

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
MALIBU, CA 93001  
585-1800

Filed: 10/13/01  
49th Day: 12/01/01  
180th Day: 04/11/02  
Staff: BL-V  
Staff Report: 01/09/02  
Hearing Date: 02/08/02  
Commission Action:



## RECORD PACKET COPY

### STAFF REPORT: MATERIAL AMENDMENT

**APPLICATION NO.:** 5-90-327-A4  
**APPLICANT:** Diva Partners (Javid)  
**AGENT:** Richard Scott  
**PROJECT LOCATION:** 30601 Morning View Drive, Malibu

#### DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:

**5-90-327** - Subdivision of a 45 acre parcel into 19 residential lots, a recreation lot, an open space lot, and construction of streets, septic systems, utilities, storm drain improvements, and 80,500 cu. yds. of grading (41, 500 cu. yds. cut; 39,000 cu. yds. fill)

**4-95-074** - Request for approval of remediation and restoration plan for illegal grading (approximately 22,000 cu. yds.) and vegetation clearance within the subdivision and lot 20.

**5-90-327-A3** - Modification of special condition 8, to reduce the size of the open space lot, and approval of after-the-fact lot line adjustment between lots 20 (open space lot) and 21 (recreation lot), resulting in two lots of 20.95 acres and 1.46 acres respectively.

**DESCRIPTION OF AMENDMENT:** Applicant proposes the relocation of the existing equestrian trail easement, the abandonment of the current easement, and the construction of an equestrian trail within the new easement at 30631 Morning View Drive.

**LOCAL APPROVALS RECEIVED:** City of Malibu, Approval in Concept, dated 6/18/01

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permits: 5-90-327 (Diva Partners); 5-90-327 A1, 5-90-327-A2, 5-90-327-A3; 4-95-074 (Diva Partners); Malibu Santa Monica Mountains certified Land Use Plan

**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*

2) *Objection is made to the Executive Director's determination of immateriality, or*

3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code of Regulations Section 13166. In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect conditions required for the purpose of protecting a coastal resource.

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I. STAFF RECOMMENDATION:

MOTION:        *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-90-327 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 PERMIT AMENDMENT:

The Commission hereby **approves the proposed amendment** to the coastal development permit on the grounds that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. STANDARD AND SPECIAL CONDITIONS

All standard and special conditions attached to the previously approved permit attached hereto as Exhibit 4 remain in effect. Special Condition 2, is hereby revised as follows: (new text is shown in underline, deleted text is shown in ~~strikethrough~~)

## 2. Revised Trail Dedication

Prior to issuance of permit, the applicant shall submit an irrevocable offer to dedicate a twenty-foot wide public access trail easement along the eastern portion of the site along the back portions of lot 10 through 15, ~~then along the northern portion of lot 19 to Street "A" (Zuma Canyon Trail), a ten foot wide easement south along Street "A",~~ the eastern portion of lot 19 to Morning View Drive (as shown on Exhibit 3), a twenty-foot wide easement north along the western boundary of the site and then along a portion of the northern boundary of the site (Chumash Trail). The irrevocable offer to dedicate shall be of a form and content approved by the Executive Director, free of prior encumbrances except for tax liens, providing the public the right to pass and repass over the noted route limited to hiking and equestrian uses only. The present public use of the existing trails shall not be interfered with until the trails have been relocated and improved. The dedicated trail easement shall not be open for public hiking and equestrian usage until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the trail easement. The offer shall run with the land in favor of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

### NEW PERMIT CONDITIONS :

#### 11. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans for the proposed trail and easement, 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 geotechnical consultants to ensure that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

##### A. Landscaping Plan

(1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of completion of grading. 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. Plantings 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 neighboring residences from the trail;

(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.

#### **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 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 the coastal zone or to a site within the coastal zone permitted to receive fill.

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.

## **12. Plans Conforming to Geologic Recommendations**

Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans for the construction of the equestrian trail. All recommendations provided by the consulting geologist shall be incorporated into all final design and construction plans including grading, drainage, erosion control, and retaining walls. Final plans must be reviewed and approved by the project's consulting geotechnical engineer.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to grading, drainage, and retaining walls. Any substantial changes in 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.

## **III. FINDINGS AND DECLARATION**

The Commission hereby finds and declares:

### **A. Background; Proposed Amendment.**

#### **Approved Project, Location and Setting**

The subject site is located north of Pacific Coast Highway and east of Trancas Canyon. The site currently consists of 45 acres divided into a total of 21 lots, consisting of 19 residential lots, one recreation lot, and one open space lot. The site is located approximately 1,500 to 2,00 feet above Pacific Coast highway, west of the intersection of Morning View Drive and Guersney Drive. The northern boundary of the site approximates the break in the slope between the steeper mountain terrain to the north and the moderate gradient of the coastal terrace foothills on the subject site. The mountainous terrain north of the site consists of slopes 1.5:1 or steeper while the on-site topography generally descends gently from approximately 350 feet above sea level to approximately 30 feet above sea level.

#### **Permit History**

Originally, the applicant proposed the subdivision of the above described, single, 45 acre lot into 25 lots for the purposes of residential development. In this permit application, 5-89-872 (Javid) the applicant proposed 25 residential lots and a total of 345,000 cu. yds. of grading. This grading would have resulted in flat pads which ranged in size from 10,000 to 20,000 square feet. The Commission found that the project required excessive landform alteration

and did not provide for enough open space area. As such, the Commission denied the permit application.

