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STATE OF CALIFORNIA-THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

OUTH CENTRAL COAST AREA SOUTH CALIFORNIA ST., SUITE 200 VENTURA, CA 93001 (805) 641-0142

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Staff:

S. Hudson

Staff Report: Hearing Date:

2/18/99 V March 9-12, 1999

Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-98-270

APPLICANT: Isaac Shachory

AGENT:

Don Schmitz

PROJECT LOCATION:

28909 Pacific Coast Highway, City of Malibu; Los Angeles County.

PROJECT DESCRIPTION: Construction of a 4,978 sq. ft., 18 ft. high, self-storage facility with 955 cu. yds. of grading (478 cu. yds. of cut, 277 cu. yds. of fill, and 200 cu. yds. of fill for landscape mounding) and 2,100 cu. yds. of grading for removal and recompaction. The project will also include the construction of a driveway, 5 parking spaces, decomposed granite walkways, storm drain, security fencing, and landscaping.

Lot area:

33,190 sq. ft.

Building coverage:

4,978 sq. ft.

Pavement coverage: Landscape coverage: 6,424 sq. ft. 13,276 sq. ft.

Parking spaces:

5

Ht abv fin grade:

18'-0"

LOCAL APPROVALS RECEIVED: Approval in Concept by City of Malibu Planning Department.

SUBSTANTIVE FILE DOCUMENTS: Preliminary Soils and Engineering-Geologic Investigation by California GeoSystems dated 3/13/97; Engineering-Geologic Response Report by California GeoSystems dated 2/11/98; and Engineering-Geologic Response Report by California GeoSystems dated 3/26/98; CDPs 5-85-492 (Nadjmehchci) and 5-90-866 (Winnikoff).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with five (5) special conditions regarding landscape and erosion control plans, plans conforming to geologic recommendations, sign program, Malibu Beach Access Fund, and wild fire waiver of liability. The project site is located on the northern side of Pacific Coast Highway approximately 100 ft. east of Kanan Dume Road in an area of Malibu that is zoned for "general commercial" development. The proposed project is consistent with the existing commercial development located adjacent to and immediately west of the project site at the Kanan Dume Road/Pacific Coast Highway intersection.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development 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 effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

- 1. <u>Notice of Receipt and Acknowledgment</u>. 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. <u>Expiration</u>. 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. <u>Compliance</u>. 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. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- 6. <u>Assignment</u>. 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. Landscaping and Erosion Control Plan

Prior to the issuance of the coastal development permit, the applicant shall submit a landscaping and erosion control plan for review and approval by the Executive Director. The plan shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

- (a) All graded & disturbed 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 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. Irrigated lawn, turf, or groundcover planted within a 50 ft. radius (fuel modification zone) of the proposed residence shall be selected from the most drought tolerant species, subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- (b) All cut and fill slopes shall be stabilized with planting within 60 days of receipt of the certificate of occupancy. 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) Plantings shall 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 the applicable landscape requirements.
- (d) 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.
- (e) The plan shall include vertical elements in the landscaping plan to screen and soften the adverse visual effects of the proposed development from public viewing areas.
- (f) Five years from the completion of development, 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

The project site is a 33,190 sq. ft. parcel located on the northern (landward) side of Pacific Coast Highway approximately 100 ft. east of Kanan Dume Road (Figure 1). The subject parcel is zoned for "general commercial" development by the certified Malibu/Santa Monica Mountains Land Use Plan. Existing commercial development is located adjacent to and immediately west of the project site at the Kanan Dume Road/Pacific Coast Highway intersection. The subject site has been previously graded in order to construct the fill slope and drainage improvements for Pacific Coast Highway. The subject site is generally flat with the exception of an 8-16 ft. high, 2:1 (26°) gradient fill slope which ascends to Zuma Mesa Drive to the north. The construction of five parking spaces will provide for adequate customer parking and is consistent with the parking provisions of the certified Malibu Santa Monica Mountains Land Use Plan which requires that storage facility projects provide for a minimum of one parking space for each 1,000 sq. ft. of gross floor area. The proposed storage facility will not include the construction of an office or the installation of a septic system.

