

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST. SUITE 200

MANTUA, CA 93001

(805) 541-0142



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Staff: JEL-V  
Staff Report: 2/19/98  
Hearing Date: 3/10-13/98

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.: 4-97-252****APPLICANT: Diva Partners****AGENT: Shahab Ghods****PROJECT LOCATION: 6368 Seastar Drive, Malibu (Los Angeles County)**

**PROJECT DESCRIPTION:** Construct 5,200 sq. ft., 18 foot high, one-story single family residence with attached 775 sq. ft. garage, and septic system, gazebo, lap pool and spa. 881 cu. yds. of grading (450 cu. yds. fill and 431 cu. yds. cut)

<b>Lot area:</b>	35,229 sq. ft. (.80 acre)
<b>Building coverage:</b>	5,975 sq. ft.
<b>Pavement coverage:</b>	4,361 sq. ft.
<b>Landscape coverage:</b>	7,250 sq. ft.
<b>Parking spaces:</b>	Three covered
<b>Ht abv fin grade:</b>	18 feet

**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Department, Approval In Concept, 12/5/97; Geology & Geotechnical Engineering, Approved "in-concept", 11/3/97; Environmental Health, In-Concept Approval, 11/14/97.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains Certified Land Use Plan; Geologic and Soils Engineering Investigation, Alpine Geotechnical, 6/13/97; Coastal Development Permits: 5-90-327 (Javid), 5-90-327A (Javid), 4-96-037 (Seastar HOA), 4-94-062 (Rodanne), 4-94-101 (Poplar), 4-96-020 (Tyberg).

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the project with special conditions relating to revised landscaping/fuel modification and erosion control plans, color restriction, future improvements restriction, conformance with geologic recommendations, and wildfire waiver of liability.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions**

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

**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. Compliance All development must occur in strict compliance with the proposal as 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 development during construction, 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.

### III. Special Conditions

#### 1. Revised Landscape/Fuel Modification and Erosion Control Plans

Prior to the issuance of a Coastal Development Permit, the applicant shall submit revised landscape/fuel modification and erosion control plans for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting geotechnical consultants to ensure that the plans are in conformance with the consultants' geotechnical recommendations. The fuel modification plan shall be reviewed and approved by the Los Angeles County Fire Department to ensure that the plans are in conformance with County Fire Department guidelines.

The landscape architect shall verify that the plan incorporates the following criteria:

- (a) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes within (60) days of final occupancy of the residence. 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 List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. 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 two (2) years, and this requirement shall apply to all disturbed soils;
- (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;
- (d) In order to soften the visual impact of all retaining walls over two feet in height, the landscaping plan shall specifically provide native vines or shrubs for that express purpose.

2. Color Restriction

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, which restricts the color of the subject structure and roof to natural earth tones, compatible with the surrounding earth colors (white tones will not be acceptable). All windows shall be of non-glare glass.

The document 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 4-97-252; and that any additions to permitted structures, future structures or improvements to either property, including but not limited to clearing of vegetation and grading, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. Removal of vegetation consistent with L. A. County Fire Department standards relative to fire protection is permitted.

The document 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Plans Conforming to Geologic Recommendations

Prior to the issuance of a coastal development permit the applicant shall submit, for review and approval by the Executive Director, evidence of the geotechnical consultants' review and approval of all project plans. All recommendations contained in Geologic and Soils Engineering Investigation, Alpine Geotechnical, 6/13/97 shall be incorporated into all final design and construction including grading, foundation design, lateral design, setbacks, concrete slabs, retaining walls, waterproofing, swimming pool design, excavations, sewage disposal, drainage and landscaping. All plans must be reviewed and approved by the consultants.

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.

5. Waiver of Liability

Prior to the 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 of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

**IV. Findings and Declarations**

The Commission hereby finds and declares:

A. Project Description

The applicant is proposing to construct a 5,200 sq. ft., 18 foot high, one-story single family residence with attached 775 sq. ft. garage, and septic system, gazebo, 3' by 8' by 25' lap pool and spa. The project will require 881 cu. yds. of grading, of which 450 cu. yds. will be fill and 431 cu. yds. will be cut.

The subject site is located north of Pacific Coast Highway, east of Trancas Canyon and on the east side of Seastar Drive. The subject property is located on a southwest trending slope with a gradient of 3:1 or less, with local variations. The site is visible from Pacific Coast Highway, the Zuma Ridge Trail, and from the adjacent National Park Service property.

