

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



ADDENDUM

DATE: January 7, 2008
TO: Commissioners and Interested Parties
FROM: South Central District Staff
SUBJECT: Agenda Item **W 7c**
Application No. **4-07-025 (Kinslow)**

The purpose of this addendum is to attach correspondence addressed to the Commission and received on January 4, 2008 from the attorney for Dr. and Mrs. Anthony Ciervo, the owners of the single-family residence at 24564 Piuma Road, adjacent to the subject property at 330 Costa Del Sol Way. Additionally, this addendum revises a portion of the project description, staff's recommendation for Special Condition 3.A, and staff's recommendation for the Commission's visual resources findings, to provide greater clarification regarding the removal of the unpermitted fencing and solar panel array.

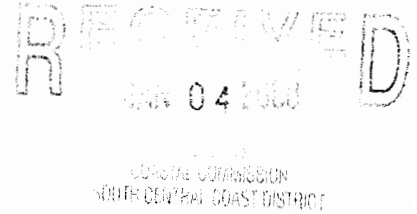
Note: ~~Strikethrough~~ indicates text to be deleted from the December 21, 2007 staff report and underline indicates text to be added to the December 21, 2007 staff report.

- 1) A letter written on behalf of Dr. and Mrs. Anthony Ciervo and attached hereto asserts that one of the proposed conditions requires the removal of a perimeter fence and solar panel array. The letter goes on to state that the Ciervos object to "these conditions." However, the assumption that the proposed permit conditions require the removal of these structures is incorrect. While the approval of this permit application will *authorize* the removal of the fencing and solar panel array, even as conditioned by staff's proposed special conditions, it would not require that these structures be removed. Special Condition 3.A.1 has been included to require that, should the removal of the solar panel array and fencing occur, the area impacted by these structures shall be restored and revegetated with native plant species. No conditions will be included in the permit requiring the removal of these two structures.
- 2) In order to clarify this issue, staff modifies its recommendation by adopting the following revisions to the staff report:
 - a) **Page 12, Project Description (to be inserted as the second to last paragraph of this section):** Although the removal of the solar array and fencing is part of the project description, from the Commission's perspective, it is not integral to the Commission's approval of the construction of the house in that it is not necessary to make the house approvable. Thus, this aspect of the proposal is severable and may be completed or not, without affecting the remainder of the approval. This coastal development permit will not resolve the outstanding issue of the unpermitted structures on the subject property. The Commission's enforcement

division may evaluate further actions to address this matter. The property owners of the single-family residence at 24564 Piuma Road have asserted that they hold an easement over the subject property for the construction and maintenance of the fence and solar panels, but they have presented no documentation of any such easement. The Commission takes no position on the ownership of the fencing or solar panel array or on whether this permit provides the applicant with all necessary legal authority for the removal of those structures. This permit provides *Coastal Act* authority for such removal, on the basis that the removal is consistent with the policies in Chapter 3 of the Coastal Act. The applicant is responsible for determining whether she needs any additional approvals, including the neighbor's approval if the neighbor claims a property interest in the subject items and/or the relevant portion of the subject real property.

- b) **Page 5, Special Condition 3.A.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. The area where the existing solar panel array and fencing are located on the southwestern portion of the parcel shall be restored and revegetated with native plant species within thirty (30) days after removal of the solar panel array and fencing occurs, if and when such removal occurs. To minimize the need for irrigation all landscaping and revegetation shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society Santa Monica Mountains Chapter, in their documents entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
- c) **Page 20, Visual Resources Findings:** Further, in order to further minimize impacts to sensitive visual resources, **Special Condition Three (3)** requires that the landscape plan be designed with vertical elements to partially screen and soften the visual impact of the structure with trees and shrubs as viewed from Piuma Road and the Saddle Peak Trail. Visual impacts can be further reduced by the use of appropriate and adequate landscaping. Therefore, **Special Condition Three (3)** requires the applicant to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of Special Condition Three (3) will soften the visual impact of the development from public view areas. To ensure that the final approved landscaping plans are successfully implemented, Special Condition Three (3) also requires the applicant to revegetate all disturbed areas in a timely manner, including the portion of the site where the applicant is proposing to remove the unpermitted solar array and fencing, assuming the applicant does remove those structures, and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