The project site has been subject to past Commission action. Coastal Development Permit 5-85-492 for the construction of a 12,452 sq. ft., two-story commercial building with 50 parking spaces was previously approved by the Commission on January 7, 1986, with four special conditions regarding revised plans for additional parking, traffic regulation signs, landscaping and signage restrictions, provision of public parking and the contribution of a \$1.50/sq. ft. of gross structural area to a special fund established specifically to increase public recreational opportunities in the Malibu area. However, the permit conditions were never met by the previous property owner and the permit was never issued.

B. Geologic 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, 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 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 vegetation, thereby contributing to an increased potential for erosion and landslide on 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 wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks as drafted in Special Condition Five (5). 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.

The subject site is relatively level and the applicant's geologic engineering consultant has indicated that the subject site is free from geologic hazards such as landslides or surficial slope failure. Further, the applicant's geologic engineering consultant has also indicated that the subject site is suitable from a geologic standpoint for the proposed development. The Preliminary Soils and Engineering Geologic Investigation by California GeoSystems dated March 13, 1997, states that:

It is the finding of this firm that the proposed building and/or grading will be safe and that the site 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.

The geologic and engineering consultant has included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure that the recommendations of the geotechnical consultant are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by Special Condition Two (2), to submit project plans certified by the consulting geotechnical engineer as conforming to their recommendations.

The Commission also finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants, compatible with the surrounding environment. Thus, Special Condition One (1) has been required to ensure that all proposed disturbed and graded areas are stabilized and vegetated. Therefore, the Commission finds that the proposed project, as conditioned above, is consistent with Section 30253 of the Coastal Act.

C. Public Access and Recreation

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act has several policies which address the issues of public access and recreation within coastal areas.

Section 30213 of the Coastal Act states:

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

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

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

Coastal Act Sections 30213 and 30223 mandate that lower cost visitor and recreational facilities and land suitable for such uses, shall be protected, encouraged, and where feasible provided. Coastal Act Section 30222 mandates that visitor-serving commercial recreational facilities shall have priority over residential, general industrial, and general commercial development. In addition, to assist in the determination of whether a project is consistent with Sections 30213, 30222, and 30223 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, in concert with Sections 30213, 30222, and 30223 of the Coastal Act, Policy 18b of the LUP provides that new lower cost recreation and visitor-serving facilities shall be protected, expanded and where feasible provided. In addition, Policy 18c of the LUP provides that visitor-serving facilities shall have priority over private residential, general industrial, or general commercial development on land suitable for visitorserving commercial recreational facilities. Further, Policy 54 of the LUP states that:

To help finance the construction and maintenance of new vertical access points, a fund shall be established by the County of Los Angeles to accept reasonable and equitable user fees, franchise fees, and other appropriate revenue. In particular, a one-time fee based on the gross square footage of the structure shall be required of new non-visitor serving commercial (that is, uses other than hotels, motels, restaurants, and similar uses intended primarily for patronage by visitors) and general office uses approved on the coastal terrace in the Malibu coastal zone for deposit into the fund described herein.

The applicant has agreed to mitigate the adverse impacts of building the storage facility by contributing to a Commission-established fund for public access improvements in the Malibu area. The proposed project is for the construction of a self-storage facility. The Commission finds that a self-storage facility does not represent a visitor-serving commercial use. The subject site is zoned for "general commercial" development by the certified Malibu/Santa Monica Mountains Land Use Plan and is located near the intersection of Kanan Dume Road and Pacific Coast Highway. Both Kanan Dume Road and Pacific Coast Highway are characterized as heavily used roads and serve as primary access routes to and through the Malibu area for thousands of coastal visitors each year. The Commission further notes that the proposed project site, near the

intersection of these two roads, is an appropriate location for visitor-serving commercial development. Such development would have priority over non-visitor serving uses such as the proposed project.