The one story residence is designed as a multi-level structure that steps down the relatively moderate slope in order to follow the natural contours of the lot. The structure related grading is mostly excavation (223 cu. yds.) in the kitchen, family and dining room areas in order to "notch" the structure into the slope. The north and east kitchen walls, and north dining room wall will function as 8' 2" high interior retaining walls. The remaining north walls, found in the laundry, gallery, garage, guest room and bath, will similarly be notched into the slope, although only for a depth of one to two feet, depending on the elevation.

The majority of the fill (272 cu. yds.) will be used to create the driveway and motor court, which will be supported by a series of three retaining walls that also step down in

conformance with the southwest trending slope. The walls vary in height from one to six feet depending on the elevation.

### B. Background and Permit History

In August 1990, the Commission approved a subdivision request, 5-90-327 (Javid), to divide a 45 acre parcel into 21 lots. Nineteen of these lots were for residential development, one lot was designated as a common recreational lot, and the last lot was designated for open space. The National Park Service has agreed to accept this dedication offer and acquire the 21 acre open space lot.

The subdivision permit application, 5-90-327 (Javid), was approved with a ten special conditions related to: cumulative impact mitigation, trail dedication, drainage easement, landscaping and erosion control plan, conformance with geologic recommendations, archeological resources, revised grading plans, open space dedication, future grading for single-family development, and a common recreational lot dedication (see Exhibit 5).

At the time of approval, the Commission was particularly concerned with the amount of proposed grading, and as such, limited grading to 69,500 cu. yds, primarily for the creation of road and driveways. The Commission specifically prohibited flat graded building pads. A future grading deed restriction on the development of the single family residences requires each structure conform to the natural contours of the site. No grading is permitted for tennis courts, pools or other ancillary uses which require the creation of level pads. The only grading allowed on site is the minimum amount necessary for site preparation and driveway access.

Since the Commission's approval of this subdivision, several subsequent permits have been presented to the Commission. First, in 1991, the applicant applied for an amendment to the original permit for an additional 22,000 cu. yds. of grading. The grading occurred without the benefit of a coastal development permit and was not consistent with the Commission's approved grading plan. The Commission denied this proposal, finding that it required excessive grading and landform alteration and was inconsistent with the previous Commission decision on the approved permit.

The applicant subsequently applied for, and received, coastal development permit 4-95-074 (Javid) to restore the site to the greatest extent feasible and reduce the unpermitted development on site. The permit included both restorative grading on the residential lots and restoration of unpermitted developments on the north and east sides of the open space lot. Restoration of the site, pursuant to this permit, is still on-going.

In 4-96-037 (Seastar Estates Homeowners Association), the homeowners association received Commission approval for the construction of two tennis courts and an 800 sq. ft. ancillary structure on the common recreational lot. In July 1997, the Commission approved 4-97-011 (Seastar Homeowners Association), for the installation of a motorized gate, monument wall, signs, and road and trail improvements. In September

1997, an amendment to 4-90-327 was approved to create a lot line adjustment between the open space lot and the common recreational lot.

Three lots (Lots 1, 2 and 6) have been approved for single family residences since the subdivision was approved in 1990. The residence on lot 2 has been constructed. The subject lot (Lot 17) is a .80 acre rectangular parcel on the southern end of the subdivision, 100 feet northeast of the common recreational lot and 100 feet directly east of the property to be dedicated to the National Park Service.

### C. Grading and 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 Seastar subdivision is located approximately 1,500 to 2,000 feet above Pacific Coast Highway, west of the intersection of Morningview Drive and Guersney Drive. The northern boundary of the subdivision approximates the break in the slope between the steeper mountain terrain to the north and the moderate gradient of the coastal foothills on the subdivision. The mountainous terrain north of the subdivision consists of slopes 1.5:1 or steeper, while on-site topography generally descend gently from approximately 350 feet above sea level to approximately 30 feet above sea level. The subject property is located on a southwest trending slope with a gradient of 3:1 or less, with local variations.

Prior to the subdivision of the site, the hillside was undeveloped and offered unobstructed views of the mountainous terrain in the background. Extensive landform alteration of the site would not be consistent with the area and would have created the appearance of an engineered hillside and landscape. The Commission found that development of the hillside between Pacific Coast Highway and the mountainous terrain should preserve the views by developing houses which blend with the terrain and do not require flat pads.

