

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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 SANTA MONICA, CA 93001  
 641 - 0142

**RECORD PACKET COPY**

Filed: 02/22/01  
 49th Day: 04/11/01  
 180th Day: 08/22/01  
 Staff: BL  
 Staff Report: 05/14/01  
 Hearing Date: 06/12-15/01  
 Commission Action:



**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-01-018  
**APPLICANT:** Richard and Sonja Kraft  
**PROJECT LOCATION:** 6500 Zuma View Place, City of Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Construction of a new 3,700 sq. ft., 28 ft. high, two-story single family residence (SFR) with 700 sq. ft., attached, three-car garage (for a total of 4,400 sq. ft), gravel driveway and turnaround, swimming pool, spa, septic system, unlighted tennis court, and landscaping. The project includes 751 cu. yds. of grading (707 cu. yds. cut, 44 cu. yds. fill, export of 663 cu. yds. offsite).

Lot area	45,738 sq. ft. (1.02 ac.)
Building coverage:	2,675 sq. ft.
Total Hard Surfaces:	12,745 sq. ft.
Landscape coverage:	30,318 sq. ft.
Parking spaces:	4 (3 covered)
Ht above fin grade:	28'0"

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of Malibu Planning Department, dated 1/22/2001; Approval in Concept (Septic System), City of Malibu Environmental Health Department, dated 10/30/2000; Approval in Concept, City of Malibu, Geology and Geotechnical Engineering, dated 11/6/2000; Approval in Concept (Fuel Modification), Los Angeles County Fire Department, Fire Prevention Bureau, dated 9/8/2000.

**SUBSTANTIVE FILE DOCUMENTS:** *Engineering, Geologic, and Seismic Investigation Report, Lot 50, Tract 12778, Zuma View Pl., Malibu, California*, by Mountain Geology, Inc., dated 8/22/2000; *Geology and Geotechnical Engineering Review Sheet*, by the City of Malibu, dated 11/6/2000; *Geotechnical Engineering Investigation, Lot 50, Tract 12778, Zuma View Pl., Malibu, California*, by West Coast Geotechnical, dated 9/5/2000; *Biological Review Sheet*, by the City of Malibu, dated 11/16/2000; Coastal Development Permits 4-99-007 (Kissler), and 4-98-320 (Pieper); Malibu/Santa Monica Mountains certified Land Use Plan.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with seven (7) special conditions regarding Color Restriction and Lighting, Conformance with Geologic Recommendations, Drainage and Polluted Runoff, Landscaping and Erosion Control, Removal of Excavated Material, Wildfire Waiver of Liability, and Future Improvements.

## **I. STAFF RECOMMENDATION**

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-01-018 pursuant to the staff recommendation.*

### **2. Staff Recommendation of Approval:**

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

### **3. Resolution to Approve the Permit:**

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

## **II. STANDARD CONDITIONS**

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

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

### III. SPECIAL CONDITIONS

#### 1. Color Restriction and Lighting

The color of the structures, roofs, walls, and driveways permitted hereby shall be restricted to a color compatible with the surrounding environment (white tones shall not be acceptable). All windows shall be comprised of non-glare glass. Furthermore, all lighting for the tennis court whether temporary or permanent, shall be prohibited.

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

#### 2. Plans Conforming to Geologic Recommendations

- a) All recommendations contained in the *Engineering, Geologic, and Seismic Investigation Report, Lot 50, Tract 12778, Zuma View Pl., Malibu, California*, by Mountain Geology, Inc., dated 8/22/2000, shall be incorporated into all final design and construction including site preparation, grading, drainage, and foundations. All plans must be reviewed and approved by the geologic / geotechnical consultant. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- b) The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes to the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

#### 3. Drainage and Polluted Runoff Control Plan

Prior to issuance of a coastal development permit, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with the geologist's recommendations. In

addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

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

#### **4. Landscape and Erosion Control Plan and Fuel Modification**

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

##### **A) Landscaping Plan**

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to soften the views of the residence and tennis court from Pacific Coast Highway, located to the north of the project site;
- (4) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (5) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (6) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

**B) Interim Erosion Control Plan**

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt

traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C) Monitoring**

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

**5. Removal of Excavated Material**

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

6. Wildfire Waiver of Liability

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

7. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-01-018. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the residence. Accordingly, any future structures, additions, or improvements related to the residence approved under Coastal Development Permit No. 4-01-018 will require a permit from the California Coastal Commission or its successor agency.

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

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing construction of a new 3,700 sq. ft., 28 ft. high from existing grade, two-story single family residence (SFR) with a 700 sq. ft. attached three-car garage (for a total of 4,400 sq. ft), gravel driveway, swimming pool, spa, septic system, tennis court, perimeter fence, and landscaping. The project includes 751 cu. yds. of grading (707 cu. yds. cut, 44 cu. yds. fill, and the export of 663 cu. yds.).

The subject site is a moderately level, undeveloped, 45,738 sq. ft. (1.02 ac.) parcel located in east end of the Point Dume area of the City of Malibu. The vegetation on-site consists of ice plant (an invasive, non-native groundcover), coastal sage scrub, grasses, and two oak trees.

The property is located east of Zumirez Drive, south and adjacent to Pacific Coast Highway, and east and adjacent to Zuma View Place. Existing residences are present on nearby properties located across the street to the west. The property to the south of the site is vacant. Access to the project site is from Pacific Coast Highway to Zuma

View Place, a public street which borders the west side of the property. There exists a north-south trending canyon approximately 100 feet east of the property line, a portion of which is designated as inland environmentally sensitive habitat area on Malibu / Santa Monica Mountains Land Use Plan maps. The canyon drains into the Pacific Ocean approximately 500 feet downgradient of the site. Maximum topographic relief on-site is approximately 40 feet. Slope gradients on the site vary from nearly level to 3:1 (horizontal to vertical). Drainage from the property is by sheet flow runoff to the east and southeast via existing contours. Street drainage is controlled via asphalt berm.