In past permit actions, the Commission has found that the construction of new nonvisitor serving commercial facilities, in locations that are suitable for visitor-serving development, would result in cumulative adverse effects to public recreational opportunities by using land that could otherwise be more properly developed with recreation-oriented or visitor serving uses. Such development results in the cumulative displacement of recreational uses when viewed on a regional basis. In past Malibu permit actions, the Commission has found that such development is allowable only when properly mitigated. In order to provide for adequate mitigation for the cumulative adverse effects to public recreational opportunities resulting from such development, in past permit actions (including Coastal Development Permit 5-85-492 previously approved by the Commission for construction of a commercial building on the subject site, as well as CDPs 5-90-866; 5-89-013; 5-86-647; 5-85-349; and 5-85-529) the Commission has required the applicant to contribute \$1.50/sq. ft. of proposed gross structural area to a special fund for public access improvements in the Malibu area. In the case of this project, in order to mitigate adverse effects to public recreational opportunities arising from the construction of a non-visitor-serving structure at this location, the applicant has agreed to contribute the \$1.50/sq. ft. of structural area fee to a special fund for public access improvements in the Malibu area.

Public access to and along beach areas represents important lower cost recreational opportunities in the Malibu area. The Commission notes that the above mentioned fund for public access improvements will serve to develop new recreational opportunities through the acquisition, construction, and maintenance of public accessways to beaches in the Malibu area. Thus, the Commission further notes that potential recreational opportunities that are lost from the construction of the proposed non-visitor serving development (a non-priority use) in a location suitable for high-priority visitor-serving uses will be adequately mitigated by the applicant's participation in the above mentioned special fund. Thus, consistent with past Commission action, Policy 54 of the LUP, and as agreed by the applicant, Special Condition Four (4) requires the applicant to contribute \$1.50/sq. ft. of proposed gross structural area to a special fund for public access improvements in the Malibu area in order to mitigate for adverse cumulative effects to public recreational resources that result from the construction of the proposed project.

Therefore, the Commission finds that the proposed project, as conditioned above, is consistent with Sections 30213, 30222, and 30223 of the Coastal Act.

D. 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 subordinated to the character of its setting.

Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. In addition, to assist in the determination of whether a project is consistent with Section 30251 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the, the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, in concert with Section 30251 of the Coastal Act, Policy 129 of the LUP provides that "structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment." In addition, Policy 139 of the LUP provides that "on-site advertising signs shall be subordinate to man-made and natural features and shall be subject to height and width limitations.

The project site is located on the northern side of Pacific Coast Highway approximately 100 ft. east of Kanan Dume Road in an area of Malibu that is zoned for "General Commercial" development. The proposed project is consistent with the existing commercial development located adjacent to and immediately west of the project site at the Kanan Dume Road/Pacific Coast Highway intersection. However, Kanan Dume Road and Pacific Coast Highway are both designated as scenic highways in the certified LUP. The applicant is proposing to partially screen the development from public viewing areas by constructing a low lying earthen berm between the proposed development and Pacific Coast Highway. The Commission notes that the construction of the proposed earthen berm will serve to minimize any adverse effects to public views resulting from the proposed development. In addition, the Commission also finds that the minimization of site erosion will add to the stability of the constructed berm and graded areas of the site, thereby also serving to minimize adverse effects to public views. Erosion can best be minimized by requiring the applicant to landscape the project site with native plants that are compatible with the surrounding environment. The applicant has submitted a preliminary landscaping plan; however, this plan is preliminary only and does not identify the extent or location of the plant materials to be used. Therefore, Special Condition One (1) has been required to ensure that the applicant submits a detailed landscape plan and that all disturbed and graded areas,

including the constructed berm, will be stabilized and vegetated. In order to further soften and screen visual impacts that may result from the proposed development, the landscaping plan, required by Special Condition One (1), shall include adequate vertical elements to screen the proposed development from public viewing areas.

Further, Coastal Development Permit 5-85-492 was approved by the Commission on January 7, 1986, for the construction of a much larger commercial building on this same site with the special condition that no more than one sign identifying the premises be allowed and that any such sign shall be of a monument design and restricted to a maximum of 12 ft. in height and 12 sq. ft. in total area in order to minimize adverse effects to public views. Therefore, as consistent with Policy 139 of the LUP, which provides that advertising signs shall be subject to size and height limitations, and with past Commission action regarding the placement of signs for commercial development on the project site, Special Condition Three (3) has been required to ensure that no more than one advertising sign that is visible from Pacific Coast Highway or Kanan Dume Road shall be allowed on site. The sign shall be a monument type (free-standing) sign not to exceed a maximum of 12 ft. in height above finished grade and 12 sq. ft. in total area. All signs on the subject site shall be illuminated only by indirect light (no internal illumination shall be allowed).

