

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: K. Kemmler
Staff Report: 03/21/01
Hearing Date: 04/10-13/01
Commission Action:



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STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-01-007

APPLICANT: Ocean Hills Estates

AGENT: Schmitz & Associates

PROJECT LOCATION: Northeast Corner of Tuna Canyon and Pacific Coast Highway, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Proposal to construct temporary access road approximately 100 ft. long and 10 ft. wide for geologic testing including 400 cu. yds. grading (200 cu. yds. cut and 200 cu. yds. fill).

Lot Area 36,401 sq. ft.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, December 11, 2000; City of Malibu, Geology Approval in Concept, July 13, 2000.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; CDP No. 4-95-051-G (Department of Transportation).

Summary of Staff Recommendation

Staff recommends *approval* of the proposed project with **three (3) special conditions** regarding (1) drainage and erosion control, (2) assumption of risk, and (3) restoration of temporary access road.

I. Staff Recommendation

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-007 pursuant to the staff recommendation.*

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.

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. Drainage and Erosion Control Plans

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, interim drainage and erosion control plans for the temporary access road. The plan shall delineate the areas to be disturbed by grading or construction activities including any staging areas and stockpile areas.

- 1) The plan shall specify that should grading take place during the rainy season, which is November 1st – March 31st, the applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall 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 throughout 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 of the coastal zone or within the coastal zone to a site permitted to receive fill.
- 2) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, disturbed soils, and cut 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 or another appropriate ground as specified by the consulting biologist 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.

2. Assumption of Risk

Prior to issuance of a Coastal Development Permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, which states that the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide, erosion, and slope failure; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. Restoration of the Temporary Access Road

Should a permanent access road prove to be infeasible for geologic reasons or some other circumstance or a coastal development permit for the permanent access road is not submitted and properly filed within two years of the date of issuance of CDP No. 4-01-007, whichever

comes first, the applicant shall be required to submit a coastal development permit application for the restoration and revegetation of the temporary road cut and any other disturbed areas resulting from the construction of the temporary access road. The Executive Director may extend the time to submit a coastal development permit application beyond the two year time period for good cause.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to grade a temporary dirt access road approximately 100 ft. long and 10 ft. wide for geologic testing to determine the feasibility of development on the subject and adjacent parcels. The project involves 400 cu. yds. of grading (200 cu. yds. cut and 200 cu. yds. fill) (Exhibit 4).

The subject parcel is a steeply sloping hillside parcel on the northeast corner of Tuna Canyon and Pacific Coast Highway (Exhibit 1). The project site is adjacent to and visible from Pacific Coast Highway. The subject parcel is bounded on the south by PCH, on the northeast by commercial and residential developments, and on the northwest a vacant 45.8 acre parcel (Exhibit 2). A landslide occurred due to heavy rains on the hillside in 1995 (Exhibit 3). Caltrans performed grading (150,000 cu. yds. debris removal) and benched the slope on the adjacent 45.8 acre parcel to stabilize the landslide and prevent movement onto PCH (CDP No. 4-95-051-G *Department of Transportation*). The slope bench ascends upslope from Tuna Canyon and traverses the southern portion of the parcel. The bench allows rough access within this parcel.

B. Geology

The proposed development is located in the Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area 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.

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, 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.***

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas

of high geologic, flood, and fire hazard. As previously described, the proposed project includes a temporary dirt access road approximately 100 ft. long and 10 ft. wide for geologic testing to determine the feasibility of development on the subject and adjacent parcels. The project involves 400 cu. yds. of grading (200 cu. yds. cut and 200 cu. yds. fill). The project site is adjacent to the location of a previously active massive landslide (Exhibit 3).

Since the proposed access road shall serve as the means to access the property in order to evaluate the geologic conditions on the subject and adjacent parcels, geologic reports are unavailable for consideration. The steepness of the site and the presence of a massive slide area adjacent to the site raise concern. The landslide is approximately 600 ft. long and extends vertically about 150 ft. up the hillside just west of the site. The Commission must address those factors as they pose a risk that cannot be completely eliminated and may unavoidably endanger the applicant, proposed development, and/or surrounding properties.

