

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
MALIBU, CA 93001  
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Staff: K. Kemmler  
Staff Report: 6/15/01  
Hearing Date: 7/10-13/01  
Commission Action:



## RECORD PACKET COPY

### STAFF REPORT: REGULAR CALENDAR

**Application No.:** 4-01-026

**Applicant:** Spooky Singh

**Agent:** Schmitz & Associates

**Project Location:** Northwest Corner of Azurelee Drive and Briarbluff Road, Malibu (Los Angeles County)

**Project Description:** Proposal to construct a 10 ft. wide, approximately 2,000 ft. long temporary access road for geologic testing on four parcels including 3,118 cu. yds. grading (1,670 cu. yds. cut and 1,448 cu. yds. fill).

<b>Lot 1 Area</b>	2.73 acres
<b>Lot 2 Area</b>	2.85 acres
<b>Lot 3 Area</b>	2.48 acres
<b>Lot 4 Area</b>	2.53 acres

**Local Approvals Received:** County of Los Angeles Department of Public Works, Building and Safety/Land Development Division Approval, February 1, 2001.

**Substantive File Documents:** Certified Malibu/Santa Monica Mountains Land Use Plan; "Engineering Geologic Memorandum/Update", Geoplan Inc., August 31, 2000; "Supplemental Memorandum", L. Liston & Associates, Inc., May 18, 2001.

#### Summary of Staff Recommendation

Staff recommends **approval** of the proposed project with **four (4) special conditions** regarding (1) drainage and erosion control, (2) assumption of risk, (3) removal of excess grading material, and (4) restoration of temporary access road.

## I. Staff Recommendation

**Motion:** *I move that the Commission approve Coastal Development Permit No. 4-01-026 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. The plan shall include, but not be limited to, the following criteria:*

- 1) The plan shall specify that grading shall not take place during the rainy season (November 1 – March 31).
- 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. Removal of Excess Excavated Material**

*Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess grading material from the site. Should the disposal site be located in the Coastal Zone, a coastal development permit shall be required.*

#### **4. 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 Coastal Development Permit 4-01-

026, 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 10 ft. wide, approximately 2,000 ft. long temporary dirt access road for geologic testing to determine the feasibility of development on the four subject parcels. The project involves 3,118 cu. yds. grading (1,670 cu. yds. cut and 1,448 cu. yds. fill) (Exhibit 3).

The subject site is composed of four contiguous, steeply sloping hillside parcels (all between 2 and 3 acres in size) on the northwest corner of Azurelee Drive and Briarbluff Road (Exhibit 1). The subject lots are bounded on the south by two vacant lots and two residences, on the southwest by Azurelee Drive, on the north and northwest by vacant parcels, and on the east by Briarbluff Road (Exhibit 2). The subject parcels shall be accessed via the proposed road from the corner of Azurelee Drive and Briarbluff Road. The applicant has indicated that the proposed road alignment is the most likely future alignment of a permanent access road as opposed to the existing easement, which has been affected by a recent landslide, and that the access easement shall be relocated over the proposed alignment. Three large, active landslides are present on or near the subject parcels. The existing vegetation consists mostly of natural grasses and chaparral, no environmentally sensitive habitat exists on site. The site is not visible from any scenic highways or public viewing areas.

There is unpermitted development that exists on the subject parcels, which occurred in 1994 prior to the applicant's ownership of the property. The unpermitted development consists of a graded access road and building pad and placement of a metal fence on a vacant lot (Lot 4). Despite numerous attempts by staff to work with the previous owner of the subject property to restore the site and remove the fence, these violations of the Coastal Act remain unresolved. These activities are not included in the proposed project description and shall be handled through separate enforcement action. Incidentally, a portion of the proposed access road is aligned with the existing graded road. Some annual and perennial grasses have regrown in the area previously disturbed by grading, however, the vegetation is not restored to pre-graded conditions.