The applicant later revised the project by reducing the number of residential lots, adding a nearly 22 acre open space lot, and reducing the grading to 80,500 cubic yards. At the hearing, the applicant adjusted the open space lot by reducing it in size to almost 21 acres, changing the portions of the 45 acre lot that were within the open space area, and adding a half-acre lot designated for recreation purposes. This resulted in a subdivision of the 45 acre lot into a total of 21 lots: 19 of which were designated for residential development, one 21 acre lot designated for open space, and one half-acre recreation lot. The project, with these changes, and pursuant to 10 special conditions (See Exhibit 4) was approved by the Commission during the August 1990 hearing as CDP 5-90-327 (Javid). These 10 conditions included: plans conforming to geologic recommendations, landscape and erosion control plans, revised grading plans, recordation of a deed restriction for future grading, cumulative impact mitigation, recordation of trail dedication, drainage easement recordation, archeological resources, open space dedication, and recordation of the recreation lot (See Exhibit 4).

Since the Commission approval of this subdivision, several subsequent permits and Commission actions have transpired involving the site. In 1991, the applicant applied for an amendment to the original permit for an additional 22,000 cubic yards of grading, and the clearing of vegetation on all of the lots within the subdivision. This grading and vegetation clearance took place without the benefit of a coastal development permit, and was not consistent with the Commission's approved grading plan for CDP 5-90-327. The Commission denied this proposal (5-90-327-A1) in January 1993, on the basis that it required excessive landform alteration and was inconsistent with the previous Commission decision on the approved permit.

The applicant subsequently submitted an application (5-90-327-A2) for approval of a remediation and restoration plan to address the illegal grading and vegetation clearance which had occurred. This amendment request was rejected on the basis that it constituted new development, and a new CDP application was opened, 4-95-074 (Javid). This permit application included both restorative grading on the residential lots, and grading and vegetation restoration within the open space lot. Restoration of the site, pursuant to this permit, is still ongoing.

Under CDP 4-96-037 (Seastar Estates Homeowners Association), the HOA received approval for the construction of two tennis courts and an 800 sq. ft. ancillary structure on the recreation lot. CDP 4-97-011 (Seastar Estates Homeowners Association), the HOA received approval of the installation of a motorized gate, monument wall, signage, and improvements to a portion of Seastar Road and an existing trail through the placement of concrete and stone on the road, and decomposed granite on the trail path. This permit was approved with one special condition requiring the applicant to recognize that public rights may exist on the trail.

A third amendment to the underlying subdivision permit was submitted in 1997. This amendment, 5-90-327-A3, was for the modification of special condition 8 (the open space deed restriction) to reduce the size of the open space lot, and approval of an after-the-fact lot line adjustment between the open space lot and the recreation lot. This amendment was approved in September 1997, pursuant to one special condition requiring the applicant to

re-record the deed restriction governing the open space lot to incorporate the amended configurations (See Exhibit 2).

### **Present Amendment**

On September 13, 2001, the applicant submitted an application to amend permit 5-90-327 to relocate the existing equestrian trail easement, abandon the current easement, and to construct an equestrian trail within the new easement (Exhibits 2-3).

The relocation of the equestrian trail easement will result in improved equestrian access to the trail by relocating the trail entrance from Seastar Drive to Morning View Drive, which will negate the necessity of accessing the trail by traveling through the subdivision, and along Seastar Drive in order to access the trail. The proposed trail configuration also allows for a more direct route with fewer turns. Additionally, the applicant's proposal to construct the trail will enhance the public's access to the area and ensure that the trail is opened. Staff has previously met at the site with representatives from the City of Malibu, the Malibu Trails Council, and the applicant, to discuss this relocation. All of the parties were supportive of the proposal, and the applicant has submitted approvals in concept for the creation of the trail within the proposed easement. As the construction and relocation of the trail will enhance the public's ability to access and utilize this trail, there are no impacts to access posed by the development, and no new or increased visual impacts associated with the construction of the trail.

### **B. Public Access**

The Coastal Act mandates the provision of maximum public access and recreational opportunities along the coast. The Coastal Act contains several policies that address these priorities.

Coastal Act Section 30210 states that:

***In carrying out the requirement of 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 and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.***

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.***

Finally, 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.***

The applicant, under CDP 5-90-327, was required, as a condition of approval of the permit, to offer to dedicate a series of easements across the subject property for the purposes of pedestrian and equestrian public access as described in Exhibit 4 (Special Condition 2).

The applicant currently proposes the realignment of the existing equestrian trail easement located on the eastern portion of the subdivision in order to locate the entrance to the trail directly off of Morning View Drive (Exhibits 2-3). Current access to this portion of trail requires individuals to utilize the lower portion of Seastar Drive in order to reach the trail entrance. This results in a potential mixing of vehicular traffic with the equestrian and pedestrian traffic of the trail and requires individuals to pass through the entrance of the subdivision on the street. The realignment of the proposed portions of the existing dedicated trail easement will result in improved access and connectivity with the other existing trails in the area, and will simplify the entrance to the portion of the trail easements which run along the eastern boundary of the subdivision (Zuma Ridge Trail). This relocation will also create a physical separation between the vehicular traffic of the subdivision and the pedestrians and equestrians who will be utilizing the trail, resulting in an increased level of safety for the public on the trail and at the head of the trail (Exhibits 2 and 3).

