

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

MALIBU, CA 93001

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Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-01-071**APPLICANT:** Diva Partners Ltd.; Timmy Javid**PROJECT LOCATION:** 6312 Seastar Dr., City of Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construction of a 2 story + basement, 28' high from existing grade, 6,334 sq. ft., single family residence, driveway and turnaround, pool, septic system, and landscaping at 6312 Seastar Drive, Malibu. The project proposes a total of 1,151 cu. yds of grading (504 cu. yds. of cut, and 447 cu. yds. of fill, + 134 cut, 66 fill for basement).

Lot area:	28,698 sq. ft. (0.66 ac.)
Building coverage:	3,692 sq. ft.
Pavement coverage:	4,894 sq. ft.
Landscape coverage:	13,312 sq. ft.
Unimproved area:	6,800 sq. ft.
Parking spaces:	3 (covered)
Ht abv ext grade:	28'0"

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 3/8/2001; Approval in Concept (Septic System), City of Malibu Environmental Health Department, dated 8/20/1999; Approval in Concept, City of Malibu, Geology and Geotechnical Engineering, dated 1/6/2001; Approval in Concept, Los Angeles County Fire Department, Fire Prevention Bureau, dated 7/18/2001.

SUBSTANTIVE FILE DOCUMENTS: *Geologic and Soils Engineering Investigation for Proposed Single-Family Residence, Lot 13, Tract 45585, Seastar Drive, Malibu, California*, by Alpine Geotechnical Inc., dated June 24, 1999; Coastal Development Permits 5-90-327, 5-90-327-A1, 5-90-327-A3, 5-90-327-A4, 4-95-074; and the Malibu/Santa Monica Mountains certified Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with **ten (10)** special conditions regarding Color Restriction, Conformance with Geologic Recommendations, Drainage and Polluted Runoff, Landscaping and Erosion Control, Removal of Natural Vegetation, Removal of Excavated Material, Wildfire Waiver of Liability, Future Improvements Deed Restriction, Lighting Restriction, and Revised Plans.

I. STAFF RECOMMENDATION

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-01-071 pursuant to the staff recommendation.*

2. Staff Recommendation of Approval:

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

3. Resolution to Approve the Permit:

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

II. STANDARD CONDITIONS

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

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

III. SPECIAL CONDITIONS

1. Color Restriction

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit 4-01-071. The palette samples shall be presented in a format not to exceed 8½" X 11" X ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white, pink, or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit 4-01-071 if such changes are specifically authorized by the Executive Director as complying with this special condition.

Prior to the issuance the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. Plans Conforming to Geologic Recommendations

a) All recommendations contained in the *Geologic and Soils Engineering Investigation for Proposed Single-Family Residence, Lot 13, Tract 45585, Seastar Drive, Malibu, California*, by Alpine Geotechnical Inc., dated June 24, 1999, shall be incorporated into all final design and construction including site preparation, subdrainage, foundation and building setback, foundations, lateral design, retaining walls, foundation settlement, floor slabs, temporary excavation slopes, pavement, drainage, sewage disposal, and grading. All plans must be reviewed and approved by the geologic / geotechnical consultant. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.

b) The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and

drainage. Any substantial changes to the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

3. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following:
 - (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and
 - (2) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

4. Landscape and Erosion Control Plan and Fuel Modification

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed

and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to soften the views of the residence and development from Pacific Coast Highway, and the Zuma Ridge Trail;
- (4) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (5) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (6) Vegetation within 50 feet of the proposed house may be removed to mineral earth; vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry

Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

- (7) Any fencing of the property shall be of a design and color that is visually compatible with the surrounding environment.

B) Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is

in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

5. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

6. Removal of Excavated Material

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

7. Wildfire Waiver of Liability

Prior to issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, and liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

8. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-01-071. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the residence. Accordingly, any future structures, additions, or improvements

related to the residence approved under Coastal Development Permit No. 4-01-071 will require a permit from the California Coastal Commission or its successor agency.

Prior to issuance of a coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

9. Lighting Restriction

A. The only outdoor, night lighting allowed on the site shall be the following:

- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, that are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Executive Director.
- (2) Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.
- (3) The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.
- (4) No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

B. Prior to the issuance the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

10. Revised Plans

Prior to issuance of the coastal development permit, the applicant shall submit revised site and grading plans reflecting the deletion of the level 'lawn area' and fill slopes as depicted on Exhibits 3, 4, and 12. The plans reflect the alterations to the approved grading amounts, pursuant to the estimates of the geotechnical consultant, as follows: 936 cu. yds. (504 cut, **232** fill; + 136 cut, 66 fill for the basement).

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing construction of a new 3 story (2 story + basement), 28' high from existing grade, 6,334 sq. ft., single family residence, driveway and turnaround, pool, septic system, and landscaping at 6312 Seastar Drive, Malibu (Exhibits 3-10). The project includes a total of 1,151 cu. yds of grading (504 cu. yds. of cut, and 447 cu. yds. of fill; and an additional 134 cu. yds. cut, and 66 cu. yds. fill for excavation of the basement).

The subject site is a 28,698 sq. ft. (0.66 ac.) parcel located in the Encinal Canyon area of the City of Malibu (Exhibit 1). The current vegetation on-site consists of primarily of native and non-native grasses. The site has been previously been disked and graded (see below project history).

Access to the project site is from Pacific Coast Highway to Morning View Drive, a public street which borders the northeast of the property. The site is accessed via Seastar Drive, a private drive which services the 21 lot subdivision (Exhibit 2). The site, Lot #13 of the subdivision, is bordered by existing single-family residences to the northwest and to the east. The adjacent properties to the northeast and south of the site are vacant; however, a coastal development application has been submitted for Lot #14, the parcel to the south of the subject site, for development of a single family residence.

The subject site, Lot #13, has been the involve in several previous Commission actions. In August 1990, the Commission approved, coastal development permit 5-90-327 (Diva Partners/Javid), for the subdivision of the 45 acre lot into a total of 21 lots: 19 for residential development, one 21 acre lot designated for open space, and one half-acre recreation lot. hearing as CDP 5-90-327 (Javid). This project was approved subject to 10 conditions: plans conforming to geologic recommendations, landscape and erosion control plans, revised grading plans, recordation of a deed restriction for future grading, cumulative impact mitigation, recordation of trail dedication, drainage easement recordation, archeological resources, open space dedication, and recordation of the recreation lot (See Exhibit 11).

In 1991, the applicant applied for an amendment to CDP 5-90-327 for an additional 22,000 cubic yards of grading, and the clearing of vegetation on all of the lots within the subdivision. This grading and vegetation clearance took place without the benefit of a coastal development permit, and was not consistent with the Commission's approved grading plan for CDP 5-90-327. The Commission denied this proposal (5-90-327-A1) in January 1993, on the basis that it required excessive landform alteration and was inconsistent with the previous Commission decision on the approved permit.

The applicant subsequently submitted an application (5-90-327-A2) for approval of a remediation and restoration plan to address the illegal grading and vegetation clearance which had occurred. This amendment request was rejected on the basis that it constituted new development, and a new CDP application was opened, 4-95-074 (Javid). This permit application included both restorative grading on the residential lots, and grading and vegetation restoration within the open space lot. Restoration of the site, pursuant to this permit, is still ongoing, however, the remedial grading required on the residential lots, including Lot #13, has been completed.

On February 5, 2002, the Commission approved CDP 5-90-327-A4 (Javid), which involved a proposal by the applicant to construct the portion of the Zuma Ridge Trail passing through the subdivision, and to realign two portions of the trail along the eastern edge of the subdivision. This realignment affects a portion of the trail as it passes through Lot #13. Both the existing and the proposed realignment of the trail are shown on Exhibit 4.

The property is situated on the crest of a gently descending south-trending ridge of a southern portion of the Santa Monica Mountains. Slopes on site descend to the east, and maximum topographic relief on-site is approximately 50 feet. Drainage from the property is by sheetflow to the drainage to the east of the site. There are no designated environmentally sensitive habitat areas (ESHA) on the site and staff did not observe any ESHA on the site. The project site is visible from Pacific Coast Highway a designated scenic highways in the certified Malibu/Santa Monica Mountains Land Use Plan, and from Zuma Ridge Trail which traverses the eastern part of the property.

B. Visual Resources

Section 30251 of the Coastal Act states that:

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

The subject site is visible from several locations along Pacific Coast Highway a designated scenic highway in the Malibu / Santa Monica Mountains Land Use Plan (LUP), which is located approximately 1/3 mile south of the subject site. Additionally, a portion of the Zuma Ridge Trail traverses the eastern portion of the subject site. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic roads. The Commission also examines the building site and the size of the proposed structure. Staff visited the subject site and found the proposed building location to be appropriate and feasible, given the terrain and the surrounding existing development.

The property is located on a south trending minor ridge and the finished project will be visible from the surrounding area including Pacific Coast Highway, and Zuma Ridge Trail, thereby requiring mitigation of visual impacts as discussed below. Nearby residences are of a similar massing, character, and location to be similarly visible, and the proposed building plans are substantially in character with the type and scale of development in the surrounding area.

For this project, the applicant is proposing construction of a 2 story + basement, 28' high from existing grade, 5,547 sq. ft., single family residence with an attached 787 sq. ft., 3-car garage (for a total of 6,334 sq. ft.); driveway and turnaround; pool; septic system; and landscaping. The project proposes a total of 1,151 cu. yds of grading (504 cu. yds.

of cut, and 447 cu. yds. of fill, + 134 cu. yds. cut and 66 cu. yds. of fill for excavation of the basement).