Therefore, the Commission finds that the proposed project, as conditioned above, is consistent with Section 30251 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

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 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).

F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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.

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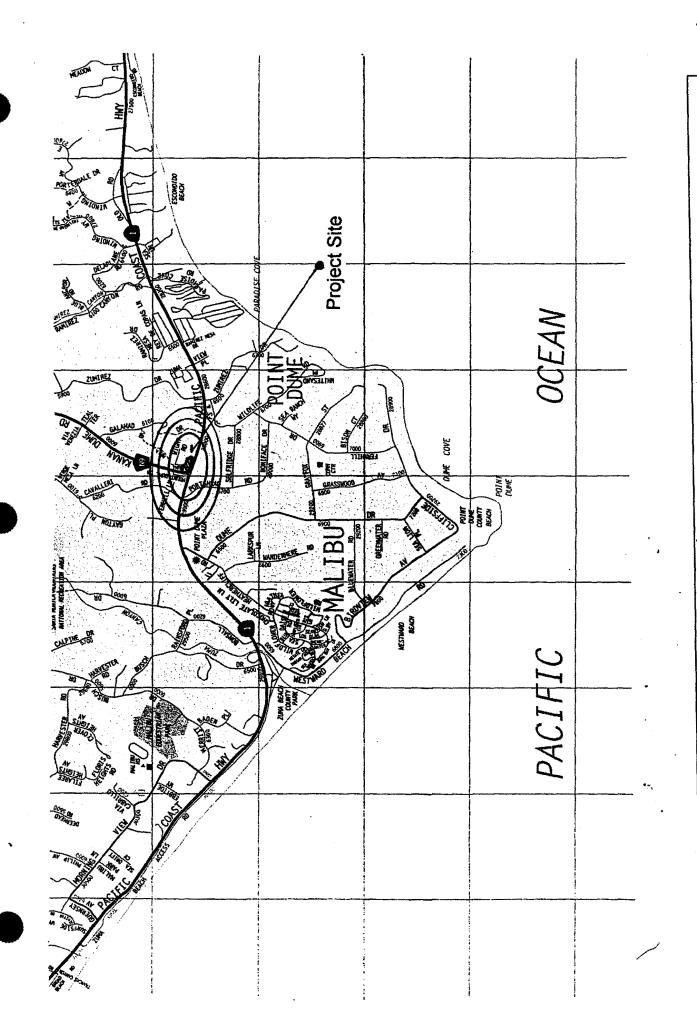
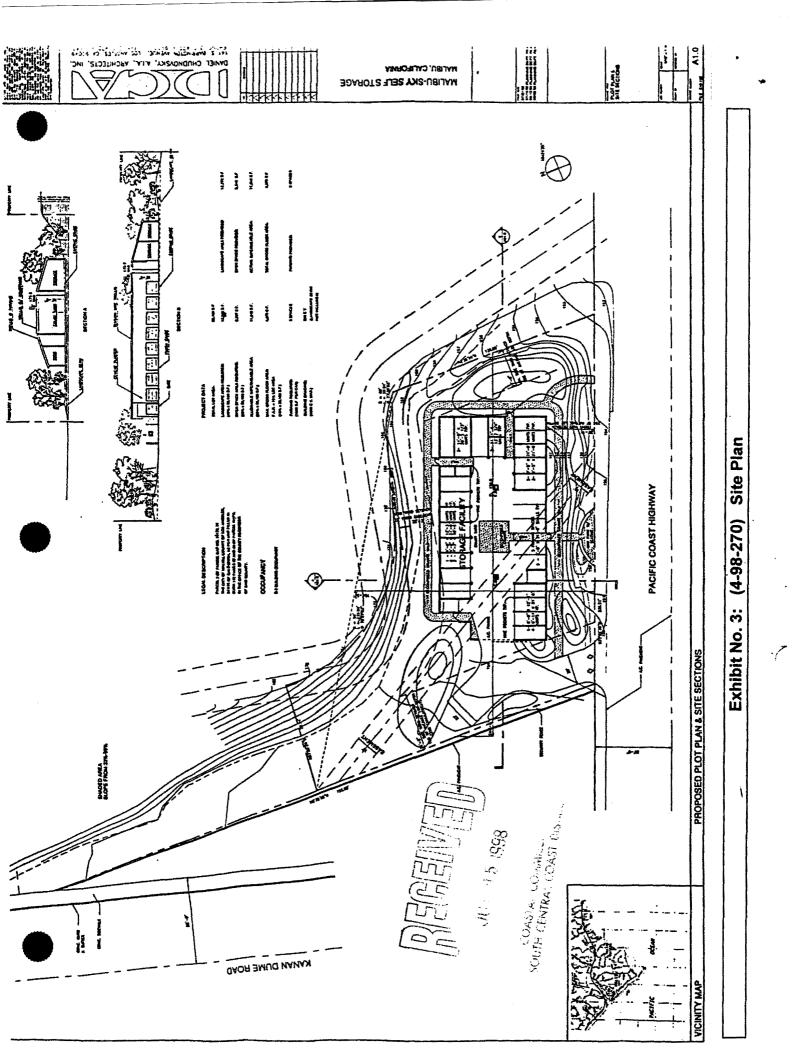