##### **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 10 ft. wide, approximately 2,000 ft. long temporary dirt access road for geologic testing to determine the feasibility of development on the subject parcels. The project involves 3,118 cu. yds. grading (1,670 cu. yds. cut and 1,448 cu. yds. fill). The project site is affected by three large, active landslides.

Since the proposed access road shall serve as the means to access the property in order to evaluate the geologic conditions on the subject parcels, extensive geologic reports are unavailable for consideration, however, the applicant has submitted an Engineering Geologic Memorandum/Update dated August 31, 2000 prepared by Geoplan, Inc. and a Supplemental Memorandum dated May 18, 2001 prepared by L. Liston & Associates, Inc. regarding the proposed development on the subject lots. The Engineering Geologic Memorandum/Update dated August 31, 2000 prepared by Geoplan, Inc. is intended to update an Engineering Geologic Report dated November 19, 1976 prepared by John D. Merrill and discusses three large, active landslides, all of which have occurred since the preliminary report was issued. In 1980, a large-scale landslide disrupted Rambla Pacifico and Lamplighter Lane, about 900 ft. southeast of Lot 4. This landslide reactivated and enlarged during intense seasonal rainfall in 1992, 1995, and 1998. In 1995, a massive incipient landslide disrupted Briarbluff Road at the common corner between Lots 1 and 2. For almost a year during 1995, Rambla Pacifico was blocked by a large-scale landslide, which encroaches into the southwest side of Lot 3. Two of the currently active landslides directly affect Parcels 1 and 3.

In addition, there are two areas on site identified as ancient landslide terrain: on the south side of Lot 3 near Azurelee Drive; and at the east side of Lots 1, 2, and 4, above and west of Briarbluff Road. These areas are designated as "restricted use areas", as shown on Exhibit 3. The consulting geologist has indicated that the proposed access road is an allowable use within a restricted use area.

Despite extensive landslide activity in the proximity of the proposed project site, the update report by Geoplan, Inc. concludes that:

**...each of the four building sites is safe for the intended use. These sites will be safe from hazardous landslide, settlement or slippage. Development of these sites in conformance with the County Building Ordinance and the recommendations of the project consultants will not affect the neighboring property adversely.**

Nevertheless, the steepness of the site and the presence of three massive slide areas on or near the site raise concern. 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. Therefore, the Commission notes that because some inherent risk exists in grading on sites with active and/or historic landslides present, 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)**. This condition also prohibits grading operations from occurring during the rainy season, which could potentially adversely affect the geologic stability of the site as it is a steeply sloping hillside parcel with landslide areas present on site.

The Commission also notes that the quantity of earth removal required for construction of the proposed road is more than the quantity of recompaction required for construction, resulting in an excess of 62 cu. yds. of graded earth material. Stockpiles of dirt are subject to increased erosion and, if retained onsite, may lead to additional landform alteration. Therefore, **Special Condition No. Three (3)** requires the applicant to export all excess grading material from the project site to an appropriate site for disposal and provide evidence to the Executive Director of the location of the disposal site prior to issuance of a coastal development permit.

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. Four (4)**.

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.*

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. The project site is not visible from any public viewing areas, however, the project is proposed on a hillside parcel and, thus, involves some landform alteration. As stated previously, the applicant proposes to construct a 10 ft. wide, approximately 2,000 ft. long temporary access road for geologic testing on four parcels including 3,118 cu. yds. grading (1,670 cu. yds. cut and 1,448 cu. yds. fill). In response to staff concerns relative to landform alteration, the applicant submitted a letter dated May 18, 2001 from the geotechnical engineer, Leonard Liston, characterizing the proposed grading for the access road as minimal and necessary to perform adequate geological testing on the subject parcels.

In order to mitigate the impacts on visual resources and landform alteration, **Special Condition No. Four (4)** 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 County's ability to prepare a Local Coastal Program for the Malibu/Santa Monica Mountains area, 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.