The Commission notes that because some inherent risk exists in grading on sites adjacent to active and/or historic landslides, such as the subject site, and 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 required by **Special Condition No. Two (2)**. The assumption of risk will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

Controlling and diverting run-off in a non-erosive manner from the proposed project site will also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicants to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Condition No. One (1)**.

Finally, the Commission finds that in order to ensure site stability, the applicant shall be required to submit a coastal development permit application for the restoration and revegetation of the temporary road cut and any other disturbed areas resulting from the construction of the temporary access road, should a permanent access road prove to be infeasible for geologic reasons or some other circumstance, as specified in **Special Condition No. Three (3)**.

For the reasons set forth above, the Commission finds that, the proposed project, as conditioned, will serve to minimize potential geologic hazards of the project site and adjacent properties and is consistent with §30253 of the Coastal Act.

C. 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 governments shall be subordinate to the character of its setting.

To assess potential visual impacts of projects, the Commission investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and roads. The Commission also examines the site and the scale of the proposed construction in relation to nearby scenic resources. The subject site is located adjacent to Pacific Coast Highway, and is thus, visible from a designated scenic highway (Exhibit 1).

The proposed project is to construct a temporary dirt access road which will connect at both ends to an existing bench/dirt access road on the adjacent parcel at the northeast corner of Tuna Canyon and PCH for the purpose of onsite geologic testing to determine the feasibility of development at this location (Exhibit 4). The proposed access road would be visible from PCH, however, the proposed temporary access road much smaller than the existing bench/dirt access road on the adjacent lot. In addition, the proposed grading to construct the 10 foot wide, 100 ft. long access road is minimal (400 cu. yds.) and will not result in a significant alteration of the existing landform. Also the topography on the hillside parcel partially hides the road from scenic views. In order to further mitigate the impacts on visual resources, **Special Condition No. Three (3)** requires the applicant to submit a coastal development permit application for the restoration and revegetation of the temporary road cut and any other disturbed areas resulting from the construction of the temporary access road within two years should a permanent access road prove to be infeasible for geologic reasons or some other circumstance.

The Commission therefore finds that the proposed project, as conditioned, is consistent with §30251 of the Coastal Act.

D. Local Coastal Program

Section 30604(a) of the Coastal Act states:

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 §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 §30200).