There is one previous coastal development permit (CDP permit #4-99-007-W) on record for the subject site. It consists of approval for a lot line adjustment performed on the subject parcel and a neighboring parcel in December of 1999. This adjustment altered the orientation of the properties from north-south to east-west, providing primary access to the sites from Zuma View Place.

## **B. Visual Resources**

Section 30251 of the Coastal Act states that:

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

The subject site is visible from Pacific Coast Highway, a designated scenic highway in the Malibu / Santa Monica Mountains Land Use Plan, to the north. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic roads. The Commission also examines the building site and the size of the proposed structure. The proposed project will consist of a 3,700 sq. ft., 2-story single family residence, which will not exceed 28' in height from the existing grade. The proposed structure will not impact any scenic views as seen from Pacific Coast Highway, and will not be visible from the nearby beach. Staff visited the subject site and found the proposed building location to be appropriate and feasible, given the terrain and the surrounding existing development. The site is located in a developed residential neighborhood consisting of single family homes of similar size and design as the proposed residence.

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

For this project, the applicant is proposing 751 cu. yds. of grading consisting of 707cu. yds. of cut, 44 cu. yds. of fill, and the export of 663 cu. yds. of cut offsite. The grading will not significantly alter the existing landform, as it is primarily for further leveling of the proposed tennis court, and for the creation of the gravel driveway, to be located



between the residence and the tennis court, which will assist with drainage for the site. The cut portions of the grading will not exceed 2.5' in depth.

Due to the project's location and visibility from Pacific Coast Highway, the Commission finds it necessary to require mitigation measures to minimize visual impacts. The proposed project's impact on public views can be mitigated by requiring the residence and retaining walls to be finished in a non-obtrusive manner (i.e.: in a color compatible with the surrounding natural landscape and with non-reflective windows). The Commission therefore finds it necessary to minimize the visual impact of the project by requiring the applicant to use colors compatible with the surrounding environment and non-glare glass, and prohibiting any future lighting of the tennis court, as required by **Special Condition One**.

The Commission has found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Although the applicant has not proposed any lights at the tennis court at this time, in order to mitigate any potential future visual and environmental impacts of the tennis court, the Commission finds it necessary to require the applicant to submit a deed restriction prohibiting all outdoor lighting for the tennis court, whether temporary or permanent, as specified in **Special Condition One**. Finally, future construction on the property has the potential to negatively affect the visual character of the area as seen from the Pacific Coast Highway. To insure that no additions or improvements are made to the property that may affect visual resources on-site without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition Seven**.

In addition, visual impacts associated with grading and the structure itself can be further reduced by the use of adequate and appropriate landscaping. A landscape plan relying principally on native, non-invasive plant species will ensure that the vegetation on-site remains visually compatible with the native flora of surrounding areas. In addition, vertical screening elements added to the landscape plan can soften views of the proposed residence from public areas such as Pacific Coast Highway. The Commission therefore finds it necessary to ensure that the final approved landscaping plans are successfully implemented to partially screen and soften the visual impact of the development, as required by **Special Condition Four**.

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

### **C. Geologic Stability and Hazards**

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

- (1) **Minimize risks to life and property in areas of high geologic, flood, and fire hazard.**

(2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms...*

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

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

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

The prominent geomorphic features in the area are the Ramirez Canyon to the northeast, Point Dume to the southwest, Walnut Canyon to the west, and Paradise Cove to the east. The site is located on a near-level pad which drains to the east and southeast.

The *Engineering, Geologic, and Seismic Investigation Report, Lot 50, Tract 12778, Zuma View Pl., Malibu, California*, by Mountain Geology, Inc., dated 8/22/2000, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

*Based upon our exploration and experience with similar projects, the proposed development is considered feasible from an engineering geologic standpoint... ..Potentially active and/or active faults, adversely oriented geologic structure, or other geologic hazards were not observed... Based on our investigation, the proposed development will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development and installation of the private sewage system will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction.*

The Commission notes that the geologic and engineering consultants have included a number of recommendations regarding site preparation, grading, drainage, and foundations, which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition Two**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. The site is located 100' west of, and drains towards area designated as an inland ESHA in the Malibu / Santa Monica Mountains Land Use Plan. This canyon, in turn, drains into the Pacific Ocean approximately 500 feet downgradient of the subject site. Interim erosion control measures implemented during construction will minimize short-term erosion and

enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and through implementation of a drainage and runoff control plan. To ensure that runoff is conveyed off-site in a non-erosive manner, and to minimize impacts to the nearby ESHA, the Commission finds it necessary to require the applicant, through **Special Conditions Three and Four**, to submit drainage / erosion control plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director, to adequately control runoff from impervious surfaces, and to assume responsibility for the maintenance of all drainage devices on-site.

Erosion and sedimentation can also be minimized by requiring the applicant to remove all excess dirt from cut / fill / excavation activities. The applicant has estimated 751 cu. yds. of grading consisting of 707 cu. yds. of cut, 44 cu. yds. of fill, and 663 cu. yds. for removal/export. The Commission has found that minimization of grading and exposed earth on-site can reduce the potential impacts of sedimentation in nearby creeks, stormwater conveyances, and the ocean. Therefore, **Special Condition Five** has been required to ensure that all excavated or cut material in excess of material proposed to be used for fill on the project site be removed and properly disposed of.