The proposed building site is located as close as 60 feet north of the planned Zuma Ridge Trail. This planned trail was required as part of the creation of the subdivision approved as part of the Los Angeles County Department of Regional Planning review of Tentative Tract Map No. 45585 approval. This Trail Dedication Condition was considered fulfilled at the time of Commission approval of Coastal Permit No. 5-90-327(Javid) which approved creation of the 21 parcel subdivision (Exhibit 2). The trail is located along the eastern boundary of the subject parcel and adjoining parcels. The trail offer to dedicate allows for a future 5 foot wide trail to be located within a 20 foot wide easement which runs along the eastern boundary of the subdivision.

The Commission has found that the use of native plant materials in landscaping plans can soften the visual impact of construction in the Santa Monica Mountains. The use of native plant materials to revegetate graded and restored areas reduces the adverse effects of erosion, which can degrade visual resources in addition to causing siltation pollution in ESHA's, and soften the appearance of development within areas of high scenic quality. The landscape plan will be designed with vertical elements to partially screen and soften the visual impact of the proposed structures with trees and shrubs as viewed from the adjoining public trail located to the south and west of the project site (Exhibit 2). The proposed residence will be located as close as 60 feet, and the footprint of the development (i.e. retaining walls, pool, etc.) will encroach within 30 feet of the existing 20 foot wide trail easement; a five foot wide hiking and equestrian trail is proposed to be constructed within this easement pursuant to CDP amendment 5-90-327-A4, which was approved by the Commission on 2/5/2002. This amendment also proposed a realignment of the trail easement (Exhibits 3 and 4) which will result in increasing the distance between the proposed development and the trail by an additional 20 feet on the northeastern portion of the property. This will allow for additional screening of the residence from the trail.

The applicant is required to submit a Landscape and Fuel Modification Plan, pursuant to **Special Condition Four**, that uses native species compatible with the vegetation associated with the project site for landscaping and erosion control purposes. Furthermore, the Plan will indicate that only those materials designated by the County Fire Department as being a "high fire hazard" are to be removed as a part of this project and that native materials that are located within a 200' radius of the residential structure are to "thinned" rather than "cleared" for wildland fire protection. The vegetation located within 20 feet of the structure and the driveway may be cleared and replaced with native plant species that are less flammable, and all disturbed areas of the site replanted with native plants. As required by **Special Condition Number Four**, the landscape plan will be designed with vertical elements to partially screen and soften the visual impact of the structures with trees and shrubs as viewed from the public trail located on the eastern portion of the project site.

The proposed project's impact on public views can be additionally minimized by requiring the residence and retaining walls to be finished in a non-obtrusive manner (i.e.: in a color compatible with the surrounding natural landscape and with non-reflective windows). The Commission therefore requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by

Special Condition One. In addition, future construction on the property has the potential to negatively affect the visual character of the area as seen from Pacific Coast Highway, and the adjacent Zuma Ridge Trail. To insure that no additions or improvements are made to the property that may affect visual resources on-site without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition Eight.**

As noted above, the applicant is proposing 1,151 cu. yds of grading (504 cu. yds. of cut, and 447 cu. yds. of fill; with an additional 134 cu. yds. cut, and 66 cu. yds. fill for excavation of the basement) for this project. This grading is primarily for the excavation of the basement, and the garage into the existing hillside; however a substantial amount of grading is also proposed for the creation of a 'lawn area' downslope of the residence, as shown on Exhibit 3. The 'lawn area' and associated grading is not consistent with the intent of the previous Commission action under CDP 5-90-327, **Special Condition Nine**, Future Grading for Single-Family Development, which states that grading for the development of the single-family residences shall be limited to the minimum necessary for driveway access, and that no grading for tennis courts, pools, or other ancillary uses which require level pads shall be permitted (Exhibit 11).

As such, the Commission requires the applicant, through **Special Condition Ten**, to submit revised project plans which delete this portion of the project, as designated on Exhibits 3 and 4, and as demonstrated by Exhibit 12. The applicant's civil engineer has estimated that the deletion of these areas, and relocation of development footprint as demonstrated on Exhibits 3 and 4, will reduce the amount of fill (grading) required from 447 cu. yds. to approximately 235 cu. yds.; a decrease of 215 cu. yds. This would alter the overall grading figures for the project from 1,151 cu. yds. to **936 cu. yds.** (504 cu. yds. cut and **232 cu. yds. fill**, +134 cut and 66 fill for the basement. The deletion of this portion of the project will reduce the amount of grading necessary to construct the proposed development to that necessary for the construction of the residence itself, bringing the project into compliance with the previous Commission action to limit future grading for the creation of level pad areas for ancillary uses.

With regard to the swimming pool, the grading required for the construction of the proposed pool is minimal in nature as it primarily involves excavation of the pool (61 cu. yds), rather than emplacement of fill to create a level pad. The change in elevation from the foot of the residence to the foot of the pool is approximately 6 vertical feet over a spread of 30 vertical feet. Additionally, the location of the pool, which is adjacent to, and set back from the southern end of the garage results in a clustering of development on the site, and, in this case, does not result in excessive additional grading to create an additional level pad area which was the concern of CDP 5-90-327. Therefore, the Commission finds that the proposed project, and its inclusion of a pool does not raise issue with the previous Commission action in limiting future grading on the site for the creation of level pads for ancillary uses.

The Commission has found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, in order to protect the night time rural character of this portion of the Santa Monica Mountains, consistent with the scenic and visual qualities of this coastal area, the Commission limits the nighttime lighting of the

property and residence to that necessary for safety as outlined in **Special Condition Nine**. Additionally, fencing of the property has the potential to reduce the scenic quality of the region as seen from the adjacent trail. Restricting fencing on the property to a form that is visually compatible with the surrounding environment, as required by **Special Condition Four**, will further minimize the visual impact of the development as seen from the Pacific Coast Highway, neighboring ridges, and the Zuma Ridge Trail.

Therefore, the proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu / Santa Monica Mountains LUP.

C. Geologic Stability and Hazards

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

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

Section 30250(a) of the Coastal Act states (in part):

New residential, ... development, ... shall be located within, contiguous with, or in close proximity to existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The proposed project includes the construction of a 2 story + basement, 28' high from existing grade, 5,547 sq. ft., single family residence with an attached 787 sq. ft., 3-car garage (for a total of 6,334 sq. ft.), driveway and turnaround, pool, septic system, and landscaping. The project proposes a total of 1,151 cu. yds of grading (504 cu. yds. of cut, and 447 cu. yds. of fill, + 134 cu. yds. cut and 66 cu. yds. of fill for excavation of the basement). The prominent features in the area are the Santa Monica Mountains and the Santa Monica Mountains National Recreation Area to the north, the Pacific Ocean and various beaches to the south, Trancas Canyon to the west, and Point Dume to the east.

Drainage on site is by sheetflow to the eastern portion of the property, into a natural drainage, and then south to Morning View Drive. The eastern portion of the property also contains a 20 ft. wide public access easement, the Zuma Ridge Trail, for hiking and equestrian purposes. Under CDP 5-90-327-A4 (Diva Partners/Javid), the applicant recently proposed, the relocation of a portion of the trail which crosses the subject lot,

and construction of the trail within the easement. The Commission approved this permit on 2/5/2002, and Exhibit 4 demonstrates the existing, and the proposed (realigned) trail location pursuant to CDP 5-90-327-A4.

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project and that no potentially active faults, adversely oriented geologic structures, or other hazards were observed by the consultants on the subject property. Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have prepared reports addressing the specific geotechnical conditions related to the site.

The *Preliminary Engineering Geologic and Geotechnical Investigation for Proposed Single-Family Residence, 4440 Encinal Canyon Road, Malibu, California*, by Miller Geosciences, Inc., dated March 8, 2000, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

It is the finding of this firm that the proposed building and/or grading will be safe and that the property will not be affected by any hazard from landslide, settlement, or slippage, and the completed work will not adversely affect adjacent property in compliance with the county code, provided our recommendations are followed... No known active faults or evidence of surface rupture was observed in the seismic trenches excavated across the building site... Ancient or recent landslides were not observed on the subject site at the time of our field investigation... The property did not reveal the presence of past surficial slope failures within natural slopes surrounding the proposed building pad... it is our opinion the site, as proposed, will be grossly stable... Based on the findings of our investigation, the site is considered suitable from a soils and engineering geologic standpoint for construction of a two-story, single-family residence, a swimming pool, and associated retaining walls provided the recommendations included herein are followed and integrated into the building plans.

The Commission notes that the geologic and engineering consultants have included a number of recommendations regarding site preparation, subdrainage, foundation and building setback, foundations, lateral design, retaining walls, foundation settlement, floor slabs, temporary excavation slopes, pavement, drainage, sewage disposal, and grading which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition Two**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. Interim erosion control measures implemented during construction will minimize short-term erosion and enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and through implementation of a drainage and runoff control plan. To ensure that runoff is conveyed off-site in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Conditions Two, Three, and Four**, to submit drainage / erosion control plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director, to adequately control runoff

from impervious surfaces, and to assume responsibility for the maintenance of all drainage devices on-site.