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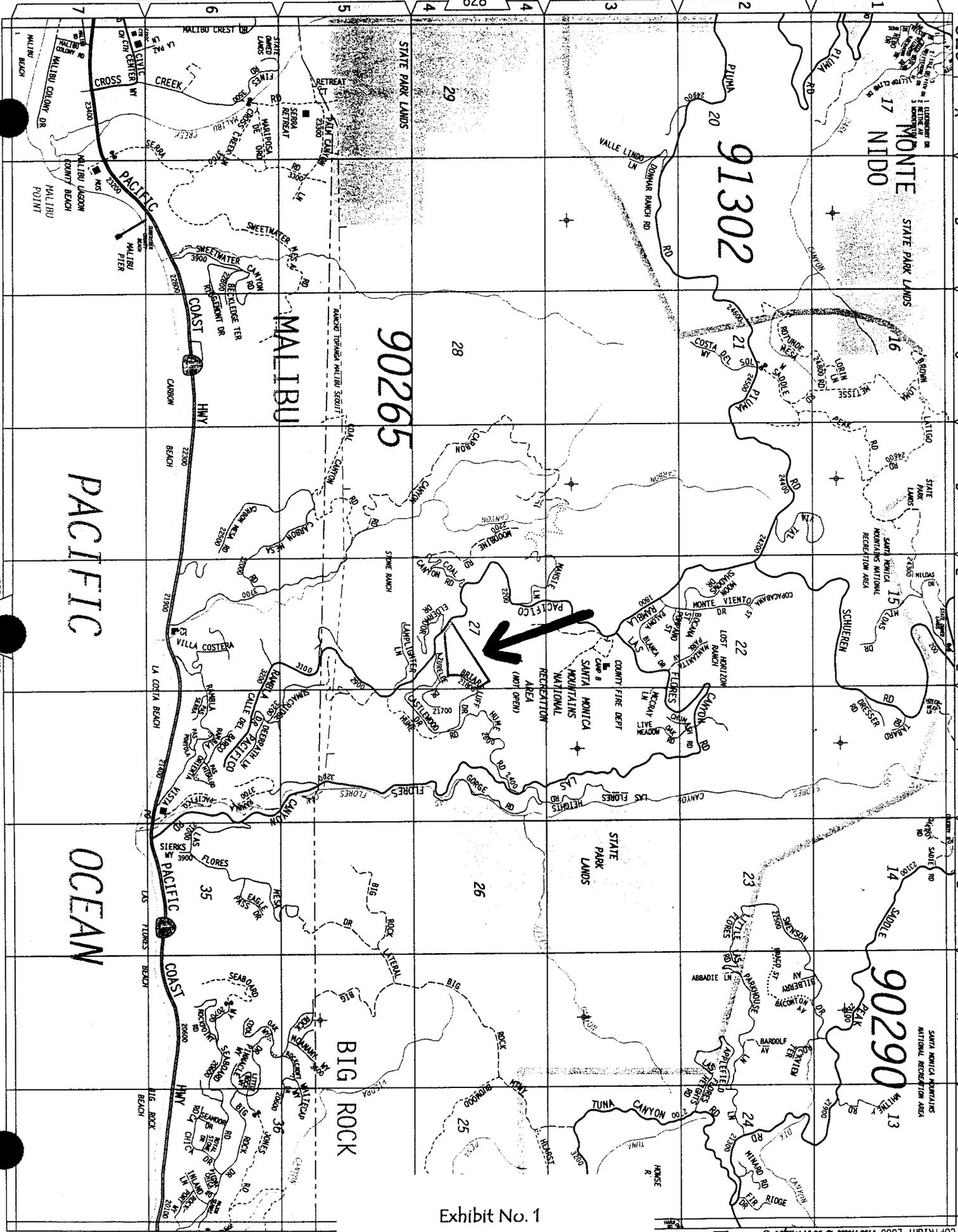


Exhibit No. 1  
 App. No. 4-01-026  
 Vicinity map

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SCALE 1" = 400'