LAW OFFICES OF
GARFIELD & TEPPER
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS
1801 CENTURY PARK EAST, SUITE 2300
LOS ANGELES, CALIFORNIA 90067-2325
TELEPHONE: (310) 277-1981
FAX: (310) 277-1980



January 3, 2008

VIA FEDERAL EXPRESS

California Coastal Commission
South Central Coast District
89 South California Street, Suite 200
Ventura, California 93001

Re: Permit No. 4-07-025; 330 Costa del Sol Way, Malibu

Dear Commission:

We represent Dr. & Mrs. Anthony Ciervo, who own the single family residence at 24564 Piuma Road, Malibu. Earlier this week Dr. & Mrs. Ciervo returned from vacation and received a notice of a public hearing relating to the permit application above.

We write because one of the conditions of the permit is the removal of an as-built 174-linear feet perimeter fence and a 408 square-foot solar panel array on the property. We object to these conditions of the permit since Yong Chow Kinslow, owner of the proposed development, does not own the fence or the solar panel array. Rather, Dr. & Mrs. Ciervo have an easement over Ms. Kinslow's property which includes the right to construct and maintain the fence and solar panels. The solar panels were first installed in 1982 in connection with the original development of the property. The solar panels were included in the permit granted by Los Angeles County for the construction including the swimming pool which the solar panels serve.

To the extent that the Ciervos might need to obtain a retroactive permit from the Commission, it should be noted that the solar panels cannot be seen from any street or path, nor from the Kinslow property's proposed development as a result of the topography where the panels are placed. (By virtue of the topography and the surrounding vegetation, the solar panels are also situated in the only location on the

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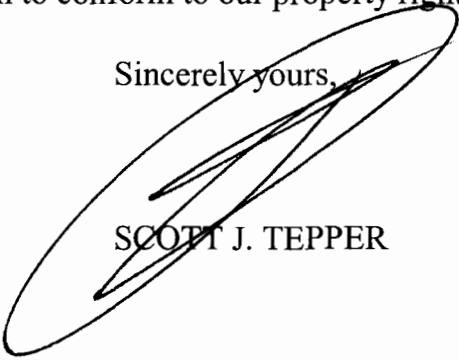
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Page 2

properties that is reasonably suitable.) And, as you will understand, the solar panels are the most environmentally sensitive method for heating the Ciervo swimming pool.

Since Ms. Kinslow does not have a right to remove the fence or solar panels, we therefore object to this condition of the permit and request that the applicant be required to modify the permit application to conform to our property rights.

Sincerely yours,



SCOTT J. TEPPER

cc: Dr. & Mrs. Ciervo.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

Filed: 8/15/07
180th Day: 2/11/08
Staff: Jenn Feinberg
Staff Report: 12/21/07
Hearing Date: 1/9/07



W7c

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-07-025

APPLICANT: Yong Kinslow

PROJECT LOCATION: 330 Costa Del Sol Way, Unincorporated area of the Santa Monica Mountains north of Malibu (Los Angeles County; Assessor's Parcel Number 4453-002-072)

PROJECT DESCRIPTION: The applicant proposes to construct a 3,215-square-foot, two story, 27-foot-high single family residence with a 380-square-foot attached garage, septic system, driveway, auto court, landscaping, pool, retaining walls, and 710 cu. yds. of grading (690 cu. yds cut, 20 cu. yds fill). Additionally, the application includes the removal of an as-built 174-linear-ft. of perimeter fence and a 408-square-foot solar panel array on the southwestern portion of the property.