Erosion and sedimentation can also be minimized by requiring the applicant to remove all excess dirt from cut / fill / excavation activities. The applicant has estimated 1,151 cu. yds of grading (504 cu. yds. of cut, and 447 cu. yds. of fill; and an additional 134 cu. yds. cut, and 66 cu. yds. fill for excavation of the basement). Under **Special Condition Ten**, the applicant is required to submit revised plans deleting the portions of the 'lawn' area and related fill slopes, as shown on Exhibits 3, 4, and 12, and revising the grading amounts for the project. The removal of the fill slopes will result in additional soil (approximately 215 cu. yds.) which will need to be exported offsite. The Commission has found that minimization of grading and exposed earth on-site can reduce the potential impacts of sedimentation in nearby creeks, stormwater conveyances, and the ocean. Therefore, **Special Condition Six** has been required to ensure that all excavated or cut material in excess of material proposed to be used for fill on the project site be removed and properly disposed of.

In addition to controlling erosion during grading operations, landscaping of the graded and disturbed areas of the project will enhance the stability of the site. Long-term erosion can be minimized by requiring the applicant to revegetate the site with native plants compatible with the surrounding environment. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that such plant species do not serve to stabilize slopes and may adversely affect the overall stability of a project site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Invasive, non-indigenous plant species tend to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has already caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive and fast-growing trees and groundcovers originating from other continents which have been used for landscaping in this area have seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed, graded, and sloped areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition Four**.

The Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the property.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the wildfire waiver of liability, as incorporated in **Special Condition Seven**, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. For fire

suppression, and to protect residences, the Fire Department requires the reduction of fuel through the removal and thinning of vegetation for up to 200 feet from any structure. The applicant has submitted a Fuel Modification Plan with final approval by the Los Angeles County Fire Department Fuel Modification Unit for this project. Additionally, a coastal development application (CDP# 4-01-073) for the adjacent property, Lot #14, to the south has been submitted. This application is for the construction of a residence to be sited directly south and west of the currently proposed residence, which will result in the clustering of development and minimization of the potential impacts of fuel modification for both properties.

As conditioned, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

D. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

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

As described above, the proposed project includes the construction of a 2 story + basement, 28' high from existing grade, 5,547 sq. ft., single family residence with an attached 787 sq. ft., 3-car garage (for a total of 6,334 sq. ft.), driveway and turnaround, pool, septic system, and landscaping. The project proposes a total of 1,151 cu. yds of grading (504 cu. yds. of cut, and 447 cu. yds. of fill, + 134 cu. yds. cut and 66 cu. yds. fill for excavation of the basement).

The conversion of the project site from its natural state will increase the amount of impervious coverage and reduce the naturally vegetated area on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. Further, use of the site for residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces.

The conversion of the project site from its natural state will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals;

synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, drainage and water pollution control measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site is returned to the soil, overall runoff volume is reduced. Slow surface flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The project is conditioned, by **Special Condition Three**, to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion, sedimentation, and polluted runoff are minimized to reduce potential impacts to coastal streams, natural drainages, and environmentally sensitive habitat areas. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and

maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Three**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine resource protection policies of the Coastal Act.

As described above, the project is conditioned to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion and sedimentation is minimized. In order to ensure that runoff is conveyed off-site in a non-erosive manner and to minimize the volume, velocity, and pollutant load of stormwater leaving the developed site thereby ensuring that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant, through **Special Condition Three**, to submit a drainage and polluted runoff control plan, designed by a licensed engineer, for review and approval by the Executive Director, which incorporates filter elements that intercept and infiltrate or treat the runoff from the site and to assume responsibility for the maintenance of all drainage devices on-site. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial, "first flush" flows that occur as a result of the first storms of the season. These flows carry the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

Finally, the proposed development includes the installation of an on-site septic system with 3000-gallon tank to serve the residence. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains and the resultant installation of septic systems may contribute to adverse health effects and geologic hazards in the local area. The applicants' geologic consultants performed percolation tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant has submitted in-concept approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the Uniform Plumbing Code. The City of Malibu minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources. The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. Public Access

The Coastal Act requires that maximum public access and recreational opportunities to and along the coast be provided and protected in new development projects. The Coastal Act also requires new development to provide adequate lands suitable for recreation to serve the needs of new residents.

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30212 states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Coastal Act Section 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Coastal Act Section 30213 states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Coastal Act Section 30223 states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act Section 30530 states:

It is the intent of the Legislature, consistent with the provisions of Chapter 9 (commencing with Section 31400) of Division 21, that a program to maximize public access to and along the coastline be prepared and implemented in a

manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, and local agencies responsible for acquisition, development, and maintenance of public coastal accessways. There is a need to coordinate public access programs so as to minimize costly duplication and conflicts and to assure that, to the extent practicable, different access programs complement one another and are incorporated within an integrated system of public accessways to and along the state's coastline. The Legislature recognizes that different public agencies are currently implementing public access programs and encourages such agencies to strengthen those programs in order to provide yet greater public benefits.

In the Santa Monica Mountains, a portion of an existing system of heavily used historic trails located on private property has been jeopardized by the conversion of open lands to residential development. In an effort to preserve and formalize the public's right to use these trails, Los Angeles County adopted the Riding and Hiking Trails Master Plan for the Santa Monica Mountains, which is adopted by ordinance into the highway element of the County's 1982 General Management Plan for the Santa Monica Mountains National Recreation Area as updated in 1984 as the Land Protection Plan. The trail system is mapped as part of the 1986 certified Land Use Plan for the Malibu/Santa Monica Mountains Area, a component of the County's Local Coastal Program. The trail system includes the Zuma Ridge Trail, an access route from the coast near Trancas Canyon leading inland and connecting to the nearby Santa Monica Mountains National Recreation Area and having linkages to the other important lateral trails such as the Coastal Slope Trail. Numerous cross mountain lateral trails link the major population center of the San Fernando Valley on the north with numerous Federal, State, and County mountain and beach park lands within the Mountains and to the south on the beach. These lateral trails provide these links between downtown Santa Monica on the east to Point Mugu State Park on the west. There are two designated regional connector trails linking the Malibu/Santa Monica Mountains trail system with a larger regional system which connects the beach and mountain areas with trails in the Simi Valley, San Gabriel Mountains and other inland areas. The trail network will make a very large number of destinations available to hikers and equestrians. These destinations are quite varied in nature and therefore have the potential of holding interest for many different persons. The choice includes highly scenic locations, such as Escondido Falls and Castro Crags area; historic sites, including motion picture locations; and active group campsites. Dramatic coastal views, including almost unmatched views of the Channel Islands, are available from vista points along the Backbone Trail, to which the Coastal Slope Trail connects. These extraordinary coastal views are central to the coastal mountain recreation experience and together with the fauna, flora, and climate specific to this area, are among the coastal resource values protected by the public access and recreation policies of the Coastal Act.

The Zuma Ridge Trail is a planned trail and dedication of a portion of this trail was required as part of the Los Angeles County Department of Regional Planning review of Tentative Tract Map No. 45585 approval (Exhibits 2-4). This Trail Dedication Condition was considered fulfilled at the time of Commission approval of Coastal Permit No. 5-90-327(Javid). These trails have become important and commonly used recreational assets and a means of providing access to and links between natural, scenic, and recreational areas in the mountains. The proposed development in this application is on a parcel which includes a segment of the Zuma Ridge Trail, a designated segment of this major trail system. Additionally, the Commission, on 2/5/2002 approved an amendment proposal, CDP amendment 5-90-327-A4, to realign portions of the Zuma

Ridge Trail within the subject property (Lot 13), and to construct an equestrian/pedestrian trail within the easement.

In permitting residential areas in the Santa Monica Mountains to build out, planning agencies have found that to assure continued availability of the recreational resources of the mountains by the general public, compatible recreational facilities to serve both residents of the new development and existing recreational visitors must be provided. A comprehensive recreation plan for the Santa Monica Mountains has been adopted, as cited above, that includes acquisition by the National Park Service and the California Department of Parks and Recreation of extensive tracts of land for recreation. Careful review of development near such areas to ensure that it is sited and designed to be compatible with recreational uses, and development of a system of scenic highways and hiking and equestrian trails to link the larger units together while retaining access to views, provide recreational opportunities, and provide an alternative mode of access to all areas of the mountains and adjacent coastal areas. Los Angeles County incorporated the Riding and Hiking Trails Master Plan into the Land Use Plan certified by the Coastal Commission in 1986.

Therefore, the Commission requires the applicant, through **Special Condition Eight**, to record a future improvements deed restriction, to ensure that any future improvements or additions to the permitted structures, which would otherwise be exempt from Coastal Permit requirements, are reviewed for consistency with Sections 30210, 30212, 30212.5, 30213, 30223, 30530 of the Coastal Act to ensure that this trail easement will not be adversely affected or blocked.