The relocation of portions of the trail will require that the recordation of a revised offer of dedication which reflects the new trail realignment. Therefore, as conditioned to record the changes in location of the trail easements, as shown in Exhibits 3 and 5, and pursuant to the language as revised in **Special Condition 2**, the project is consistent with the previous Commission actions and with the applicable access policies of the Coastal Act.

The applicant, under the current amendment proposal, is also proposing construction of the portion of trail, known as the Zuma Ridge Trail, which runs from Morning View Drive (as realigned) along the entire length of eastern boundary of the subdivision. This will result in the creation of a trail that is five feet wide and approximately 1400 feet long within the trail easement. Upon completion of the trail, the City of Malibu has agreed to accept the existing trail dedication, and the responsibility for the maintenance and liability of the trail easement, thereby opening it for public access (Exhibit 6). The trail easement, as restricted by the offer of dedication recorded pursuant to CDP 5-90-327 cannot be opened for public access until a public agency or private association approved by the Executive Director agrees to accept responsibility for the maintenance and liability associated with the trail easements. The proposal for construction of the trail by the applicant alleviates the fiscal burden of constructing the trail from the City of Malibu, and will allow them to take over a trail easement that is already in suitable condition for opening public access.

Therefore, the Commission finds that the realignment and construction of the equestrian trail are consistent with Sections 30210, 30251, and 30253 of the Coastal Act, and the previous Commission actions on the site.



**C. Geology 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 involves, in part, the construction of an equestrian trail within an existing 20 foot wide trail easement (Exhibit 5). The construction of this trail will require a total of 800 cu. yds. of grading (125 cu. yds. of cut, and 675 cu. yds. of fill). Additionally, a portion of this trail, across lots 14 and 15, will utilize a maximum 4 foot high retaining wall along the western portion of the trail in order to support the slope (Exhibits 3, 5)

The project will not increase the amount of impervious coverage on-site, however, it will involve graded slopes, and the potential stockpiling of soil, which may result in an increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, runoff may result in increased erosion, affect site stability, and impact downslope water quality. Interim erosion control measures, as required by **Special Condition 11**, and implemented during construction, will minimize short-term erosion and enhance site stability. In order to ensure stability of the retaining wall, and that the grading for the construction of the trail is completed in a manner which is most protective of coastal resources, the Commission finds it necessary to require the applicant, through **Special Condition 12** to submit final grading and drainage plans for review and approval by the Executive Director which incorporate all recommendations of the consulting geologist regarding grading, drainage, and erosion control.

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, and graded areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition 11**.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Sections 30250(a) and 30253 of the Coastal Act.

#### **D. Local Coastal Program**

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

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. Thus, the proposed amendment, as conditioned, will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

Therefore, the Commission finds that approval of the proposed amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for the Malibu/Santa Monica Mountains area, is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

#### **E. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit Amendment application to be supported by a finding showing the application 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 effects which the activity would have on the environment.

The proposed project, as conditioned, would not cause significant, adverse environmental effects. Therefore, the proposed amendment is found consistent with CEQA and with the policies of the Coastal Act.