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

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

The County of Los Angeles Fire Department, Fuel Modification Unit, has indicated to Staff that no additional, off-site fuel modification will be required to the east of the subject site. They assert that no removal of riparian vegetation within the environmentally sensitive habitat area located on the adjacent property will be required by their department as a result of this proposed development. Although the adjacent

property south of the subject site is currently vacant, it is already subject to annual brush clearing due to its proximity to another residence located to the south. Therefore, no additional fuel modification will occur as a result of the proposed project which will affect the riparian vegetation on the adjacent properties, or in the nearby canyon.

However, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the wildfire waiver of liability, as incorporated in **Special Condition Six**, 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 Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

#### **D. Water Quality**

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

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

As described above, the proposed project includes the construction of a new, 3,700 sq. ft., 28 ft. high, two-story single family residence (SFR) with a 700 sq. ft., three-car garage. The project includes construction of a swimming pool / spa, a new septic system, a gravel driveway and turnaround, tennis court, perimeter fence, landscaping, and 751 cu. yds. of grading (707 cut, 44 fill, 663 removal).

The conversion of the project site from its natural state will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of

aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

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

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

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

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the

Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Three**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine resource protection policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Four** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

The removal of natural vegetation and placement of impervious surfaces allows for less infiltration of rainwater into the soil, thereby increasing the rate and volume of runoff, causing increased erosion and sedimentation. Infiltration of precipitation into the soil allows for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and to the ocean. Thus, new development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels.

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

Finally, the proposed development includes the installation of an on-site septic system and 3,000-gallon septic tank to serve the residence. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains and the resultant installation of septic systems may contribute to adverse health effects and geologic hazards in the local area. The applicants' geologic consultants performed percolation tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant has submitted in-concept approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the Uniform Plumbing Code. The City of Malibu minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources. The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

## E. Public Access

Section 30210 of the Coastal Act states that:

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

Under Section 30211 of the Coastal Act, the Commission is further charged that:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

The subject parcel contains a private pedestrian easement, which is shared with the three adjoining lots along Zuma View Place, providing these individuals with access to the beach at Paradise Cove (**Exhibit 7**) via connection with another private trail associated with the Paradise Cove Trailer Park. This access is visible in aerial photographs from both 1993 and 1986. On April 2, 2001, staff noted that there were patched holes in the chain link fence bordering Pacific Coast Highway which suggest that the subject property may have been used as a means for public access to these private trails in the past.

Commission staff, in the review of the project, analyzed the property and the easement in order to address the issue of public access, and to determine whether the possibility of public prescriptive right across the property was in evidence. The main path/track visible in the aerial photographs from 1986 and 1993, runs south of the subject site, through what is now the Pieper property (CDP # 4-98-320). The applicant has stated that, prior to the development of the Pieper lot with a CCC-approved single family residence, pool, and landscaping, a portion of this area was used as a community garden by the residents of the Paradise Cove Trailer Park, and that the trail visible in the photographs was the point of access from the trailer park to the garden. Analysis of the photographs from 1993 and 1986 confirms the presence of a cultivated plot on this parcel. The trail visibly diminishes in definition beyond the point where it reaches this plot in the photographs.

The private trail / easement is tied to the four properties abutting the east side of Zuma View Place (**Exhibit 2**), and was created to provide the owners of these lots with pedestrian access to the beach, which is located approximately 500 feet to the southeast of the subject property. It is restricted to the pedestrian ingress and egress, to and from the beach, by the owners of the parcels and their temporary guests, and specifically prohibits the use of the easement for any public or commercial purpose. Staff walked the trail, and determined that the level of use decreased as it reached the subject property, until shortly after crossing the southern property line, it ceased to exist. The stretch of subject property from this point to Pacific Coast Highway is highly disturbed, however, no definitive trail was found by staff which connected these two points. Additionally, staff noted that while there was evidence of holes cut through the fence bordering on Pacific Coast Highway, that all such holes had been repaired. Fencing has been in place continuously across this stretch of property since the early 1970s.



Staff's review determined that while the subject property may have been used as a means to access the private trails in the past (as evidenced by the holes and damage to the fence), that the use had not been substantial, and that the owners of the property, through their continual patching of the fence, had attempted to prevent and halt all such actions. Therefore, the Commission finds that the proposed development will not interfere with the public's right of access to the sea, and is consistent with Sections 30210 and 30211 of the Coastal Act.