Do to concerns regarding visual impacts from Pacific Coast Highway, National Park Service Property (NPS) and nearby trails, the Commission imposed several conditions on the original subdivision, 4-90-927 (Javid), to protect and enhance the visual resources of the site. Special condition seven limits grading to a total of 69,500 cubic yards, excluding road grading. This grading restriction was required to reduce the visual

impacts associated with landform alteration and the formation of flat pads on sloping, hillside lots.

Similarly, special condition nine required a deed restriction to ensure all single family residences conform to the natural contours of the site, and that grading for the development of residences shall be limited to the minimum amount necessary for driveway access. This condition further stipulates no grading for tennis courts, pools or other ancillary uses which require level pads shall be permitted. The intent of this condition was to require that residences be "notched" into the hillside thereby reducing the amount of landform alteration associated with the creation of flat pads.

Finally, special condition four required a landscape and erosion control plan for all graded areas, and special condition eight required an open space dedication to mitigate both visual and habitat impacts.

Three of the nineteen residential lots have been approved for development by the Commission. In each case, the Commission found the visual resources of the area should be preserved and when necessary protected through special conditions on each respective project.

For example, in 4-94-101 (Poplar), the Commission required the site (Lot 1) be landscaped to mitigate the impacts associated with the construction of a residence. The applicant was also required to record a future improvements deed restriction, to ensure the Commission reviews any changes for visual impacts, and a color restriction to prohibit white and non-natural coloring of the building. Lot 1 is located to the northwest of the subject lot and was considered to be highly visible from the Pacific Coast Highway, NPS property, and nearby trails.

The subject lot is located on the southern end of the subdivision and is clearly visible from the Pacific Coast Highway, NPS property, and nearby trails. The development of this site will be visible from these locations. Moreover, the site is immediately across Seastar Drive and 100 feet west of the lot which will be deeded to the NPS. To protect the scenic quality and environmental resources of this dedicated open space, the Commission required, under the original subdivision, that development of all future sites conform to the natural topography and thereby minimize the necessary amount of grading.

In this case, the applicant is proposing 880 cu. yds. of grading (440 cu. yds. cut, 440 cu. yds. fill). The residential structure will be served by a 160 foot long driveway and motor court area, created by 272 cu. yds of fill and 90 cu. yds. of cut. The driveway will also require three retaining walls that vary in height between one and six feet. The building pad will require 223 cu. yds. of cut, and 127 cu. yds. of fill, all of which shall be located directly under the structure. The pool, patio and spa area will require 118 cu. yds. of cut and 51 cu. yds. of fill. The 3' by 8' by 25' lap pool will require 50 cu. yds. of excavation;



the remaining 68 cu. yds. of cut and 51 cu. yds of fill will be necessary to create the surrounding patio and spa area.

This grading is necessary for the construction of the driveway, the notching of the 5,200 sq. ft. structure into the hillside, and the excavation of the lap pool, spa and patio. The design of the driveway includes the use of three retaining walls, ranging from one to six feet in height based on topography. The applicant is proposing two short retaining walls, to step down from the finished grade of the driveway, in order to avoid the use of a single, higher retaining wall. The height and bulk of the proposed structure will be minimized by the one story 18 foot height and the multi-level design that steps down the slope of the parcel. Likewise, the amount of grading will be minimized by notching the main portion of the structure into the hillside. The proposed lap pool, by nature of its narrow design, will not require a significant amount of grading.

Nevertheless, the project is a relatively large single family residence and driveway on a moderately sloping parcel. In order to soften the impacts of development as seen from the nearby trails and parkland, as well as from Pacific Coast Highway, the Commission finds it necessary to place several restrictions on this site. These restrictions were also imposed by the Commission on the residences approved on Lots 1, 2, and 6 under coastal development permits 4-94-062 (Rodanne), 4-94-101 (Poplar) and 4-96-020 (Tyberg) respectively.

First, the applicant shall be required to submit revised landscaping/fuel modification plan and erosion control plans. The applicant has submitted a landscaping plan which includes the use of non-invasive, and primarily native plants. The plan also calls for the installation of a significant number of specimen size trees which will help mitigate the visual impact of the structure. In addition, the plan indicates it shall meet the Los Angeles County Fire Department's fuel modification guidelines.

However, the plan does not address the visual impact of the retaining walls from Pacific Coast Highway, the surrounding parkland, and nearby trails. Therefore, in order to soften the visual impact of the retaining walls, the applicant shall be required to submit revised plans which specifically screen all retaining walls over one foot in height with native vines or shrubs, as noted in condition number one (1).