H. Local Coastal Program

Section 30604(a) of the Coastal Act states (in part):

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

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

I. California Environmental Quality Act (CEQA)

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

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

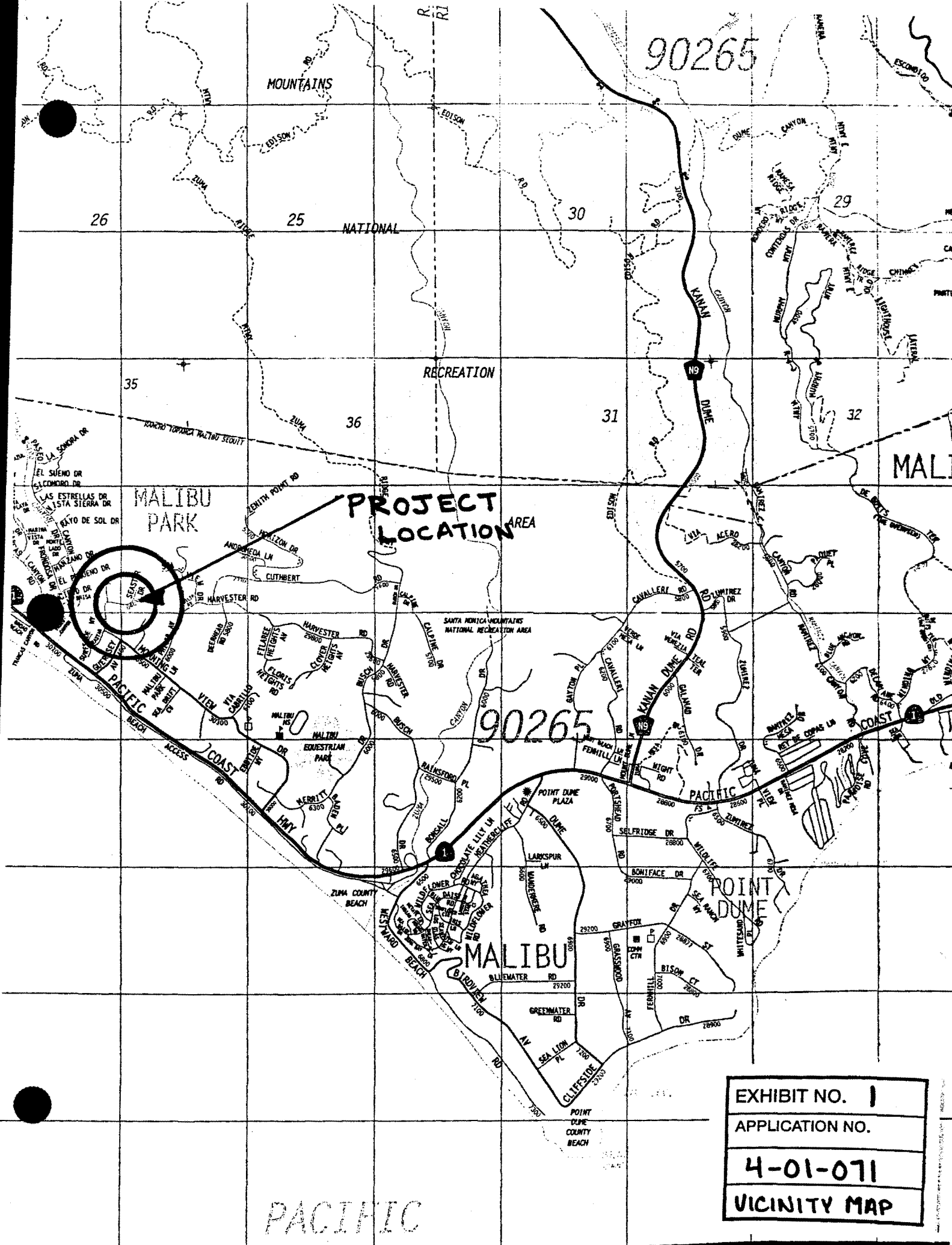


EXHIBIT NO. 1
APPLICATION NO.
4-01-071
VICINITY MAP

4469	47	SCALE 1" = 200'	TRA 10953	OFFICE OF ASSESSOR COUNTY OF LOS ANGELES COPYRIGHT © 1993	REVISED 3/05/2003 1001-07 3/05/20	3/05/2003 1001-07 3/05/2003 1002-07								
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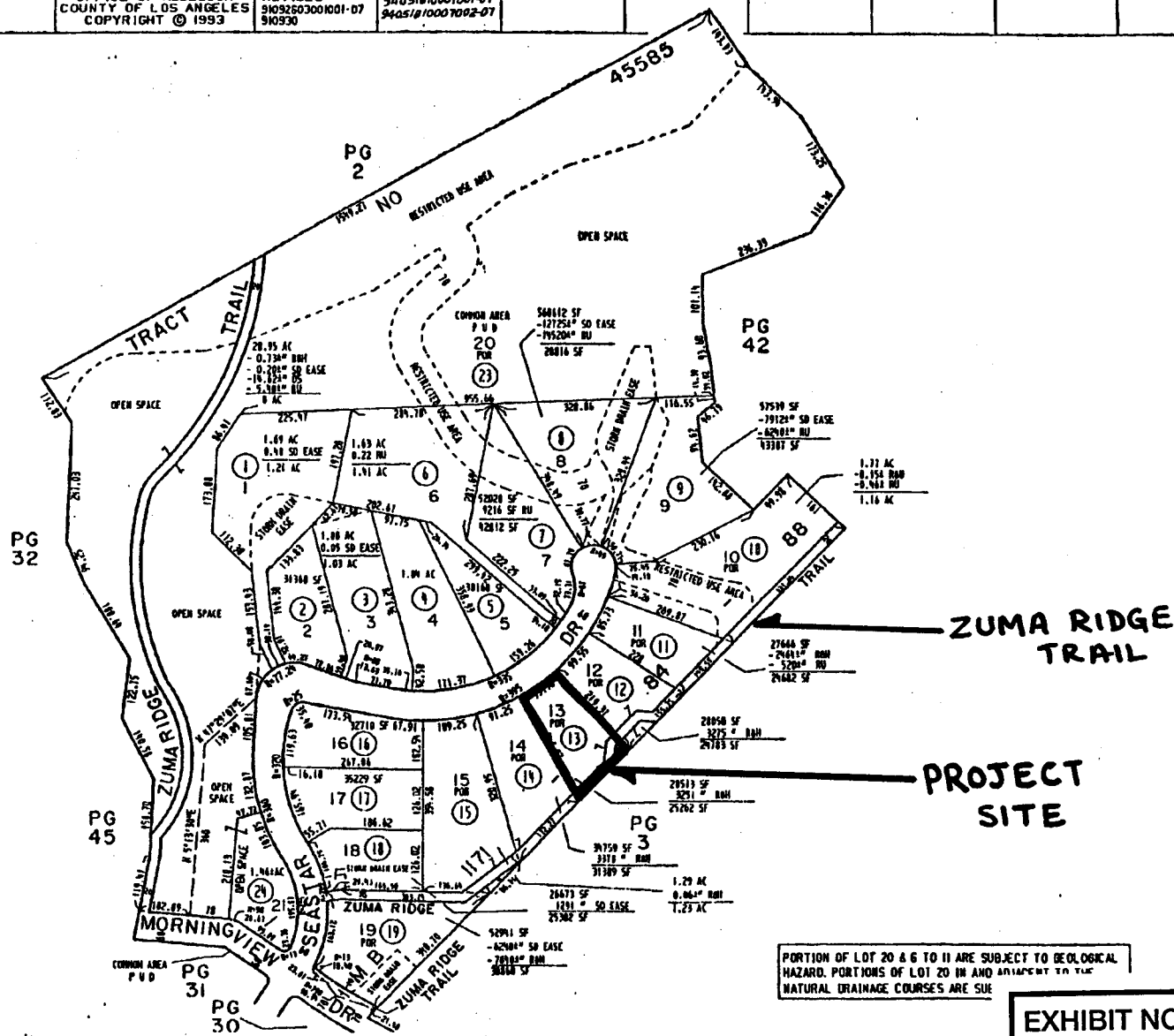


EXHIBIT NO. 2

APPLICATION NO.

4-01-071

PARCEL MAP

SLOPE SETBACK REQUIREMENTS

ASCENDING SLOPES	DESCENDING SLOPES	RETAINING WALLS
<p>2:1 Set back 2:1 Set back</p>	<p>2:1 Set back 2:1 Set back</p>	<p>2:1 Set back 2:1 Set back</p>
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1" = 10' Feet Plan 1" = 10' Feet Elevation

EXISTING CONTOURS	1.700
PROPOSED CONTOURS	700
TOP OF CURB	7.0
FLOW LINE	5.0
GARAGE FLOOR	6.0
BACK OF WALL	8.0
FINISHED SURFACE	5.0
TOP OF GRATE	7.0
TOP OF WALL	7.0
CATCH BASIN	6.0
DAY LIGHT	0.0

SCALE: 1" = 16'

Diagram illustrating the detail of slope benching. The diagram shows a cross-section of a slope with a stepped profile. Key dimensions and labels include:

- PG 10**: Top of the slope profile.
- PG 11**: Top of the slope profile.
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- PG 100**: Top of the slope profile.

-20' ft wide
Zuma Ridge Trail Easement

existing trail

relocated trail
(CDP 5-90-327-A4)

SECTION "A-A"
SCALE 1"=16'

ACE CIVIL ENGINEERING
CONSULTING ENGINEERS
8619 RESEDA BLVD. NO. 201
NORTHridge, CA 91324
(818) 772-4265

PREPARED FOR: JAVID DEVELOPMENT
C/O PLUS ARCHITECTS
11805 MISSISSIPPI AVE.
LOS ANGELES, CA 90025
(310) 478-6149

REV NO.	DATE	REVISION
SCALE	CH'D BY:	
1" = 16'		

LIBRARY DESCRIPTION

LOT 13 OF TR. 45585 PER S.B.
1171, PAGES 84/88 PER RECORDS
IN THE COUNTY OF LOS ANGELES.

GRADING PLAN

6312 SEASTAR DRIVE, MALIBU

EXHIBIT NO. 3

APPLICATION NO.