## **F. Local Coastal Program**

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

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

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

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

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





# SITE LOCATION

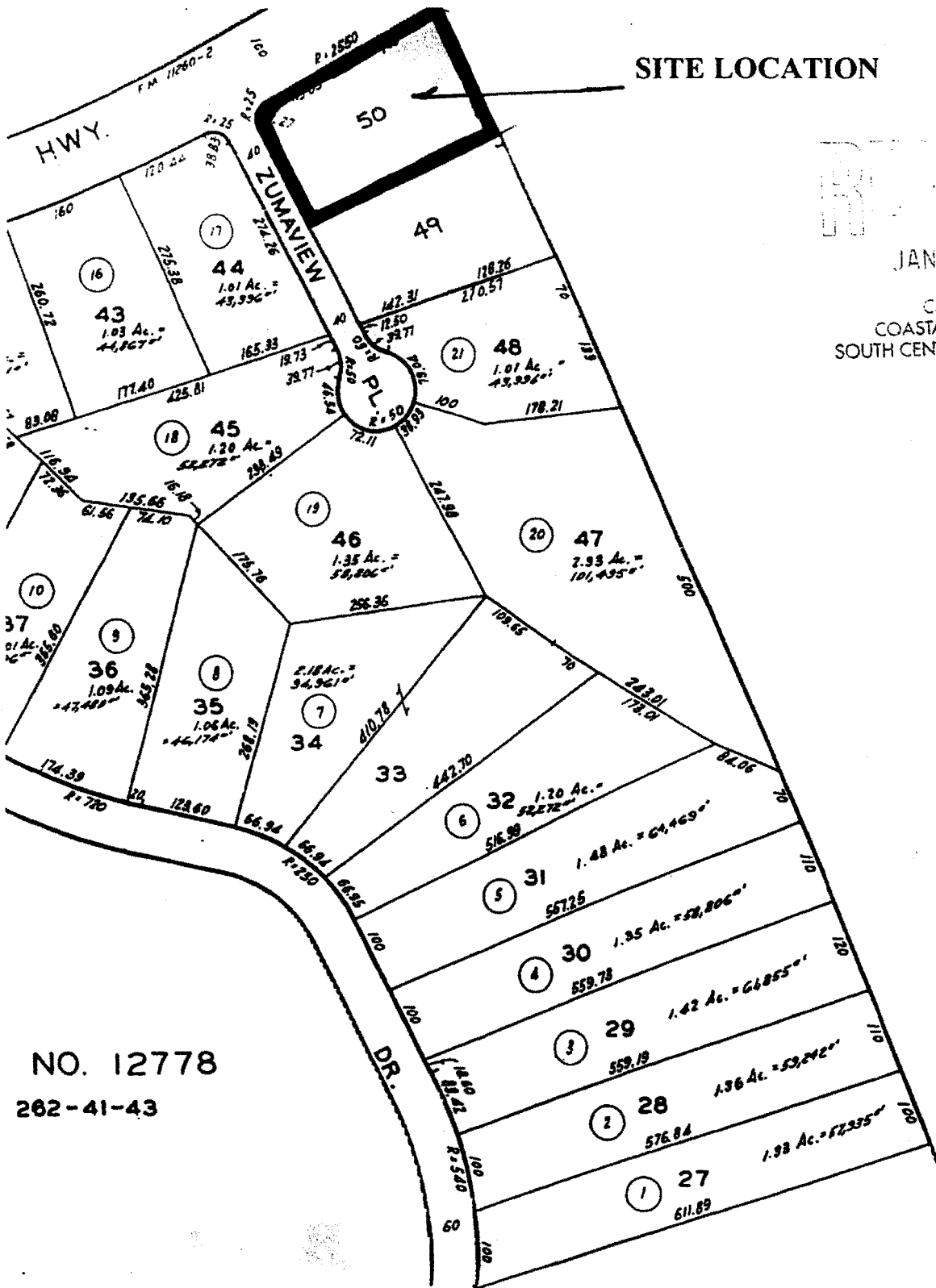
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JAN 24 2001

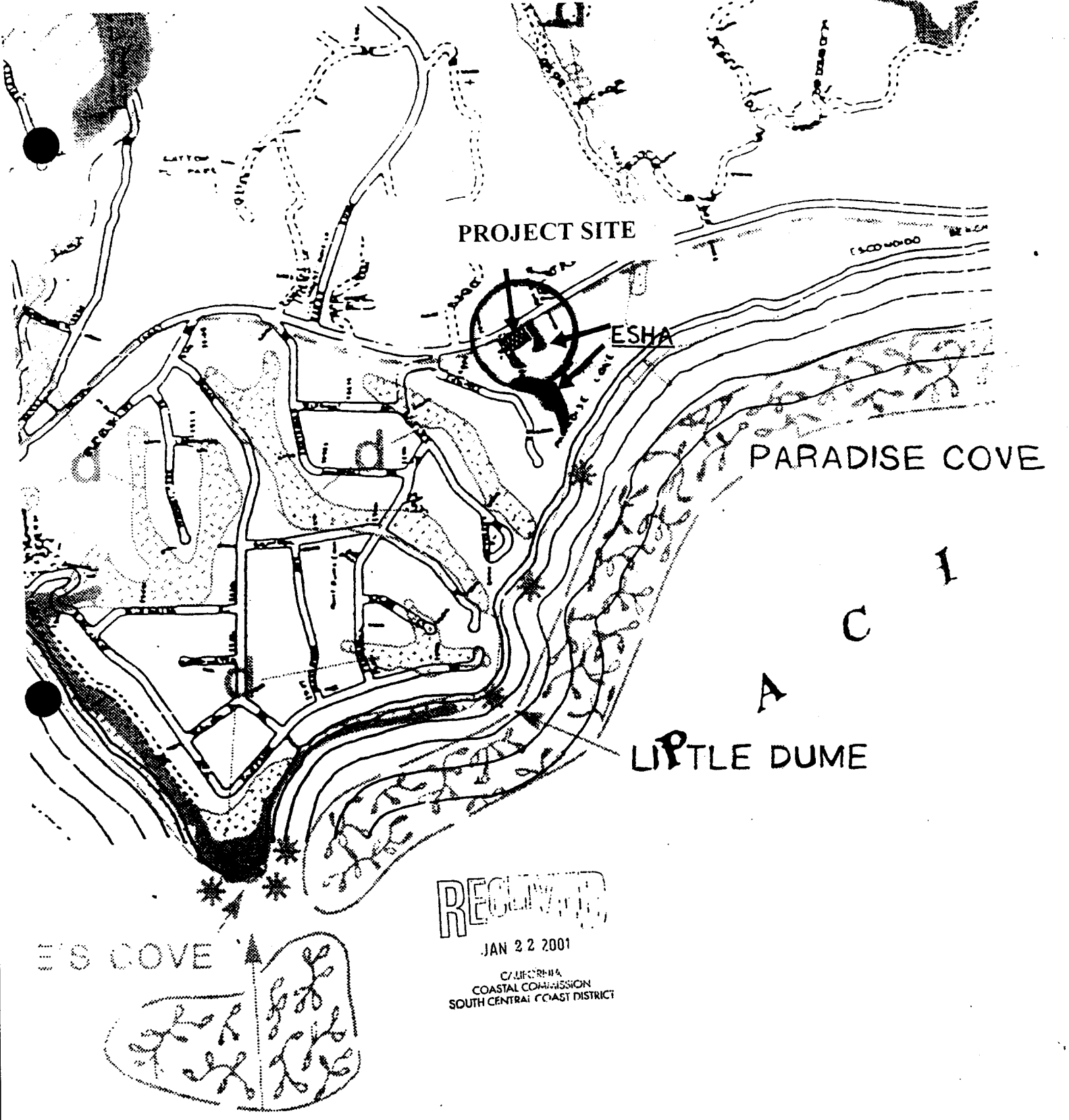
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT



NO. 12778  
262-41-43

ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.

**EXHIBIT 2**  
**CDP 4-01-018(KRAFT)**  
**PARCEL MAP**



PROJECT SITE

ESHA

PARADISE COVE

LITTLE DUME

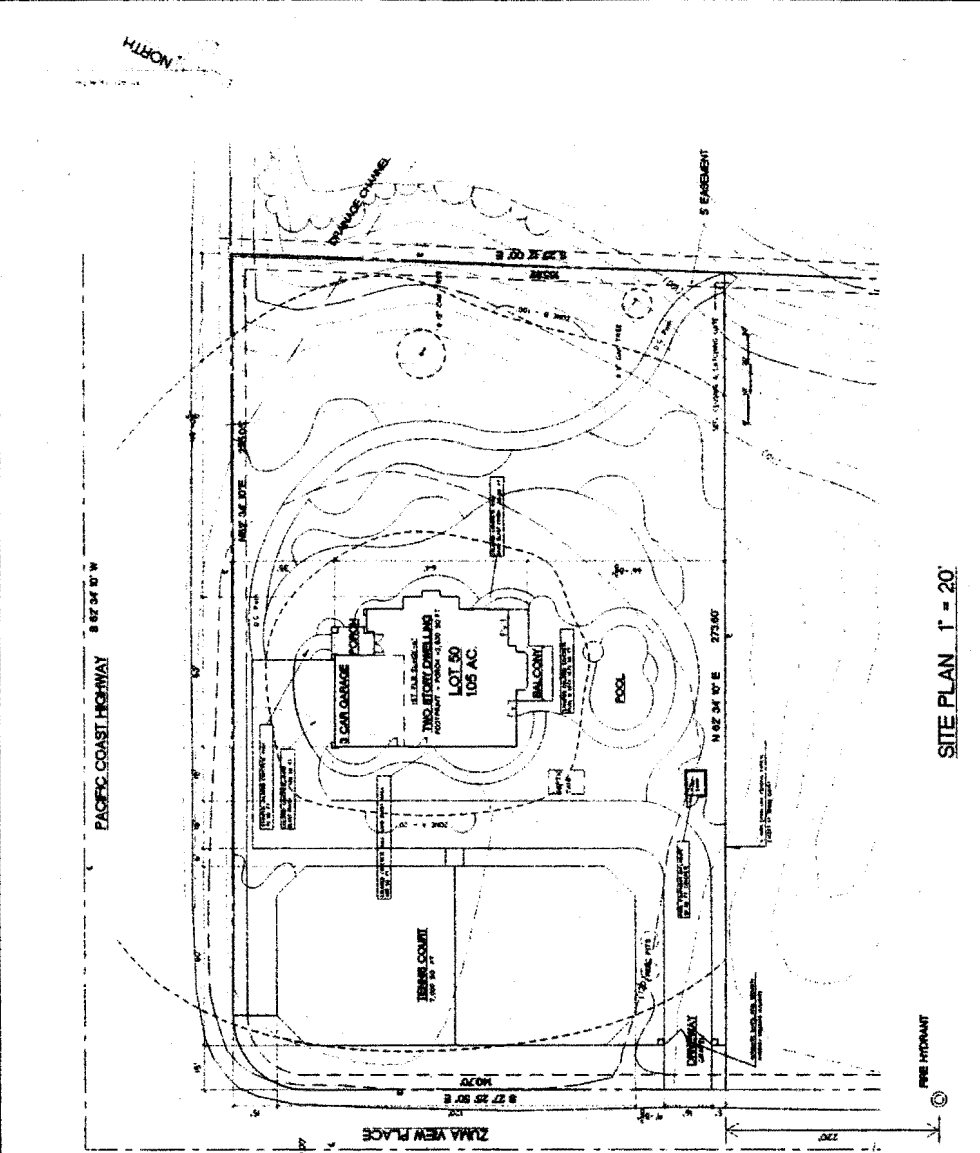
ES COVE

RECEIVED

JAN 22 2001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

EXHIBIT 3
CDP 4-01-018 (Kraft)
ESHA MAP



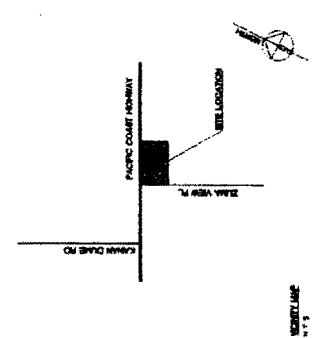
**EXHIBIT 4**  
**CDP 4-99-018 (KRAFT)**  
**SITE PLAN**