Second, the applicant shall be required to record a color restriction, as specified in condition number two (2). This deed restriction limits the colors of the residence to those natural colors compatible with the surrounding environment. White tones are not permitted, as these tones will increase the visibility of the residence. Likewise, the applicant shall be required to use non-glare glass.

Third, because the residence is located adjacent to parkland, trails and the Pacific Coast Highway, the Commission finds it necessary to require the applicant to record a future improvements deed restriction for any future additions which would otherwise be exempt from permit requirements, as noted in condition number three (3). Without this

condition, future improvements such as building additions or additional structures will create visual impacts. In addition, future development may encroach closer to NPS property increasing the vegetation clearance on NPS property (see Fire Hazard section below).

Therefore, to ensure that any future development of the site is consistent with Section 30251 of the Coastal Act, and the past coastal development permit for the subdivision, a revised landscape plan, color restriction, and future improvements deed restriction shall be required. The Commission finds that only as conditioned is the proposed project consistent with Section 30251 of the Coastal Act and the Commission's past permit action in this subdivision.

#### D. Geologic Stability and Hazards

Section 30253 of the Coastal Act states in 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, 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 along bluffs and cliffs.*

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, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

##### 1. Geology

The applicant has submitted a Geologic and Soils Engineering Investigation, dated 6/13/97, prepared by Alpine Geotechnical for the subject site. The consultant's investigation included field observation, site excavation, lab testing of samples, review of previous work on-site and nearby, soil engineering analysis and mapping of geologic data.

In regard to the potential threat of seismic activity, the geotechnical consultant does not find the subject site to be hazardous:

*"The property is situated within the seismically active Southern California region and therefore will be subject to moderate to strong ground shaking should one of the many active Southern California faults produce an earthquake. Secondary effects, such as earthquake-induced landsliding, ground rupture or liquefaction are not*

*considered likely to occur. However, severe ground shaking may dislodge loose rocks or soils. The subject site has no known active or potentially active faults crossing the property."*

Likewise, the soils have been found to be stable. The consulting geotechnical engineer analyzed the soils, performing stability calculations for the south facing slope. The calculations performed indicate the slope has a static factor of safety greater than 1.5 and a dynamic factor of safety greater than 1.1. Therefore, the existing slope is considered stable.

Based on site observations, excavation of the site, laboratory testing, evaluation of previous research, analysis, and mapping of geologic data, the geotechnical engineer has developed a set of recommendations to ensure the proposed project addresses the specific geotechnical conditions related to: grading, foundation design, lateral design, setbacks, concrete slabs, retaining walls, waterproofing, swimming pool design, excavations, sewage disposal, drainage and landscaping.

In conclusion, the applicant's geotechnical consultant states:

*"The subject property is considered a suitable site for the proposed development from a geologic and soils engineering standpoint. It is the opinion of the undersigned that the proposed development will be safe against hazards from landslide, settlement or slippage, and that the proposed grading and development will not have an adverse effect on the geologic stability of the property outside the building site provided our recommendations are followed during construction."*

Based on the findings and recommendations of the consulting geotechnical engineer, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting geotechnical engineer as conforming to their recommendations, as noted in condition number four (4) for the final project plans for the proposed project.

## 2. Drainage

The subject property consists of a gently to moderately sloping hillside lot. Drainage on the property is by sheet flow. Currently, there are several rows of sand bags placed parallel to the existing contours to prevent rill-type erosion on site. Drainage from the adjacent property to the north (Lot 16), is collected and diverted from the subject property by a cement culvert, which crosses the subject property at the northwest corner.

The applicant has submitted a grading and drainage plan which includes the installation of several concrete swales to convey runoff to Seastar Drive at the north

and south west corners of the property. The longest of these swales runs parallel the northern property line. The three shorter swales, on the eastern end of the parcel, will tie into a sub-surface drainage system which leads to Seastar Drive.

The consulting geotechnical engineer finds that in order to minimize erosion, all slopes should be planted as soon as possible with drought resistant hillside vegetation. In addition, the geotechnical engineer recommends against over-irrigating the property and modifying the watering patterns to reflect rainy periods.

Therefore, the Commission finds it necessary to require the applicant to submit a revised landscape/fuel modification plan to include an erosion control plan for the proposed development. Special condition number one (1) provides for such a erosion control plan prepared by a licensed landscape architect. Furthermore, given that the consulting engineer specifically recommended landscaping to minimize erosion of potentially erosive soils on site, the Commission finds that the landscape plans must be reviewed and approved by the consulting engineering geologist.