4-01-071

GRADING PLAN

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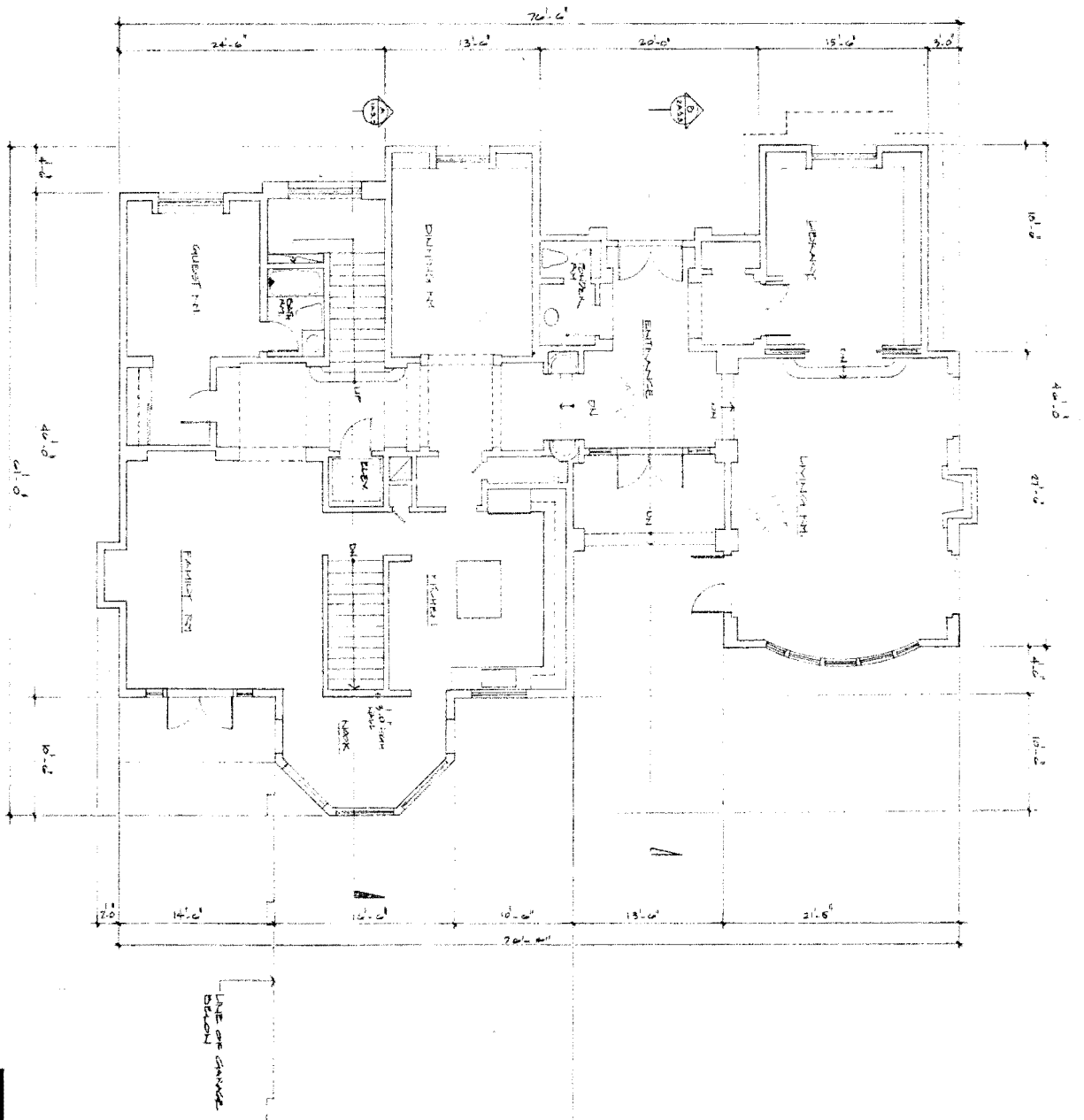


EXHIBIT NO. **5**

APPLICATION NO.

APPLICATION NO.

4-01-071

FIRST-LOOK PLAY

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 LOT 13
 2 SEASTAR DRIVE
 JIBU, CALIFORNIA

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PLUS ARCHITECTS

ARCHITECTURE ■ SPACE PLANNING ■ INTERIOR DESIGN

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RESULTS

DATE _____

INSURANCE CO. OF N.Y.

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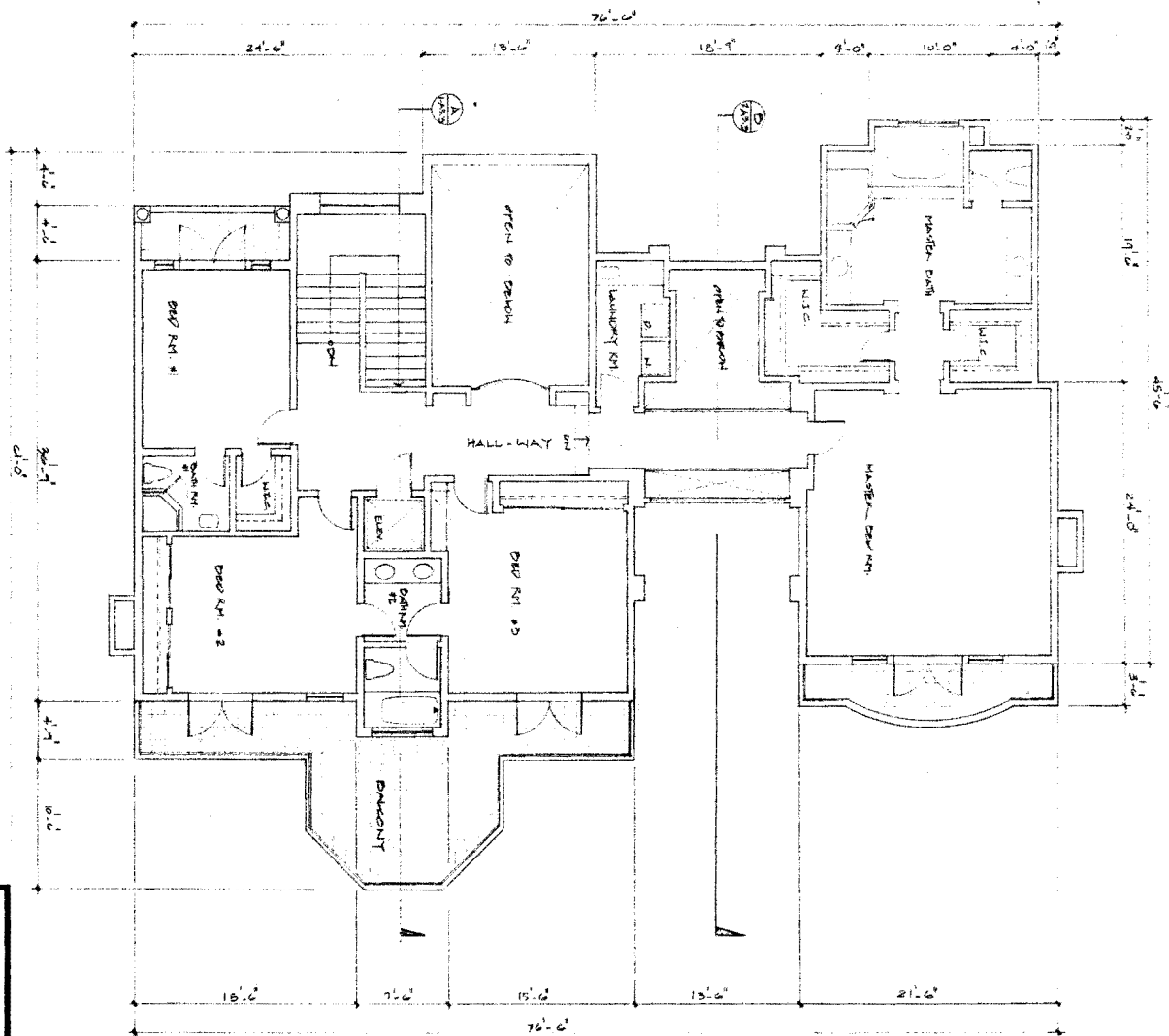


EXHIBIT NO. 6

APPLICATION NO.