Exhibit No. 1: (4-98-270) Location Map

Exhibit No. 2: (4-98-270) Parcel Map



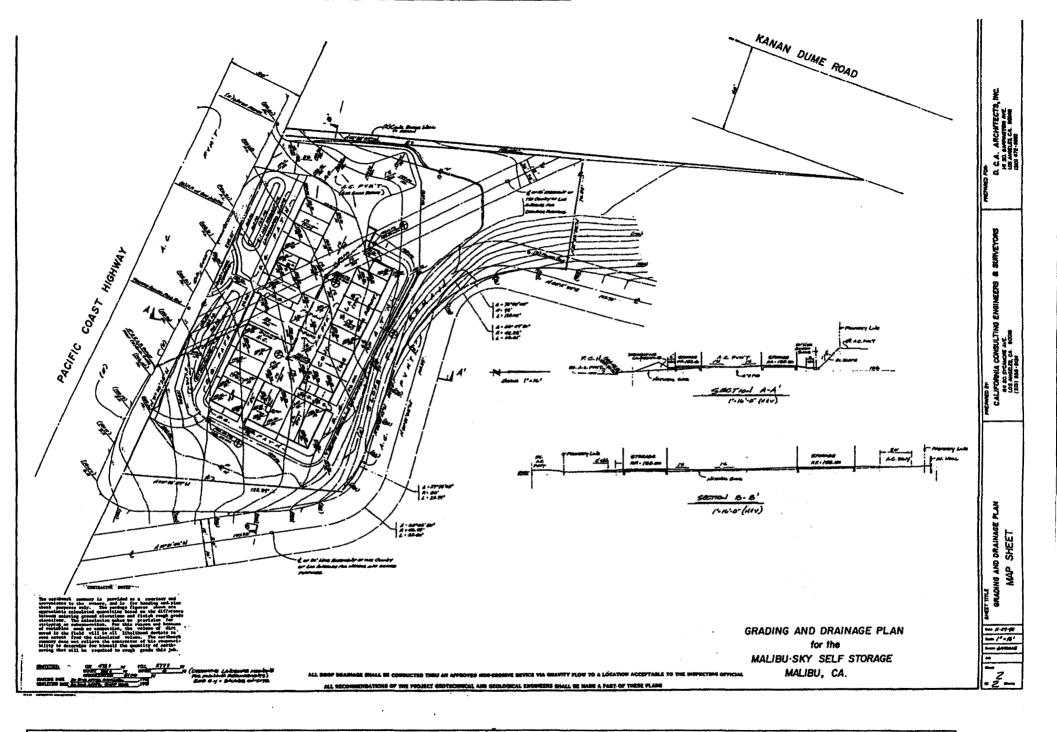


Exhibit No. 4: (4-98-270) Grading Plan