### 3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, 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 his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the waiver of liability, 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, as incorporated by condition number five (5).

The proposed project will also be located within 200 feet of National Park Service (NPS) property and therefore will be required to conduct vegetation thinning for a 200 foot radius around the residence for fire protection purposes. However, because the residence is located within 200 feet of future NPS property, the thinning of vegetation will occur on this future NPS property.

In order to ensure that vegetation clearance on NPS property does not create adverse visual impacts, as well as environmental impacts, the applicant shall obtain Los Angeles County approval for the final landscape plan/long term fuel modification plan. This plan shall detail the species currently present within a 200 foot radius of the residence, and shall indicate which plants are to be removed and/or reduced in size.

As noted above, the applicant has submitted a landscape/fuel modification plan, although not approval by Los Angeles County Fire Department. Therefore, in order to ensure the project minimizes fire hazard risk within 200 feet of NPS property and minimizes vegetation clearance on NPS property, the applicant shall submit evidence the final landscaping plan/fuel modification plan has received approval from the Los Angeles County Fire Department, as noted under special condition number one (1).

The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

*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, minimizing alteration of natural streams.*

The proposed septic system includes a 1,500 gallon septic tank with seepage pits. The installation of a private sewage disposal system was reviewed by the consulting geologist, Alpine Geotechnical, and found not to create or cause adverse conditions to the site or adjacent properties.

Two percolation tests were performed on the subject property, due to the relatively low percolation rate. The second test produced a percolation rate which meets Uniform

Plumbing Code requirements for a five bedroom residence and is sufficient to serve the proposed single family residence. The applicant has submitted a conceptual approval for the sewage disposal system from the City of Malibu Department of Environmental Health, based on a five bedroom single family residence. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal 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 adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

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 for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act

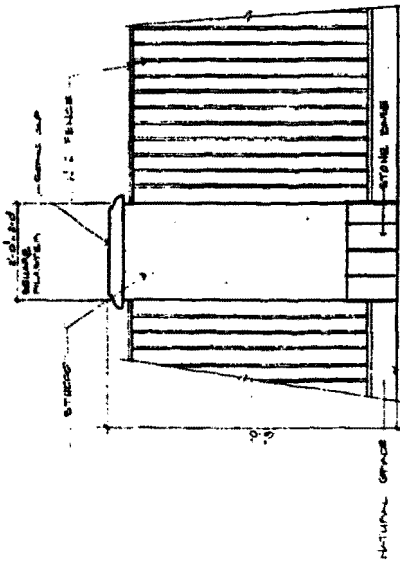
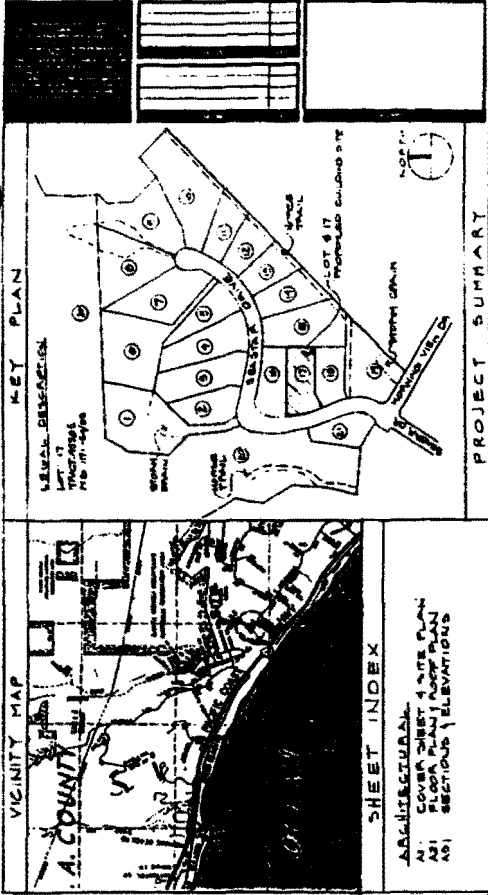
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity would have on the

environment. The proposed development would not cause significant, adverse environmental impacts which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.