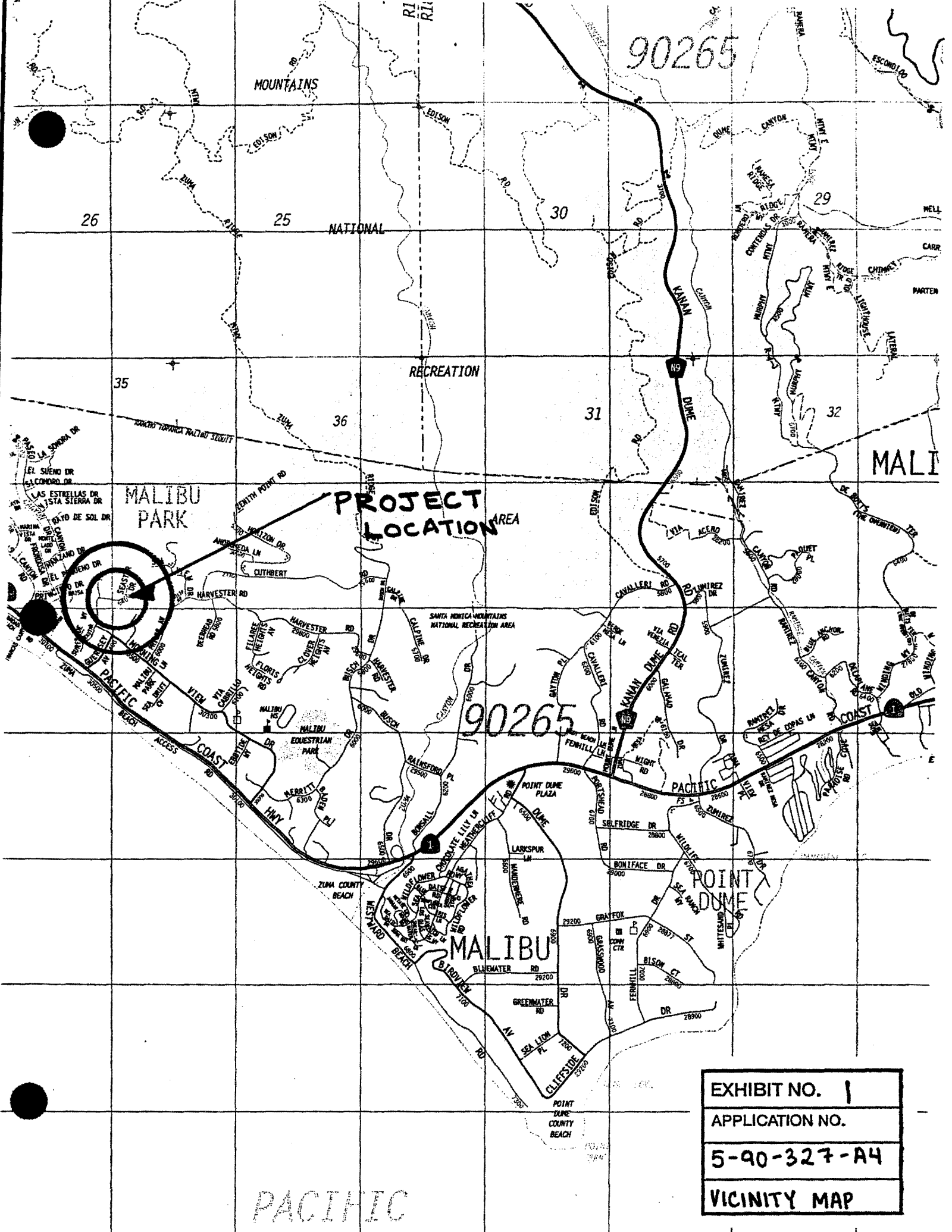


EXHIBIT NO. 1
APPLICATION NO.
5-90-327-A4
VICINITY MAP

PACIFIC

4469

47

SCALE 1" = 200'  
TRA 10853  
P.A. 4469-42

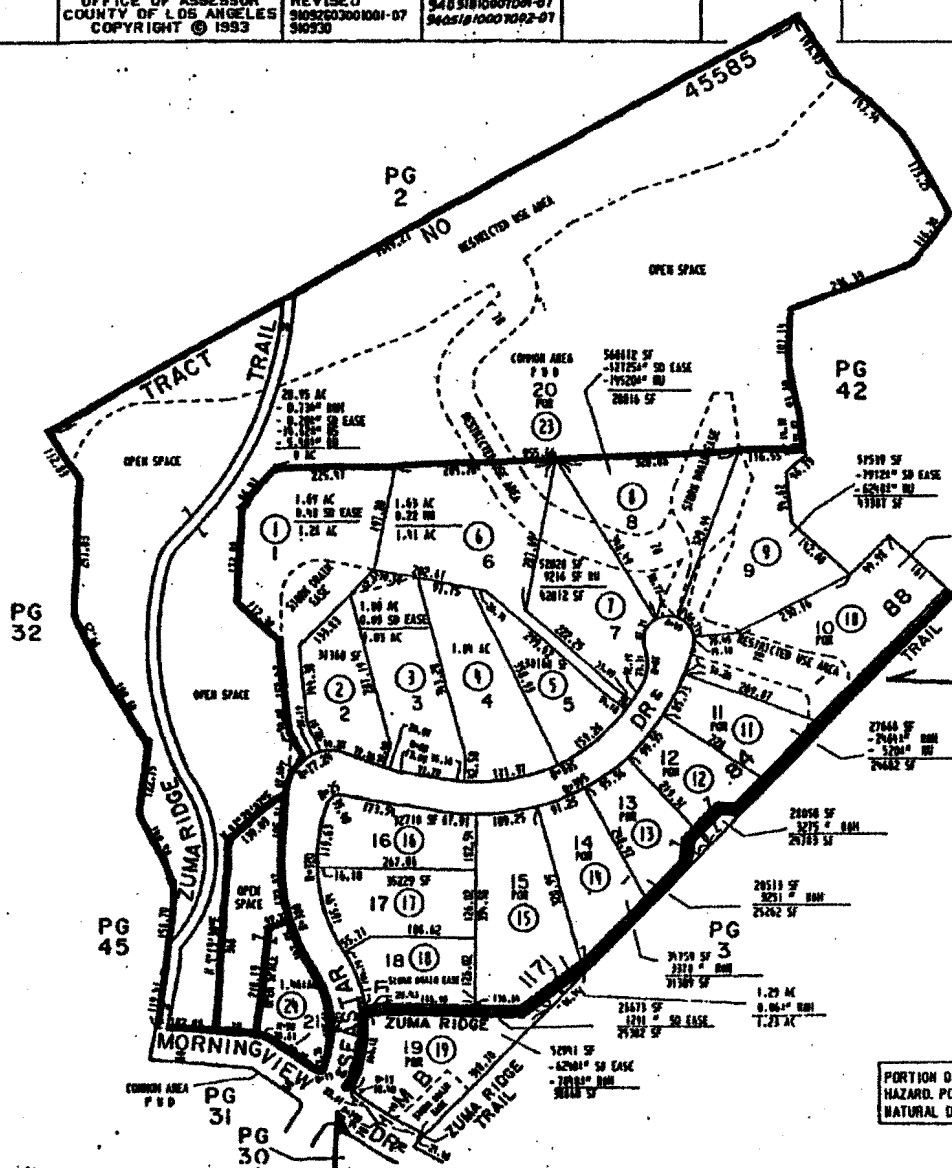
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OFFICE OF ASSESSOR  
COUNTY OF LOS ANGELES  
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1995