SITE PLAN 1" = 20'

DATE	NO. OF SHEETS	SCALE	DATE
10/10/00	1	1" = 20'	10/10/00
10/10/00	1	1" = 20'	10/10/00
10/10/00	1	1" = 20'	10/10/00

A-1

VICINITY MAP



PROJECT INFORMATION

**LEGAL DESCRIPTION**  
 LOT 50 OF TRACT MAP NO. 5178, IN THE CITY OF MALIBU,  
 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA  
 APN: 444-307-020

**OCCUPANCY** = RS / U  
**BUILDING TYPE** = V-H  
**PARKING PROVIDED** = 3 COVERED + 1 UNCOVERED

**SITE AREAS**  
 TOTAL LOT AREA = 4,794 S.F.  
 RESIDENCE FOOTPRINT INCLUDING PORCH = 2,400 S.F.  
 TERRACE AREA = 2,000 S.F.  
 DRIVEWAY AREA = 1,775 S.F.  
 POOL AREA = 1,000 S.F.  
**TOTAL UNDO SURFACE AREAS** = 13,746 S.F. = 7'11"

**RESIDENCE AREAS**  
 RESIDENCE AREA = 1,975 S.F.  
 SECOND FLOOR = 1,775 S.F.  
 TOTAL LIVING AREAS = 3,750 S.F.  
 GARAGE AREA = 100 S.F.

ROOF DRAINAGE

ALL ROOF WATER SHALL BE CONDUCTED TO THE STREET VIA NON EROSIVE DEVICES

CONSULTING ENGINEER

**CONSULTING ENGINEER**  
 300 N BURNLEY OAK BLVD, LOS ANGELES, CA 90077  
 TEL: 202-870-8800

LEGEND

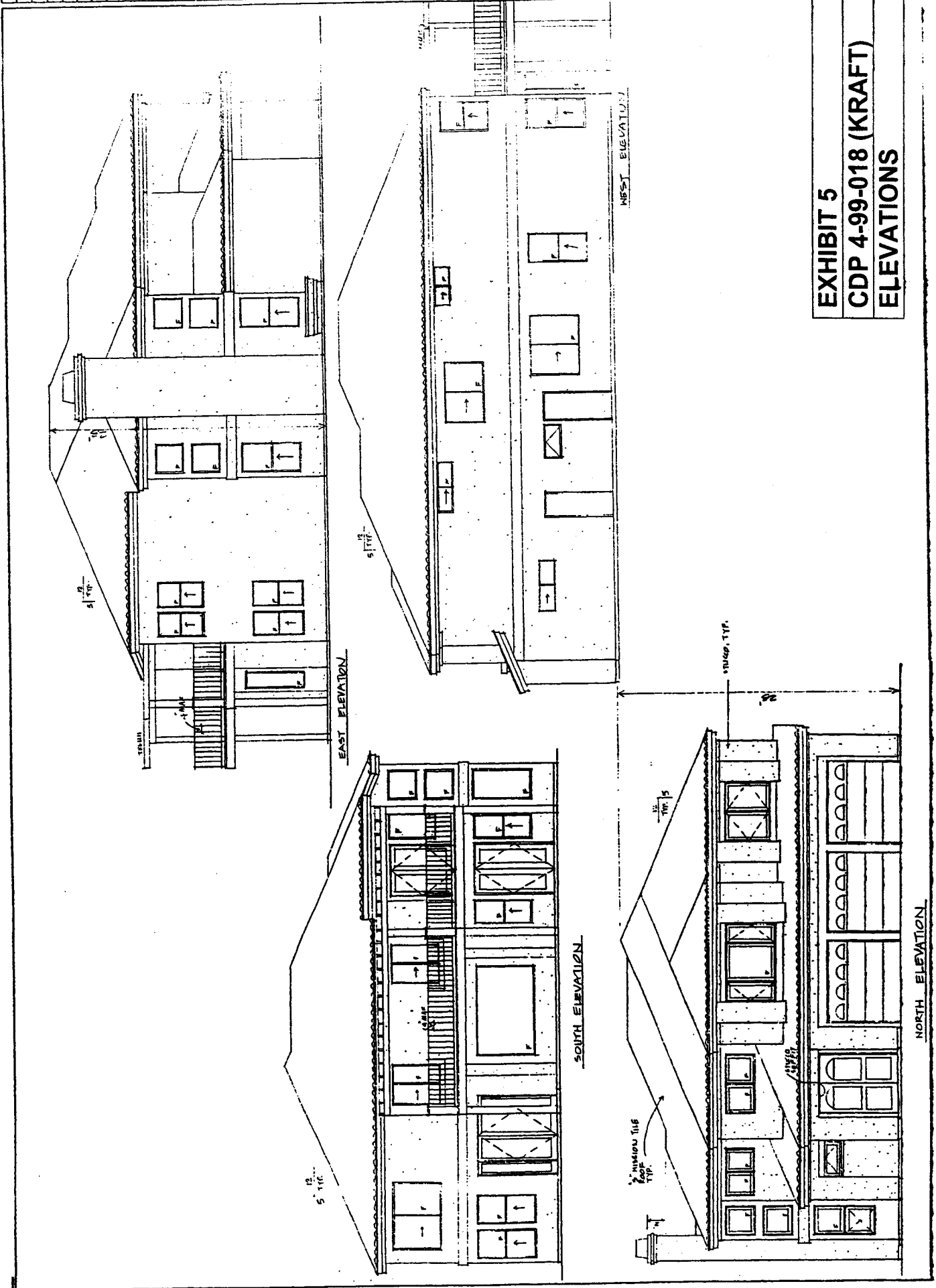
ALL EXTERIOR WALLS SHALL BE 24" STUCCO OR CC UFG  
 ALL INTERIOR WALLS SHALL BE 12" STUCCO OR CC UFG