4-01-071

SECOND FLOOR PLAN

PROJECT
LOT 13
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PLUS ARCHITECTS

ARCHITECTURE ■ SPACE PLANNING ■ INTERIOR DESIGN

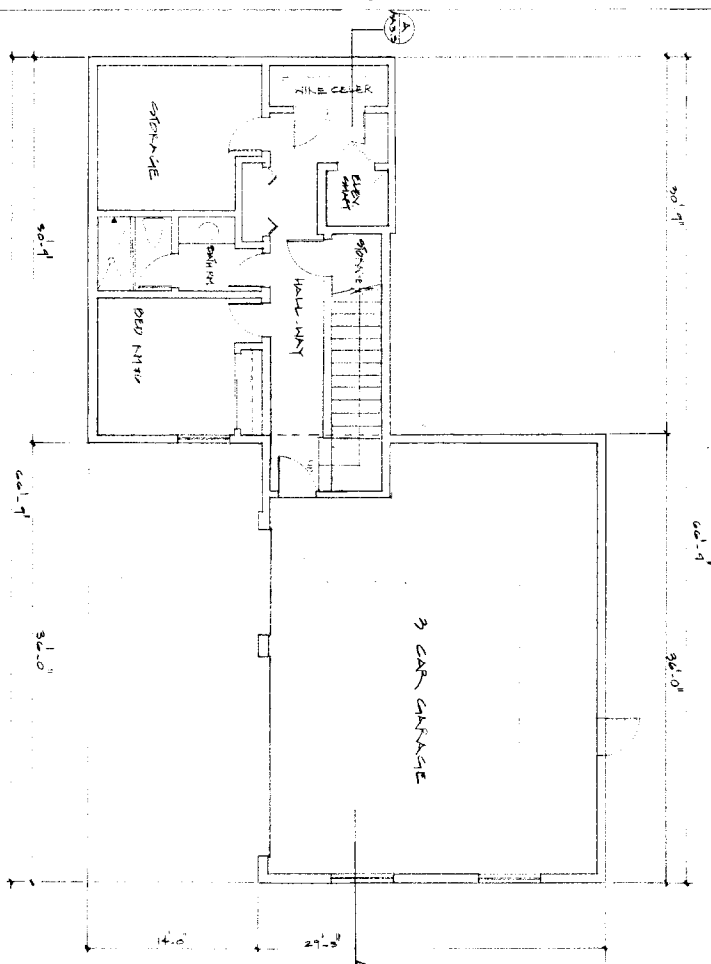
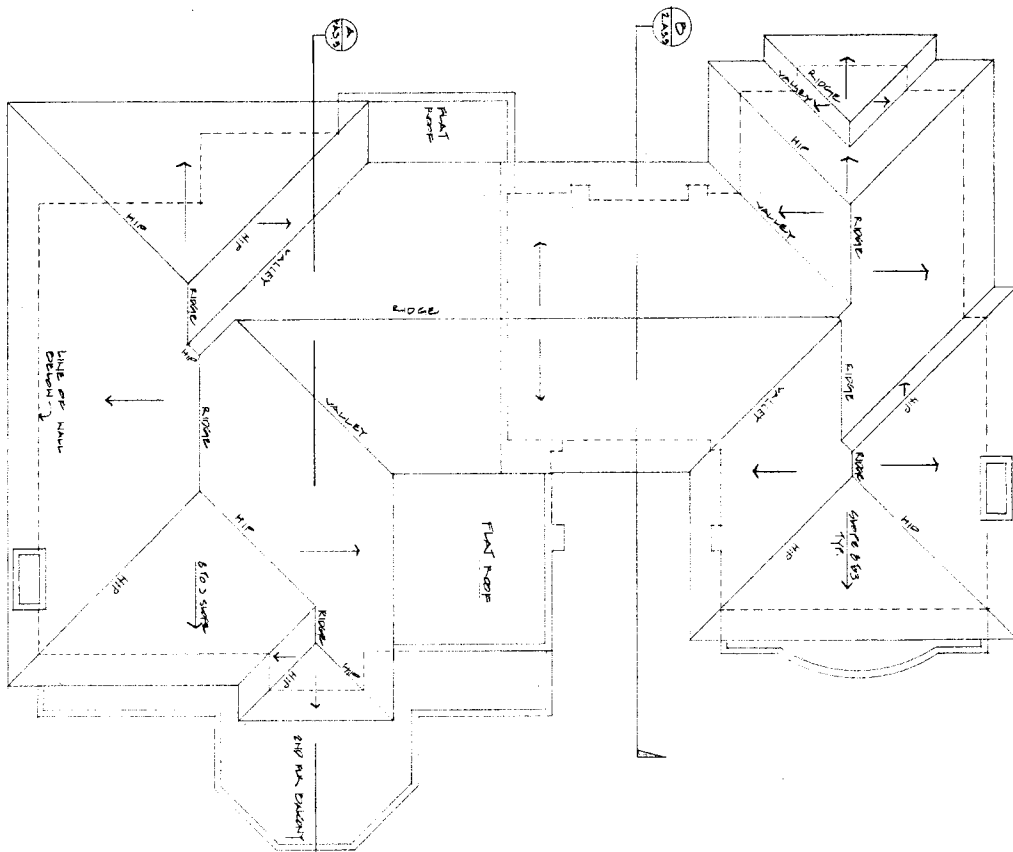
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PROJECT NO. 4-01-071

CLIENT: SEASTAR DRIVE, BU, CALIFORNIA

ARCHITECT: PLUS ARCHITECTS

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EXHIBIT NO. 7

APPLICATION NO.

4-01-071

GARAGE BASEMENT

LOT 13
SEASTAR DRIVE
IBU, CALIFORNIA

PLUS ARCHITECTS

ARCHITECTURE ■ SPACE PLANNING ■ INTERIOR DESIGN

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SIGNATURES

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DATE

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ISSN 0013-788X/00

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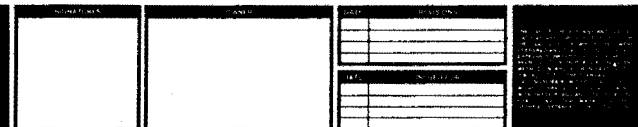
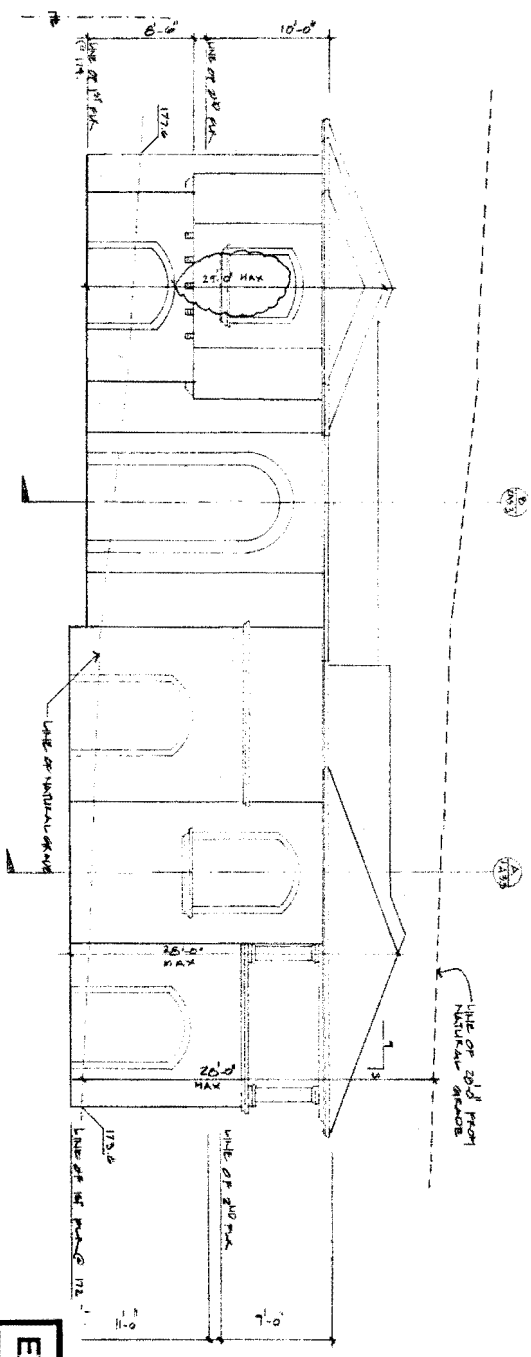


EXHIBIT NO. 8
APPLICATION NO.
H-01-071



PLUS ARCHITECTS
ARCHITECTURE ■ SPACE PLANNING ■ INTERIOR DESIGN

10000 WILSON BOULEVARD, SUITE 100, BEVERLY HILLS, CALIF. 90210
 312 SEASTAR DRIVE, CALIB, CALIFORNIA
 LOT 13

EXHIBIT NO. 9

APPLICATION NO.

EXHIBIT NO. 9

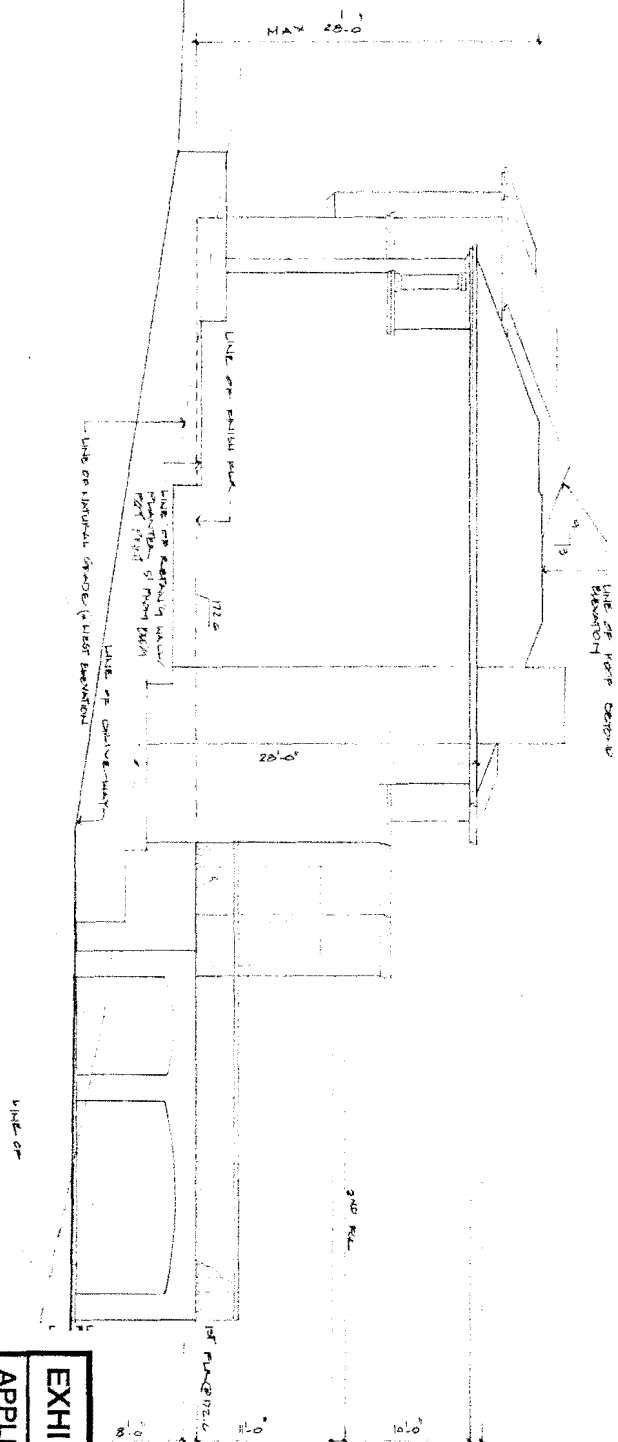
APPLICATION NO.