existing trail configuration & location

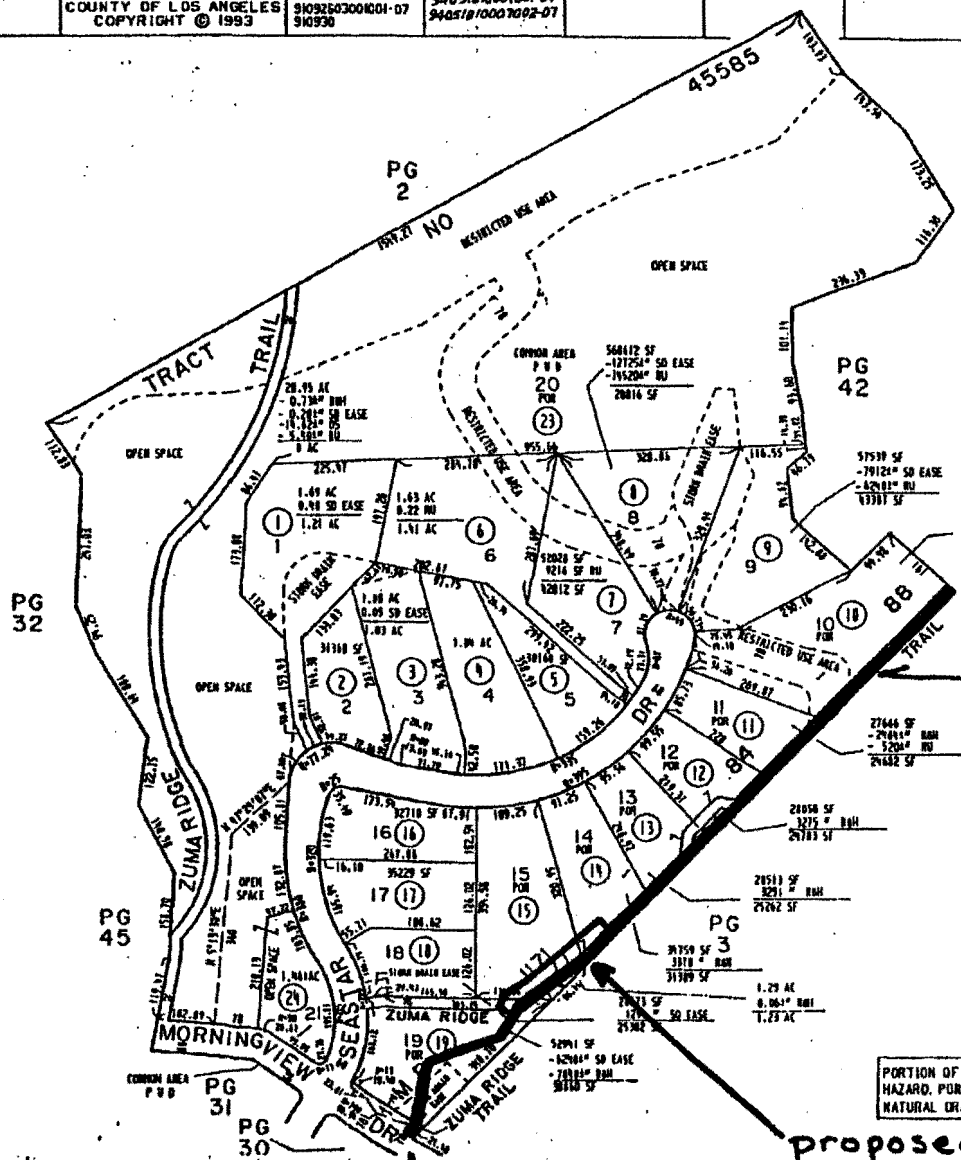
note: current access requires trail users to utilize Seastar Drive.

PORTION OF LOT 20 & 6 TO 11 ARE SUBJECT TO GEOLOGICAL HAZARD. PORTIONS OF LOT 20 IN AND ADJACENT TO THE NATURAL DRAINAGE COURSES ARE SUBJ

EXHIBIT NO. 2
APPLICATION NO.
5-90-327-A4
PARCEL MAP & EXISTING TRAIL

TRW REDI Property Data: Los Angeles, CA 1993-94 - Map: 4469-047

1995



proposed trail configuration & location

proposed retaining wall

note:  
proposed entry/access is directly to Morning View Drive.

PORTION OF LOT 20 & 6 TO 11 ARE SUBJECT TO GEOLOGICAL HAZARD. PORTIONS OF LOT 20 IN AND ADJACENT TO THE NATURAL DRAINAGE COURSES ARE SUBJECT TO FLOODING.

EXHIBIT NO. 3
APPLICATION NO.
5-90-327-A4
PROPOSED TRAIL REALIGNMENT.