1999

1-800-345-7334



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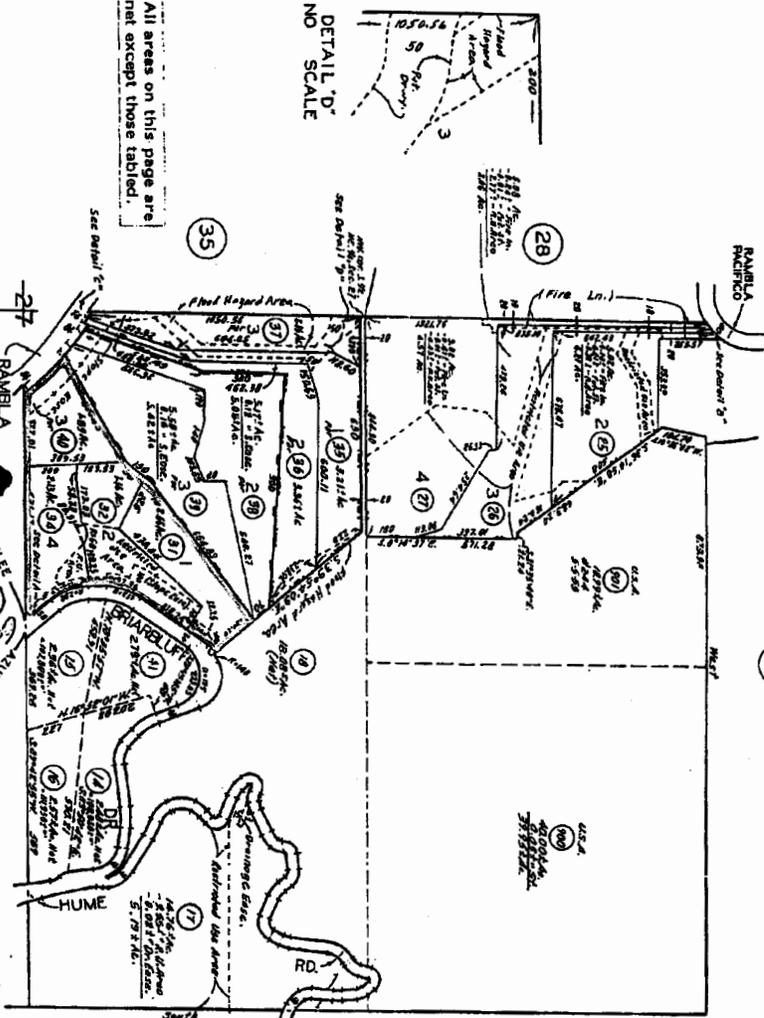
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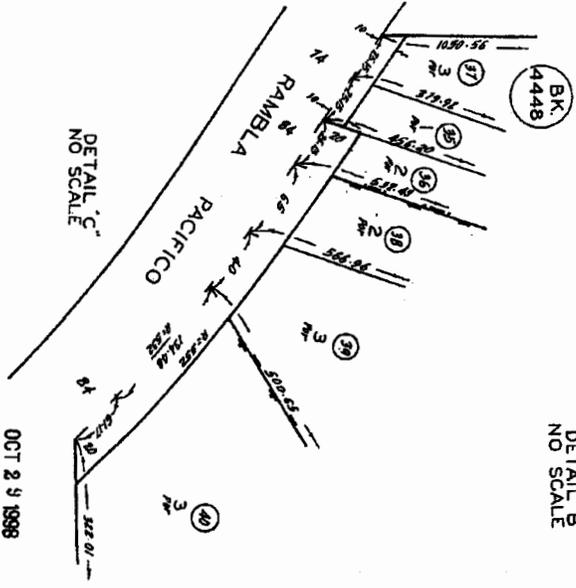
PARCEL MAP  
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PARCEL MAP  
P.M. 72-85-86  
PARCEL MAP  
P.M. 74-97-98



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OCT 29 1998  
ASSASSORS MAP  
COUNTY OF LOS ANGELES, CALIF.

Exhibit No. 2  
App. No. 4-01-026  
Parcel map