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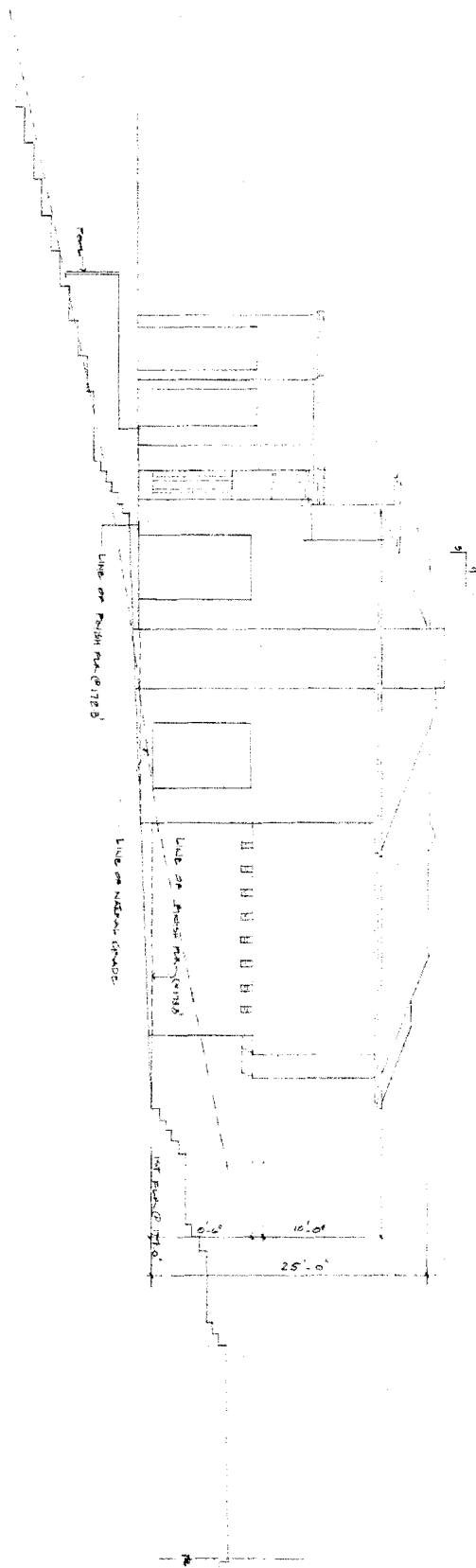
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4-01-071

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PLUS ARCHITECTS

ARCHITECTURE ■ SPACE PLANNING ■ INTERIOR DESIGN

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MALIBU, CALIFORNIA

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MALIBU, CALIFORNIA

SUBJECTS

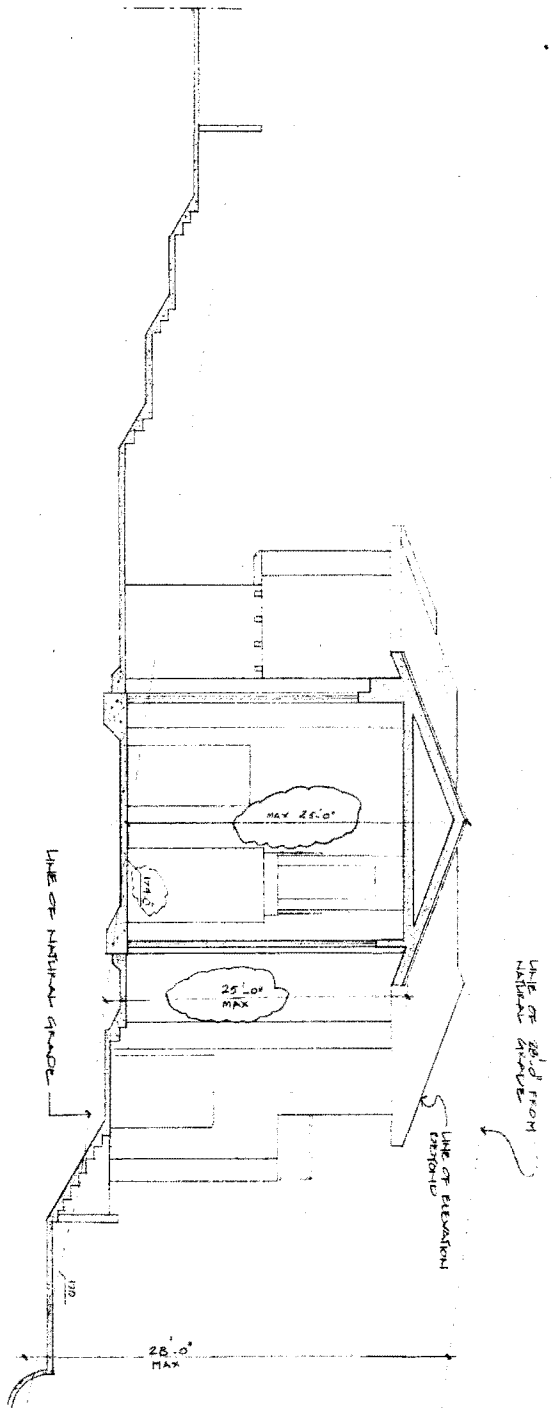
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CASE

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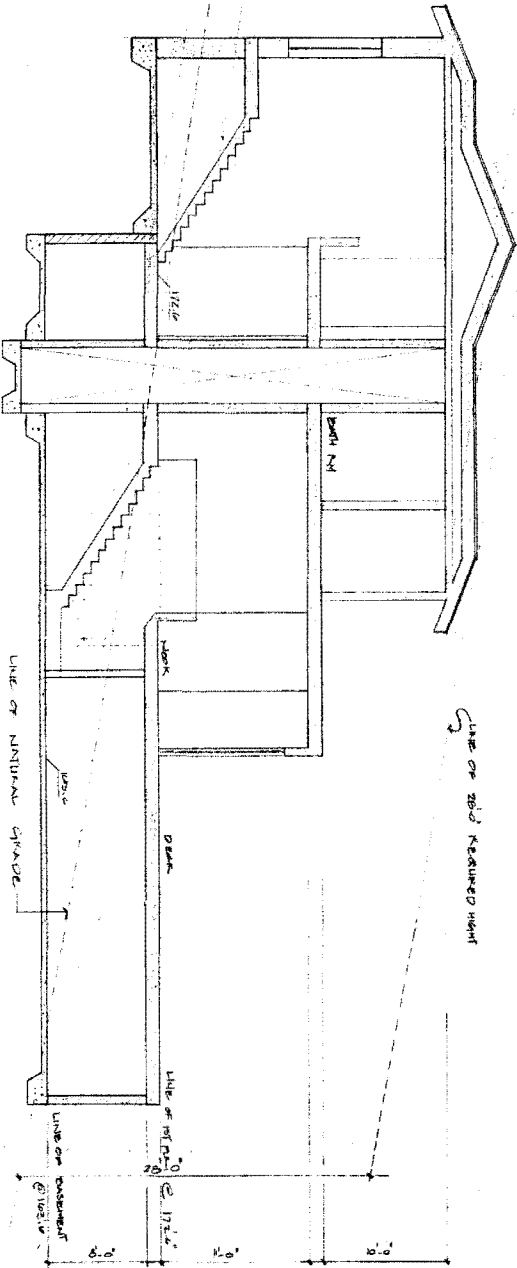
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PLUS ARCHITECTS
ARCHITECTS ■ SPACE PLANNING ■ INTERIOR DESIGN

PLANNING

DESIGN

DATE: _____
REVISION: _____
BY: _____
CHECKED BY: _____

EXHIBIT NO. 10
APPLICATION NO.

4-01-011
CROSS-SECTIONS

IFORNIA COASTAL COMMISSION

COASTAL AREA
15000 BAYVIEW, SUITE 380
BEACH, CA 90802
PO-5071

Page 1 of 1
Date: March 11, 1991
Permit No. 5-90-327

COASTAL DEVELOPMENT PERMIT

On May 10, 1990, the California Coastal Commission granted to

JAVID DEVELOPMENT

this permit subject to the attached Standard and Special conditions, for development consisting of:

Subdivision of a 45 acre parcel into 19 residential lots and one open space lot and construction of streets, septic systems, utilities, storm drain improvements and 80,500 cubic yards of grading (41,500 cut and 39,000 fill).