## CALIFORNIA COASTAL COMMISSION

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

Page 1 of  
Date: March 11, 1991  
Permit No. 5-90-327

COASTAL DEVELOPMENT PERMIT

On May 10, 1990, the California Coastal Commission granted to

JAVID DEVELOPMENT

this permit subject to the attached Standard and Special conditions, for development consisting of:

Subdivision of a 45 acre parcel into 19 residential lots and one open space lot and construction of streets, septic systems, utilities, storm drain improvements and 80,500 cubic yards of grading (41,500 cut and 39,000 fill).

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 30631 Morning View Drive, Malibu.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS  
Executive Director

By: 

Title: Staff Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

**IMPORTANT:** THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date \_\_\_\_\_

Signature of Permittee \_\_\_\_\_

EXHIBIT NO. <u>4</u>
APPLICATION NO.
<u>5-90-327-A4</u>
EXISTING CONDITIONS

COASTAL DEVELOPMENT PERMIT

Page 2 of 6  
Permit No. 5-90-327

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXHIBIT NO. <b>4</b>
APPLICATION NO.
<b>5-90-327-A4</b>
EXISTING CONDITIONS

III. Special Conditions.

1. Cumulative Impact Mitigation.

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on eighteen (18) building sites in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- a) one of the five lot retirement or lot purchase programs contained in the Malibu/Santa Monica Mountains Land Use Plan (Policy 272, 2-6);
- b) a TDC-type transaction, consistent with past Commission actions;
- c) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

2. Trail Dedication.

Prior to issuance of permit, the applicant shall submit an irrevocable offer to dedicate a twenty-foot wide public access trail easements along the eastern portion of the site along the back portions of lot 10 thru 15 then along the northern portion of lot 19 to Street "A" (Zuma Canyon trail), a ten-foot wide easement south along Street "A" to Morning View Drive and then west along Morning View Drive, a twenty-foot wide easement north along the western boundary of the site and then along a portion of the northern boundary of the site (Chumash trail). The irrevocable offer shall be of a form and content approved by the Executive Director, free of prior encumbrances except for tax liens, providing the public the right to pass and repass over the noted route limited to hiking and equestrian uses only. The present public use of the existing trails shall not be interfered with until the trails have been relocated and improved. The dedicated trail easement shall not be open for public hiking and equestrian usage until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the trail easement. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

EXHIBIT NO. 4
APPLICATION NO.
5-90-327-A4
EXISTING CONDITIONS



### 3. Easement for Locating Drain on Adjacent Property

Prior to issuance the applicant shall submit a recorded agreement (drainage easement) from the adjacent property owner showing that an easement has been granted to the applicant for the purpose of extending the subsurface drain and energy dissipator onto the property.

### 4. Landscaping and Erosion Control Plan

Prior to issuance of permit, the applicant shall submit landscaping and fuel modification plans prepared by a licensed architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated November 23, 1988. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within 90 days and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils including all existing graded roads and pads;
- (c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

### 5. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Report prepared by California Geo/Systems, INC. (8/17/87) regarding the proposed development shall be incorporated into all final design and construction including

EXHIBIT #4

grading, sewage disposal, and drainage. All plans must be reviewed and approved by the consultant. Prior to transmittal of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans. The geologic restricted use area shall be delineated and recorded on the final parcel map.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

#### 6. Archeological Resources.

Prior to issuance of the permit, the applicant shall agree in writing that a qualified archaeologist and an authorized representative of the Native American Heritage Commission shall be present on-site during all grading and that should archaeological (or paleontological) resources be discovered, all activity which could damage or destroy these resources shall be temporarily suspended until the site has been examined by a qualified archaeologist (or paleontologist) and mitigation measures have been developed and implemented to address the impacts of the project on archaeological (or paleontological) resources. Such mitigation measures shall be reviewed and approved by the State Office of Historic Preservation prior to implementation and resumption of development. Any change to the proposed project required by the mitigation measures shall be reported in writing to the Executive Director to determine whether an amendment to the permit is required.

#### 7. Revised Grading Plans

Prior to issuance of permit the applicant shall submit a revised Tract Map and grading plan approved by the County of Los Angeles consistent with the final proposed grading (as shown in the revised grading plan submitted to this office on 4/19/90) indicating no more than 69,500 cubic yards of total grading and no graded building pads.

#### 8. Open Space Dedication

Prior to transmittal of the coastal development permit, the applicant as landowner shall execute and record a document, in a form and content acceptable to the Executive Director, which irrevocably offers to dedicate to a public agency or private association acceptable to the Executive Director, an easement for open space, view preservation and habitat protection. Such easement shall be located on the northern and western portions of the subdivision and include all of lot 20 including the "Restricted Use Area".

(see Exhibit). The easement shall restrict the applicant from grading, landscaping (other than required by this permit), vegetation removal or placement of structures within the easement area. The easement shall not restrict the future development of a trail for hiking and equestrian use. The offer shall be recorded free of prior liens and encumbrances except for tax liens which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of twenty one (21) years, such period running from the date of recording.