T TEMPERED GLASS  
 S SMOKE DETECTOR  
 E EXHAUST FAN INTO FIVE AIR CHANGES PER HOUR CAPACITY,  
 COMPLY TO LEAK TEST

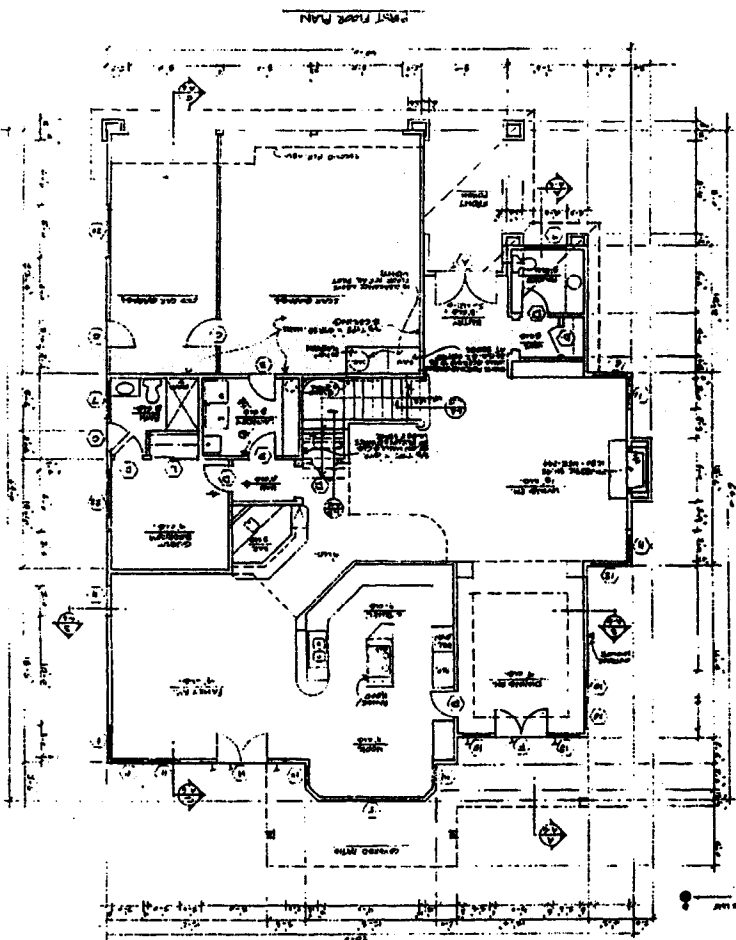
SECTION REFERENCE  
 ELEVATION REFERENCE  
 PLAN NOTE NUMBER  
 DETAIL REFERENCE

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**EXHIBIT 5**  
**CDP 4-99-018 (KRAFT)**  
**ELEVATIONS**



**EXHIBIT 6**  
**CDP 4-01-018 (Kraft)**  
**FLOOR PLAN**



**NOTES**

1. REFER TO SHEET 4-01-018 FOR DETAILS.
2. SEE SHEET 4-01-018 FOR DETAILS.
3. SEE SHEET 4-01-018 FOR DETAILS.
4. SEE SHEET 4-01-018 FOR DETAILS.
5. SEE SHEET 4-01-018 FOR DETAILS.

**A-4**

SCALE: 1/8" = 1'-0"

DATE: 11/11/03

PROJECT: FIRST FLOOR PLAN

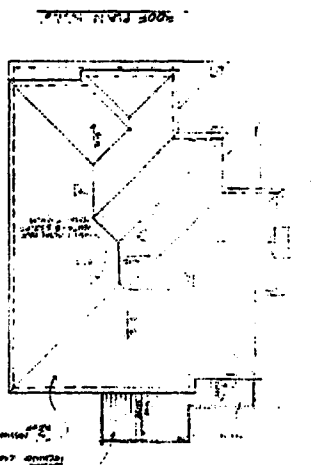
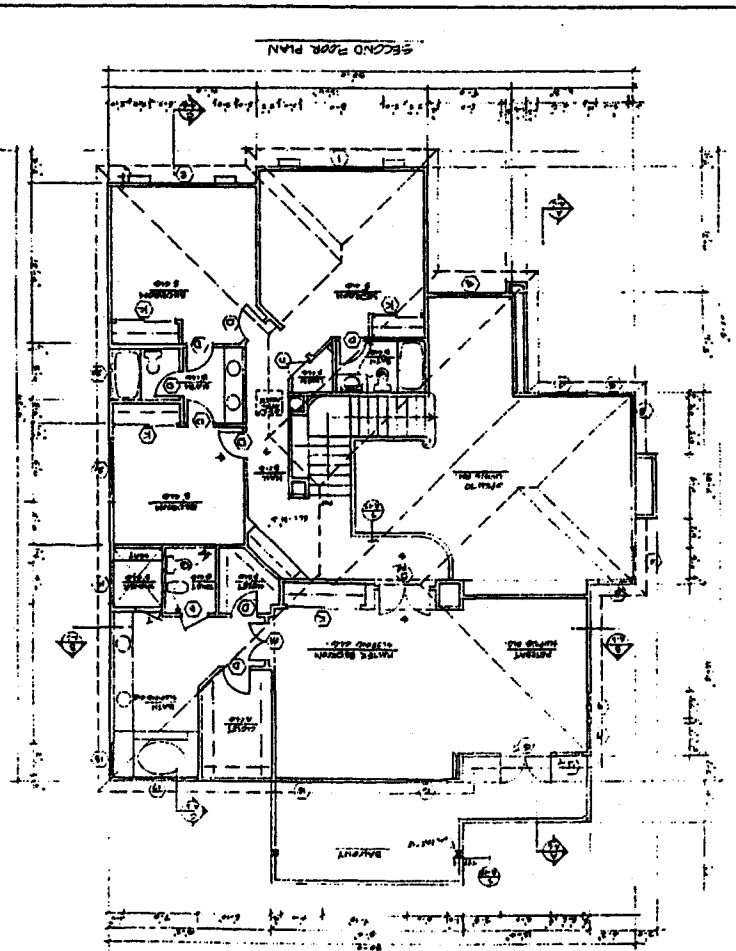
CLIENT: CENTRAL PACIFIC DATA CENTER, WASHINGTON, DC