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 30631 Morning View Drive, Malibu

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: 

Title: Staff Analyst

ACKNOWLEDGMENT

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

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

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

Date _____

Signature of Permittee _____

EXHIBIT NO. 11

APPLICATION NO.

4-01-071

EXISTING
CONDITIONS

COASTAL DEVELOPMENT PERMIT

Page 7 of 6
Permit No. 5-90-327

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXHIBIT NO. 11
APPLICATION NO.
4-01-071
EXISTING CONDITIONS

III. Special Conditions.

1. Cumulative Impact Mitigation.

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on eighteen (18) building sites in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- a) one of the five lot retirement or lot purchase programs contained in the Malibu/Santa Monica Mountains Land Use Plan (Policy 272, 2-6);
- b) a TDC-type transaction, consistent with past Commission actions;
- c) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

2. Trail Dedication.

Prior to issuance of permit, the applicant shall submit an irrevocable offer to dedicate a twenty-foot wide public access trail easements along the eastern portion of the site along the back portions of lot 10 thru 15 then along the northern portion of lot 19 to Street "A" (Zuma Canyon trail), a ten-foot wide easement south along Street "A" to Morning View Drive and then west along Morning View Drive, a twenty-foot wide easement north along the western boundary of the site and then along a portion of the northern boundary of the site (Chumash trail). The irrevocable offer shall be of a form and content approved by the Executive Director, free of prior encumbrances except for tax liens, providing the public the right to pass and repass over the noted route limited to hiking and equestrian uses only. The present public use of the existing trails shall not be interfered with until the trails have been relocated and improved. The dedicated trail easement shall not be open for public hiking and equestrian usage until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the trail easement. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, from the date of recording.

EXHIBIT NO. 11
APPLICATION NO.
4-01-071
EXISTING CONDITIONS

3. Easement for Locating Drain on Adjacent Property

Prior to issuance the applicant shall submit a recorded agreement (drainage easement) from the adjacent property owner showing that an easement has been granted to the applicant for the purpose of extending the subsurface drain and energy dissipator onto the property.

4. Landscaping and Erosion Control Plan

Prior to issuance of permit, the applicant shall submit landscaping and fuel modification plans prepared by a licensed architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated November 23, 1988. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within 90 days and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils including all existing graded roads and pads;
- (c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

5. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Report prepared by California Geo/Systems, INC. (8/17/87) regarding the proposed development shall be incorporated into all final design and construction including

EX

EXHIBIT NO. 11
APPLICATION NO.
4-01-071
EXISTING CONDITIONS

grading, sewage disposal, and drainage. All plans must be reviewed and approved by the consultant. Prior to transmittal of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans. The geologic restricted use area shall be delineated and recorded on the final parcel map.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

6. Archeological Resources.

Prior to issuance of the permit, the applicant shall agree in writing that a qualified archaeologist and an authorized representative of the Native American Heritage Commission shall be present on-site during all grading and that should archaeological (or paleontological) resources be discovered, all activity which could damage or destroy these resources shall be temporarily suspended until the site has been examined by a qualified archaeologist (or paleontologist) and mitigation measures have been developed and implemented to address the impacts of the project on archaeological (or paleontological) resources. Such mitigation measures shall be reviewed and approved by the State Office of Historic Preservation prior to implementation and resumption of development. Any change to the proposed project required by the mitigation measures shall be reported in writing to the Executive Director to determine whether an amendment to the permit is required.

7. Revised Grading Plans

Prior to issuance of permit the applicant shall submit a revised Tract Map and grading plan approved by the County of Los Angeles consistent with the final proposed grading (as shown in the revised grading plan submitted to this office on 4/19/90) indicating no more than 69,500 cubic yards of total grading and no graded building pads.

8. Open Space Dedication

Prior to transmittal of the coastal development permit, the applicant as landowner shall execute and record a document, in a form and content acceptable to the Executive Director, which irrevocably offers to dedicate to a public agency or private association acceptable to the Executive Director, an easement for open space, view preservation and habitat protection. Such easement shall be located on the northern and western portions of the subdivision and include all of lot 20 including the "Restricted Use Area".

(see Exhibit). The easement shall restrict the applicant from grading, landscaping (other than required by this permit), vegetation removal or placement of structures within the easement area. The easement shall not restrict the future development of a trail for hiking and equestrian use. The offer shall be recorded free of prior liens and encumbrances except for tax liens which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of twenty one (21) years, such period running from the date of recording.

EXHIBIT

EXHIBIT NO. 11

APPLICATION NO.

4-01-071

EXISTING
CONDITIONS

9. Future Grading for Single-family Development

Prior to issuance of the permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that the development of single-family residences shall conform to the natural contours of the site and grading for the development of the single-family residences shall be limited to the minimum amount necessary for driveway access. The document shall further stipulate that no grading for tennis courts, pools or other ancillary uses which require level pads shall be permitted.

10. Recreational Lot

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director a deed restriction for recording free of prior liens, except for tax liens, and free of prior encumbrances, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide that lot 20, as shown on the Tentative Tract Map No. 455B5, shall be restricted for use as a low intensity community center/recreational lot, which minimizes grading and landform alteration, for use by members of the homeowners' association. Such uses include, but are not limited to, swimming pool and tennis court.

AP:tn
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EXHIBIT NO. 11
APPLICATION NO.
4-01-071
EXISTING CONDITIONS

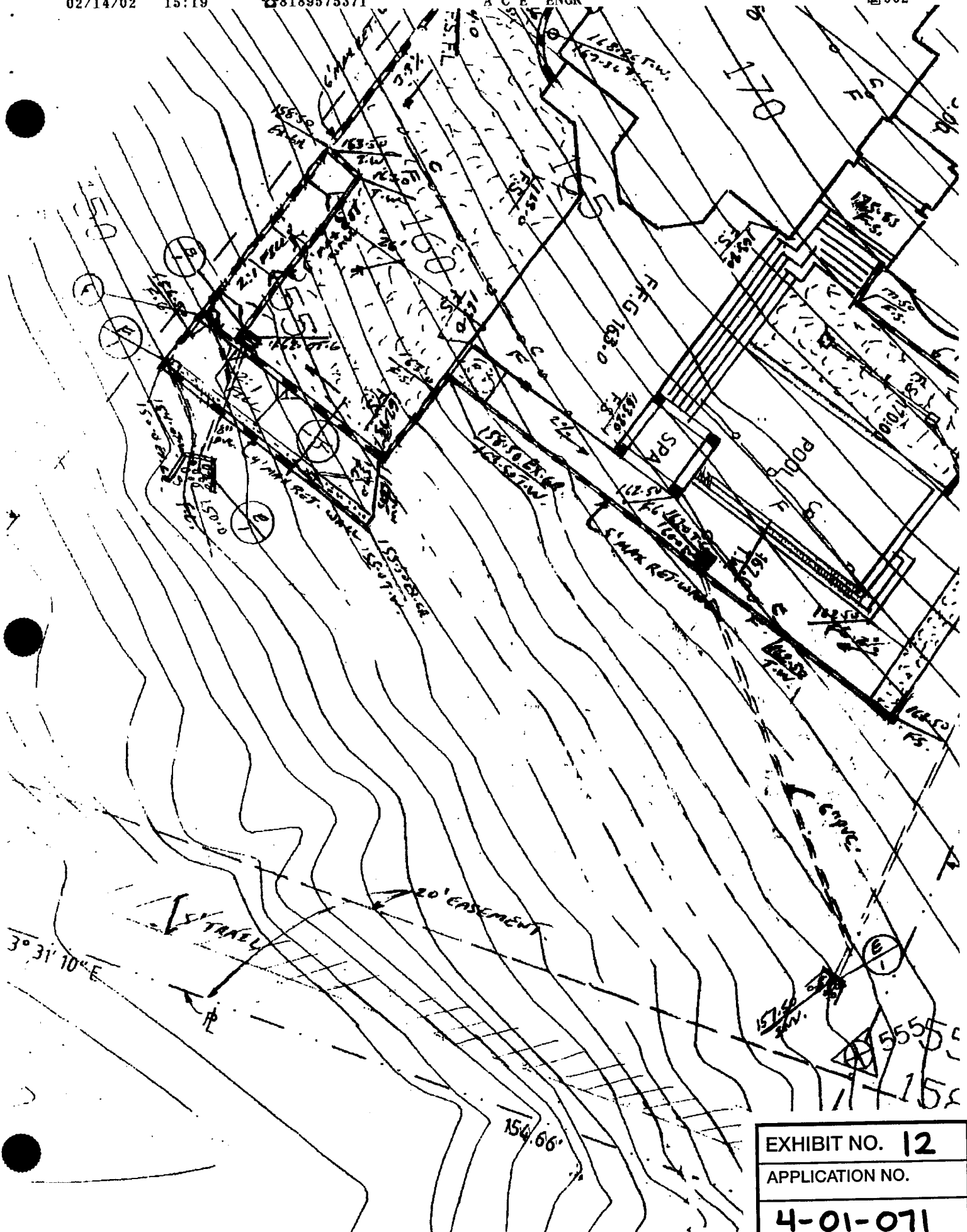


EXHIBIT NO. 12
APPLICATION NO.
4-01-071
Deletion of Lawn Area