EXHIBIT #4

9. Future Grading for Single-family Development

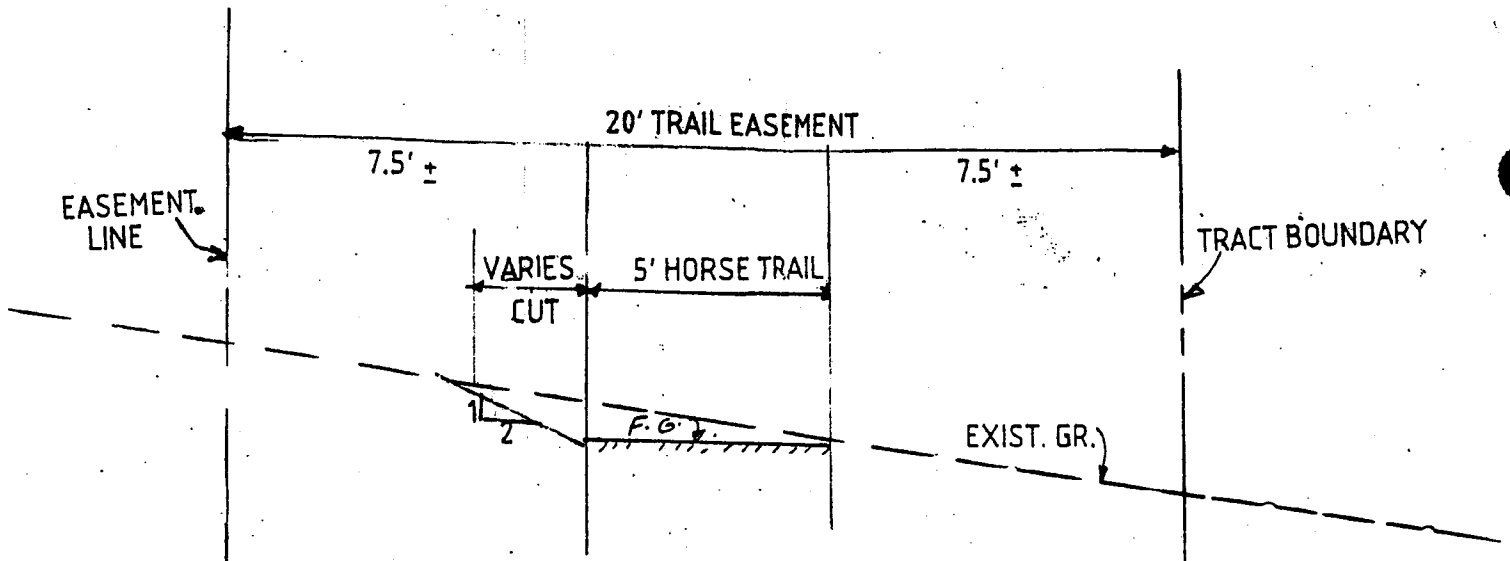
Prior to issuance of the permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that the development of single-family residences shall conform to the natural contours of the site and grading for the development of the single-family residences shall be limited to the minimum amount necessary for driveway access. The document shall further stipulate that no grading for tennis courts, pools or other ancillary uses which require level pads shall be permitted.

10. Recreational Lot

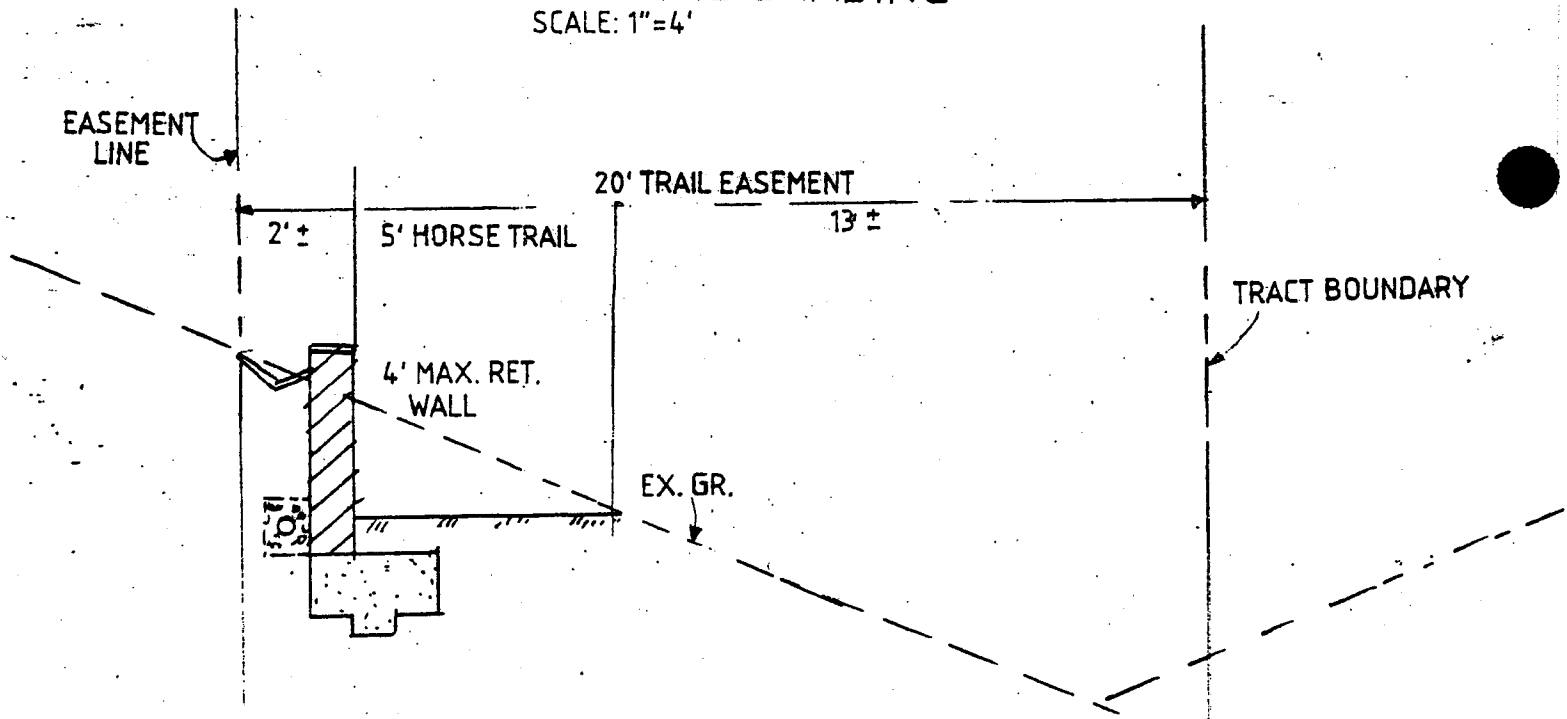
Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director a deed restriction for recording free of prior liens, except for tax liens, and free of prior encumbrances, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide that lot 20, as shown on the Tentative Tract Map No. 45585, shall be restricted for use as a low intensity community center/recreational lot, which minimizes grading and landform alteration, for use by members of the homeowners' association. Such uses include, but are not limited to, swimming pool and tennis court.