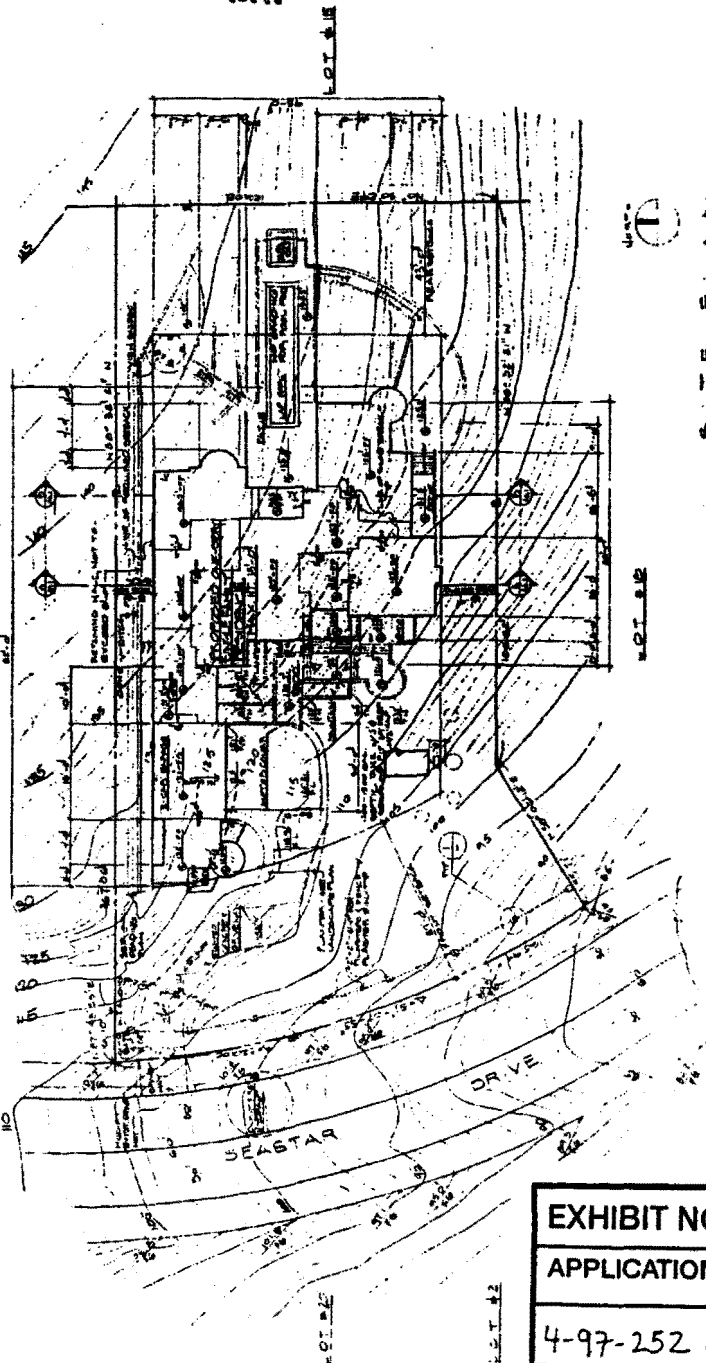


VICINITY MAP





**LOT #18**



**EXHIBIT NO. 2**

**APPLICATION NO.**

**4-97-252 (DIVA)**

**SITE PLAN**

**PLUS ARCHITECTS**

**PROJECT SUMMARY**

**PROJECT SUMMARY**  
NAME: [illegible]  
ADDRESS: [illegible]  
CITY: [illegible]  
STATE: [illegible]  
ZIP: [illegible]  
DATE: [illegible]

**PROPERTY SUMMARY**  
ACRES: [illegible]  
SQUARE FEET: [illegible]  
LOT AREA: [illegible]  
TOTAL AREA: [illegible]  
TOTAL LOT AREA: [illegible]

**PROJECT SUMMARY**  
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ADDRESS: [illegible]  
CITY: [illegible]  
STATE: [illegible]  
ZIP: [illegible]  
DATE: [illegible]

**PROJECT SUMMARY**  
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CITY: [illegible]  
STATE: [illegible]  
ZIP: [illegible]  
DATE: [illegible]

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DATE: [illegible]

**PROJECT SUMMARY**  
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STATE: [illegible]  
ZIP: [illegible]  
DATE: [illegible]

**PROJECT SUMMARY**  
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CITY: [illegible]  
STATE: [illegible]  
ZIP: [illegible]  
DATE: [illegible]

**PROJECT SUMMARY**  
NAME: [illegible]  
ADDRESS: [illegible]  
CITY: [illegible]  
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DATE: [illegible]

