheds. Designation of the building pad size should account for brush clearance requirements and minimize the impacts associated with clearance activity. In addition, the County of Los Angeles and the City of Malibu should include in their LCPs policies to address sedimentation and runoff into sensitive resources including use of best management practices. Policies should also ensure relandscaping disturbed areas, using appropriate native species, and include criteria to monitor revegetation.</p>
<p><b>Recommendation III -12</b></p>	<p>The Commission should revise its permit procedures for subdivisions to include the submission of maps locating any existing or proposed OTD, dedicated easement, or trail easement on the subject property.</p>

<b>Recommendation III -13</b>	The Commission should develop procedures to ensure adequate mitigation where required brush clearance encroaches into existing public parkland. Measures could include off-site habitat enhancement/restoration and/or use of in-lieu fees for habitat restoration. Whenever possible, the development should be sited to avoid fire clearance encroaching into parklands.
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**Findings:**

*Grading and building pad size*

As a mechanism to reduce overall grading and its associated impacts, ReCAP staff recommends that Los Angeles County amend its LUP to reduce the maximum building pad size allowed. In 1986, the Santa Monica Mountains/Malibu LUP stated that the standard for a building pad is a maximum of 10,000 sq. ft. for parcels larger than 20 acres in a significant watershed. For areas outside the significant watersheds, the LUP had no explicit limit to the size of building pads. Commission staff has observed in reviewing permit applications that larger pad sizes have a potential for significant impacts on coastal resources, including more grading, more vegetation alteration, a greater potential for erosion and sedimentation, and, in some cases, more visual impacts. Combined with the need for fire abatement, the extensive grading for large developments can significantly affect natural resources. As shown in Figure 3-8, many of the existing parcels available for potential development do not even contain 10,000 square feet of unconstrained land, based on ReCAP staff’s criteria defined previously.<sup>24</sup> For parcels in Los Angeles County that are too small to be subdivided as described in local planning documents, more than one-half do not even have 2,000 square feet of unconstrained land. As discussed previously, the development of these highly constrained parcels can lead to significant cumulative impacts.

Regardless of whether a parcel is located within the boundaries of a Significant Watershed, extensive grading will have cumulative effects on coastal resources. By not placing a limit on pad sizes outside of the watershed boundaries, the LUP policies encourage the development of larger structures and increased cumulative impacts from development. Therefore, ReCAP staff recommends that the County amend its LUP to reduce the size of building pads and implement the policy across its entire coastal zone. Implementation of the recommendation would further reduce the cumulative impacts on coastal resources.

<sup>24</sup> This analysis also does not take into account the specific configuration of unconstrained land on a parcel (whether contiguous or scattered across the parcel), the proximity of such land to a road, the terrain over which an access road or driveway would pass, the possibility that the portion of the parcel with less than 25% slope may actually be a flat area atop a hill or ridgeline that would present visual impact problems, or that constraints other than the two limited constraint categories evaluated may be present. Any of these factors could change the apparent suitability of a parcel for development.

In addition, sedimentation and runoff can significantly degrade streams and other sensitive resources. A number of streams in the ReCAP area provide habitat for steelhead trout. While reducing the building pad size will help reduce the potential for sedimentation and runoff, other policies will also be needed. The LCP policies for the City of Malibu and the County of Los Angeles should also include the use of best management practices (BMPs). Policies should ensure that grading ordinances are effective in controlling sedimentation and runoff, and that runoff from construction activities is adequately addressed. Effective policies would achieve the following goals:

1. Prior to land disturbance, an approved erosion and sediment control plan is prepared.
2. Erosion and sedimentation is reduced to the maximum extent practicable.
3. Sediment is retained onsite during and after construction.
4. Schedule projects so that clearing and grading are performed during the time of minimum erosion potential.
5. The area of soil exposed at any one time is minimized.
6. Cut and fill slope areas exposed during construction are minimized.

Requiring that land disturbed during construction be relandscaped using only native species will further protect the natural habitat.

#### *Improving habitat protection*

The Commission can also improve mitigation of impacts from development by requiring the applicant to map any open space easements required as part of a Commission approved permit. To mitigate impacts to habitat affected by proposed development, the Commission has often required an open space easement over portions of a parcel proposed for development. Within the wildlife corridors, this mitigation could further address cumulative impacts by minimizing fragmentation and protecting contiguous tracks of habitat. However, currently the Commission has no easy method to assure that the designated open space easement areas would result in contiguous habitat. Additional resources are needed to complete mapping of easements already required and ReCAP's development of a GIS will provide a valuable tool in this effort. By mapping existing required open space areas, and requiring that applicants map open space areas that the Commission requires in future permits, the Commission can contribute to the viability of the wildlife corridors by connecting open space easements in a way that ensures the protection of more contiguous, undeveloped areas.

The Commission's experience has also shown that fire abatement requirements can lead to significant impacts on public parkland which may not be mitigated. Developing procedures to ensure adequate mitigation will better protect existing park areas.