ARCHITECT: [Faded text]

DESIGNER: [Faded text]

DATE: 11/11/03

PROJECT: FIRST FLOOR PLAN



**A-5**

SCALE: 1/8" = 1'-0"

DATE: 11/11/03

PROJECT: SECOND FLOOR PLAN

CLIENT: CENTRAL PACIFIC DATA CENTER, WASHINGTON, DC

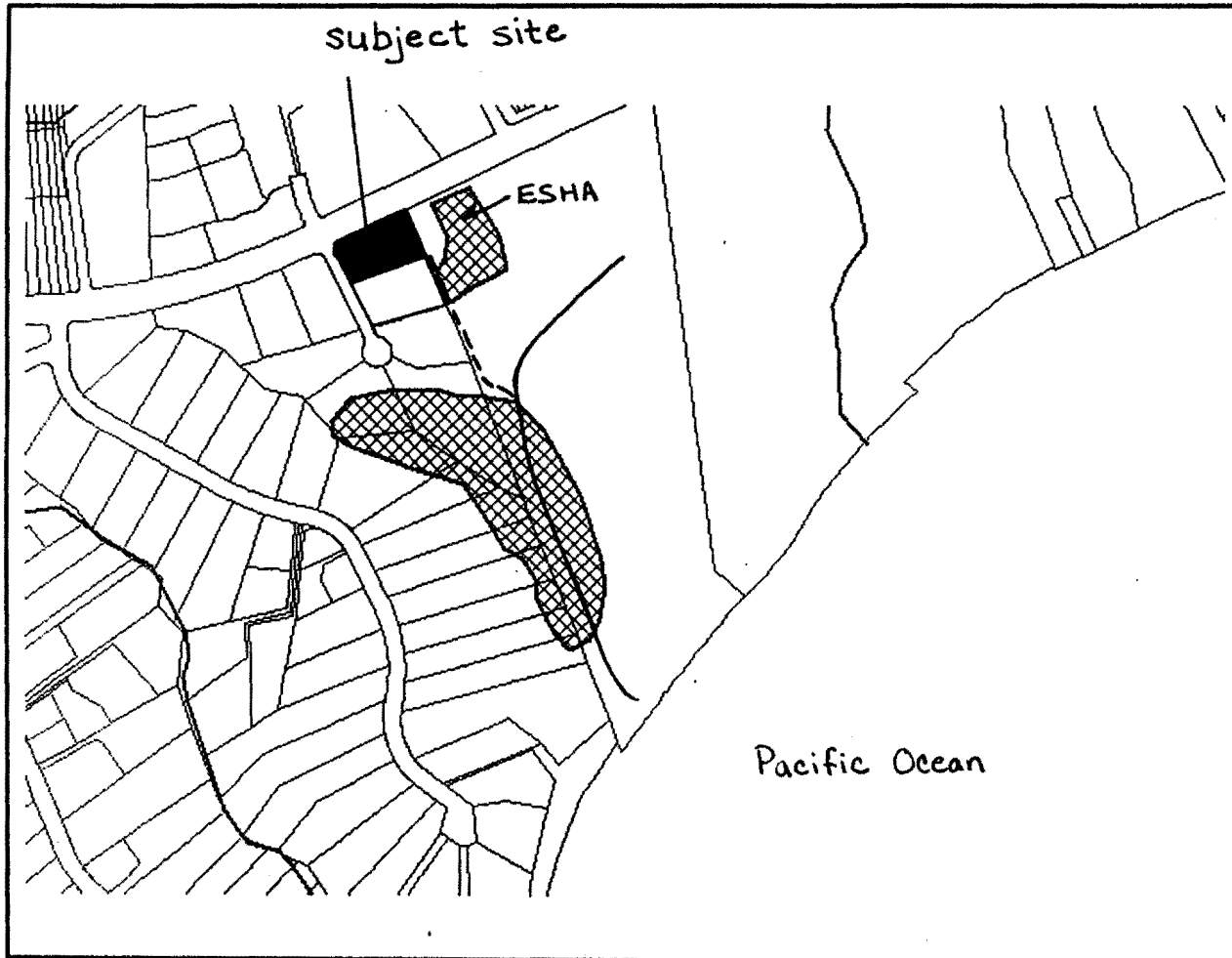
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



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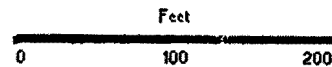
DATE: 11/11/03

PROJECT: SECOND FLOOR PLAN

### 4-01-018 Kraft (6500 Zuma View Place)



-  Blue Line Streams
-  laprcis
-  esha (ESHA)
- 
-  Private trail from Paradise Cove Trailer Park
-  Trail/Easement to subject site



<b>EXHIBIT 7</b>
<b>CDP 4-01-018 (Kraft)</b>
<b>TRAIL/ACCESS MAP</b>