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EXHIBIT NO. 4
APPLICATION NO.
5-90-327-A4
EXISTING CONDITIONS



SECTION "A-A"  
 TYPICAL TRAIL GRADING  
 SCALE: 1"=4'



SECTION "B-B"  
 TYPICAL TRAIL GRADING  
 SCALE: 1"=4'

EXHIBIT NO. 5
APPLICATION NO.
5-90-327-A4
TRAIL CROSS-SECTIONS

**AGREEMENT**

THIS AGREEMENT, is made and entered into on January \_\_\_\_, 2002, by and between the CITY OF MALIBU, State of California, acting by its City Council, hereinafter called the CITY, and DIVA PARTNERS, L.P., a California Limited Partnership, at 26922 Deer Hill Court, Calabasas, CA 91301, the owner/developer of Tract No. 45585 (known as Seastar Estates) in the City of Malibu, hereinafter called the SUBDIVIDER.

**WITNESSETH:**

**FIRST:** The SUBDIVIDER has requested that the alignment of the existing trail easement over Tract No. 45585 be revised to connect to Morning View Drive (a public street) instead of Seastar Drive (a private street) as specifically shown on attached Exhibit "A," attached hereto.

**SECOND:** The existing trail easement is presently unimproved with a large portion of the easement located within a natural water course and is considered not useable for hiking or equestrian purposes.

**THIRD:** The SUBDIVIDER has offered to construct the necessary grading and drainage improvements to complete the trail to a condition acceptable for public use in exchange for the City's approval of the proposed easement realignment. The grading and drainage plan has been granted "approval in concept" by the City's Planning Department and the SUBDIVIDER has submitted the proposed trail improvement project to the Coastal Commission for a Coastal Development Permit.

**FOURTH:** The CITY has determined that the realignment as proposed is acceptable and that the new alignment improves public accessibility by its connection to a public street.

**FIFTH:** The CITY hereby agrees to the proposed realignment of the easement in exchange for said trail improvements.

**SIXTH:** The SUBDIVIDER agrees to obtain all necessary permits and pay all necessary permit fees for construction of the proposed trail improvements and to construct said improvements and the CITY agrees to execute necessary Quitclaim Deed(s) of the existing easement, in the form attached as Exhibit "B", and Acceptance of New Easement Deed(s), in the form attached as Exhibit "C", upon completion and CITY acceptance of new trail improvements.

**SEVENTH:** If the SUBDIVIDER neglects, refuses, or fails to prosecute the work with such diligence as to assure completion of improvements within 24-months of the signing of this AGREEMENT, then the SUBDIVIDER shall be considered in default of this AGREEMENT and the CITY may, at its discretion, determine not to approve the proposed changes to the Trail Easement.

**EIGHTH:** It is further agreed by and between the parties hereto that this contract firmly binds the parties, their heirs, executors, administrators, successors or assigns, jointly and severally.

IN WITNESS there by, the SUBDIVIDER and the CITY sign below. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign.

CITY:

Signed: \_\_\_\_\_ dated: \_\_\_\_\_ 2002  
 Katie Lichtig, Acting City Manager

SUBDIVIDER:

DIVA PARTNERS, L.P., a California Limited Partnership  
 By: JAVID DEVELOPMENT, General Partner

Signed: \_\_\_\_\_ dated: \_\_\_\_\_ 2002

Saled (Timmy Jeric)  
 Vice President

K:\Engineering\Agenda Items\Javid trail easement agenda.wpd

Agreement No.2002-01-4

EXHIBIT NO. 6
APPLICATION NO.
5-90-327-A4
Agreement with City of Malibu