PLUS ARCHITECTS

ROOF PLAN

9708

12W

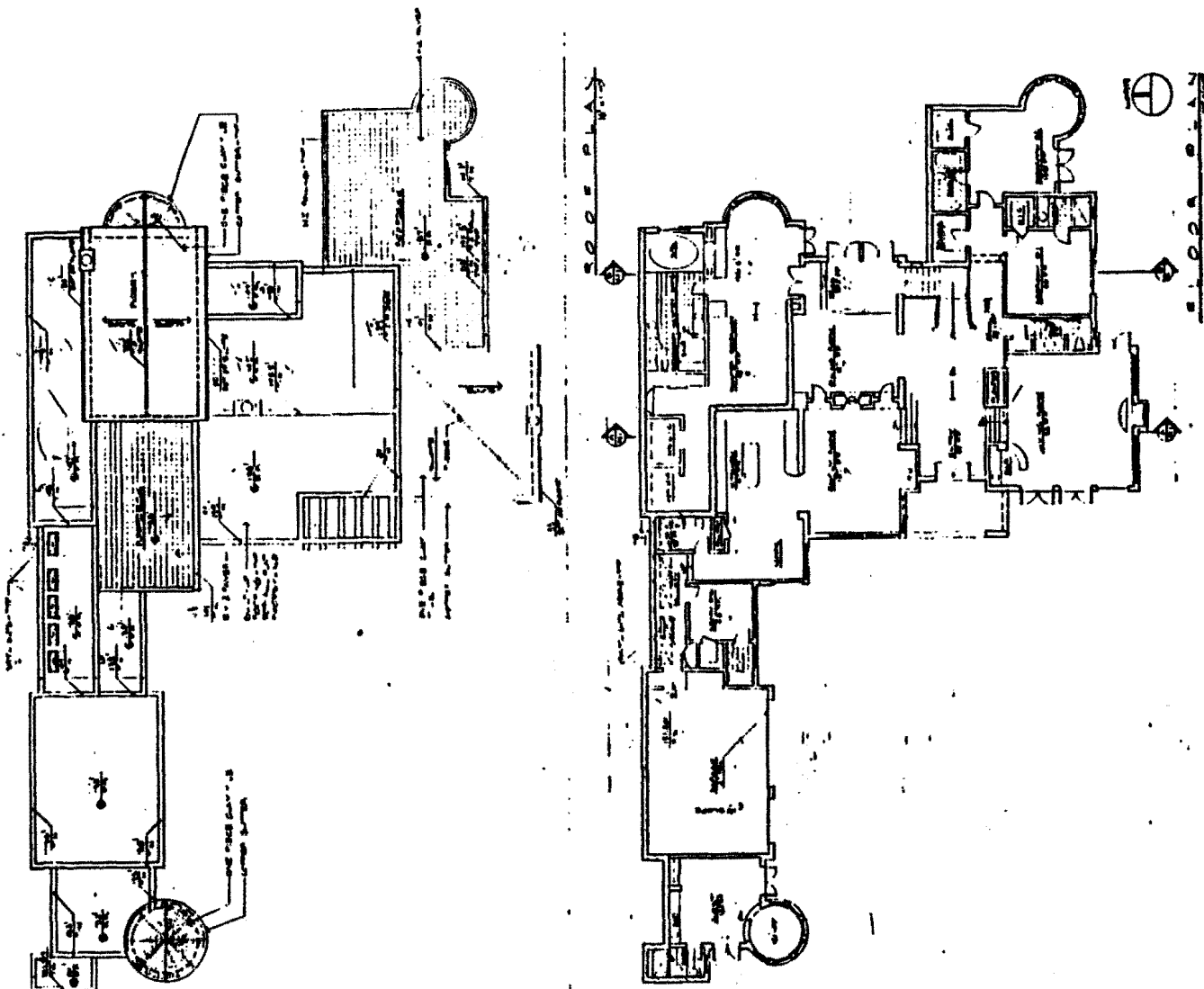


EXHIBIT NO. 3

APPLICATION NO.