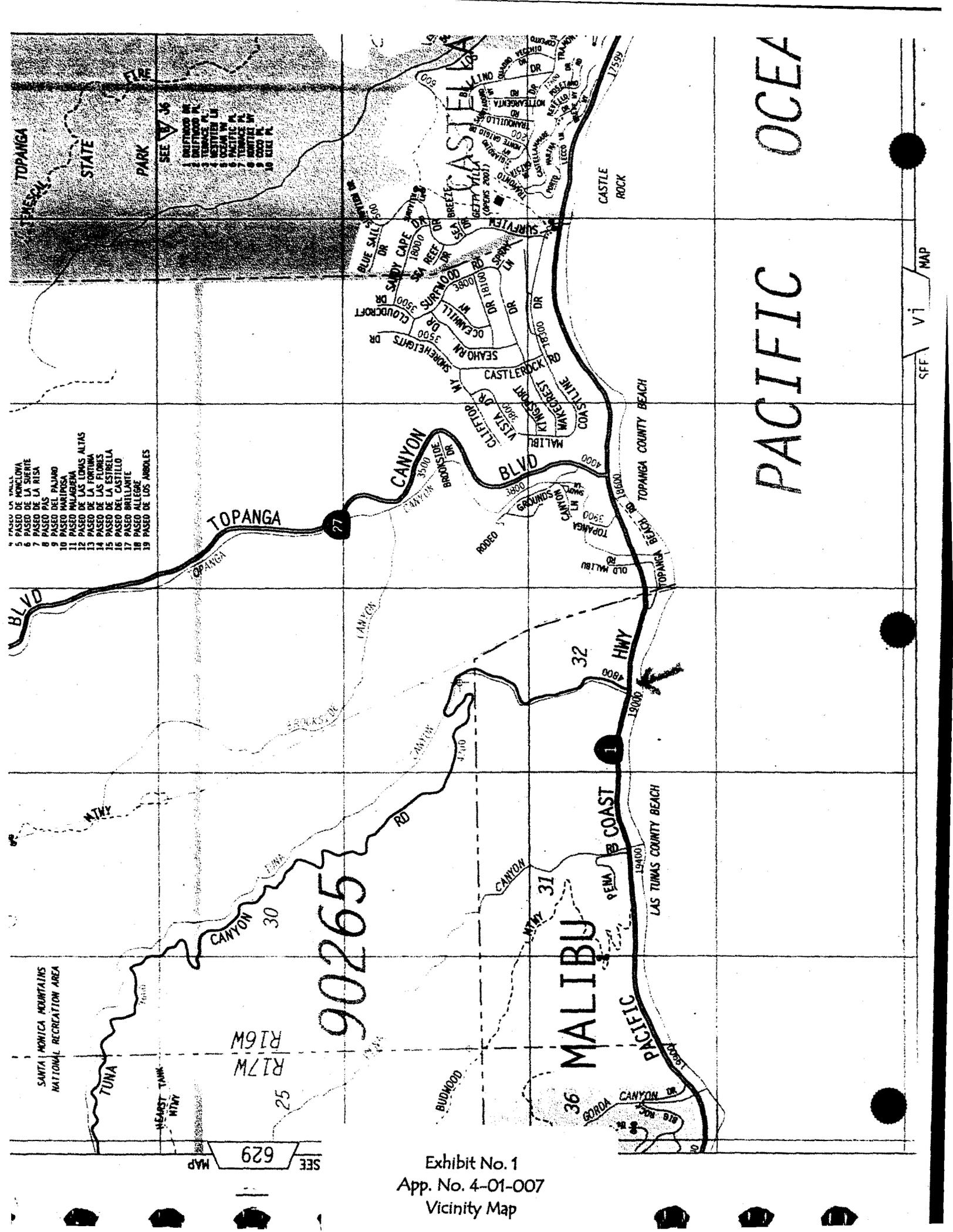
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections 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 project will not create 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 for Malibu which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

E. 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 by any conditions of approval, to be consistent with any applicable requirements of the California Environmentally 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 that the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned, will not have any 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.



- 5 PASO DE WINDLOW
- 6 PASO DE LA SIENNA
- 7 PASO DE LA RISA
- 8 PASO PAS
- 9 PASO DEL PALMBO
- 10 PASO MALIBU
- 11 PASO MALIBU
- 12 PASO DE LAS LOMAS ALTAS
- 13 PASO DE LA FORTUNA
- 14 PASO DE LAS FLORES
- 15 PASO DE LA ESTRELLA
- 16 PASO DEL CASTILLO
- 17 PASO BRILLANTE
- 18 PASO ALLEGRE
- 19 PASO DE LOS ARBOLES

- 1 DRIFTWOOD DR
- 2 DRIFTWOOD DR
- 3 TRAMONTANA DR
- 4 TRAMONTANA DR
- 5 PACIFIC PL
- 6 PACIFIC PL
- 7 TORRETTA LN
- 8 COCO PL
- 9 BLUE SALE DR
- 10 BLUE SALE DR
- 11 BLUE SALE DR
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SEE 629 MAP

Exhibit No. 1
App. No. 4-01-007
Vicinity Map

PACIFIC OCEAN

SEE VI MAP

NE corner of Tuna Canyon & Pacific Coast Highway, Ocean Hills Estates