4-97-252 (DIVA)

FLOOR PLAN

# PLUS ARCHITECTS

ARCHITECTURE • SPACE PLANNING • INTERIOR DESIGN

SECTIONS

7/20/03

EAST ELEVATION

WEST ELEVATION

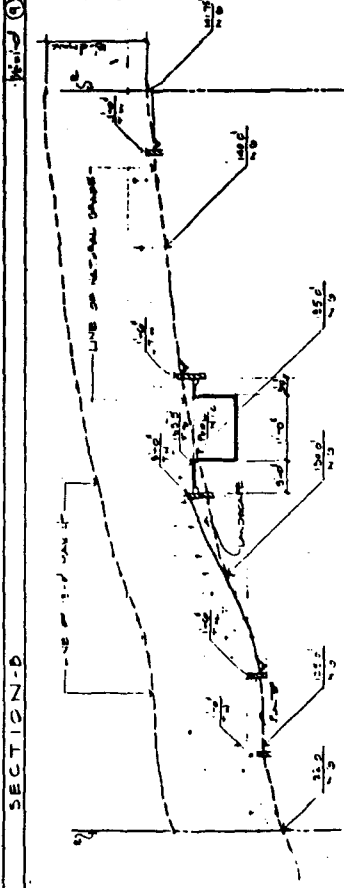
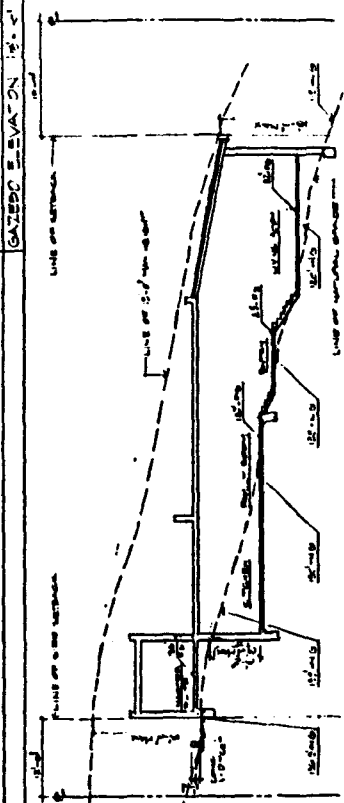
SOUTH ELEVATION

WEST ELEVATION

EXHIBIT NO. 4
APPLICATION NO.
4-97-252 (DIVA)
ELEVATIONS

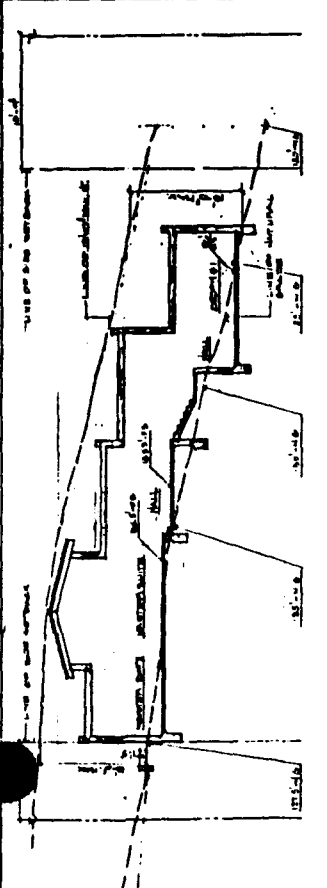
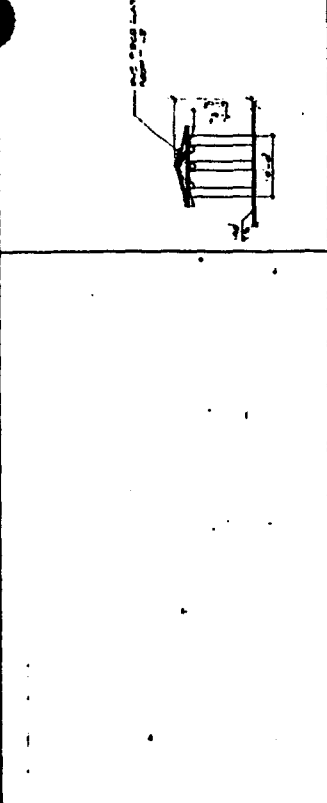
SECTION-A

SECTION-C




GALEDO ELEVATION

SECTION-D



## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA  
245 WEST BROADWAY, SUITE 380  
LONG BEACH, CA 90802  
(213) 590-5071

Page 1 of   
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. 5

APPLICATION NO.

4-97-252 (DIVA)

SUBDIVISION PERMIT

COASTAL DEVELOPMENT PERMIT

Page 2 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 1

### 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, such period running from the date of recording.

EXHIBIT-11

### **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

EXHIBIT A

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 11 1



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. 45585, 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  
6030D

EXHIBIT A-1