Lot area:	2.13 acres
Building coverage:	2,280 sq. ft.
Pavement coverage:	3,684 sq. ft.
Landscape coverage:	20,000 sq. ft.
Height:	27 ft.
Parking spaces:	4

LOCAL APPROVALS RECEIVED: County of Los Angeles Fire Department Preliminary Fuel Modification Plan Approval, August 2, 2006; County of Los Angeles Regional Planning Approval in Concept, September 21, 2006; County of Los Angeles Department of Public Works Geotechnical and Materials Engineering Approvals; August 16 and 17, 2006, Los Angeles County Department of Health Services, Sewage Disposal System Design Approval, January 22, 2007; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, February 8, 2007

SUBSTANTIVE FILE DOCUMENTS: "Hydrology/Hydraulic Study, Kinslow Residence, Costa Del Sol Way, Malibu, CA," Robert Newton Design, Inc., May 21, 2007; "Biological Resource Evaluation, Costa Del Sol Way Property (APN 4453-002-072)," Compliance Biology, May 7, 2007; "Limited Engineering Geologic Report, Evaluation of Percolation

Test Holes P-11 and P-12, APN 4453-002-072, Costa Del Sol,” SubSurface Designs Inc., August 28, 2006; “Proposed On-site Wastewater Treatment System, APN 4453-002-072, Costa Del Sol,” SubSurface Designs Inc., October 24, 2006; “Updated Geologic and Soils Engineering Investigation, Proposed Residence, Southwest Corner of Piuma Road and Costa Del Sol Way, APN 4453-002-072, County of Los Angeles,” Rybak Geotechnical, Inc., June 12, 2006; and County of Los Angeles Certificate of Compliance No. CC2347, issued on November 20, 1979 (recorder’s number 79-1309548) based on Certificate of Exemption No. CC12338 issued October 22, 1970.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project with **Twelve (12) CONDITIONS** regarding (1) plans conforming to geologic recommendation, (2) drainage and polluted runoff control plans, (3) landscaping and erosion control, (4) assumption of risk, (5) structural appearance, (6) lighting, (7) removal of excess excavated material, (8) removal of natural vegetation, (9) future development restriction, (10) deed restriction, (11) pool and spa drainage and maintenance, and (12) condition compliance.

The applicant proposes to construct a 3,215-square-foot, two story, 27-foot-high single family residence with a 380-square-foot attached garage, septic system, driveway, auto court, landscaping, pool, retaining walls, and 710 cu. yds. of grading (690 cu. yds cut, 20 cu. yds fill). Additionally, the application includes the removal of an as-built 174-linear-ft. perimeter fence and a 408-square-foot solar panel array on the southwestern portion of the property.

The project site is a mostly vacant 2.13-acre parcel (APN 4453-002-072) located at 330 Costa Del Sol Way, on the western side of Costa Del Sol Way and south of Piuma Road, in the Santa Monica Mountains area of western Los Angeles County. The area surrounding the parcel is primarily developed with low density single family residences. While the subject parcel supports predominantly mixed chaparral vegetation, this vegetation is not considered to be environmentally sensitive habitat area (ESHA), as the subject site is surrounded by other residentially developed parcels and is, thus, not part of a large, contiguous block of relatively pristine native vegetation. Therefore, due to its location, the proposed development will not result in any loss of ESHA from either the construction of the residence or from any associated fuel modification requirements.

In addition, a portion of the Saddle Peak Trail is located to the south and east of the subject property. However, the Saddle Peak Trail does not cross any portion of the subject site and the proposed development will not result in any adverse impacts to public access.

The subject parcel is relatively undisturbed with the exception of an existing unimproved dirt road and building pad on the northeastern portion of the site where the new residence and driveway are proposed. The existing pad and access road both predate the effective date of the Coastal Act of 1976. Some vegetation clearance has previously occurred along the eastern and southern portions of the property as a result

of the required fuel modification zones for the two existing residences on the neighboring parcels to the east and south. In addition, an approximately 80-foot-long segment of an existing paved driveway crosses the southeastern portion of the site and provides access to an existing residence located on the neighboring property to the south. Further, a 174-linear-foot fence and a 408-square-foot solar panel array were installed on the southwestern portion of the subject site, allegedly by the neighbor, without the required coastal development permit. The applicant is proposing to remove the unpermitted fencing and solar array as part of this application.

The standard of review for the proposed permit application is the Chapter Three policies of the Coastal Act. As conditioned by the conditions proposed below, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

STAFF RECOMMENDATION:

I. Approval with Conditions

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-07-025 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 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. Plans Conforming to Geologic Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the following reports: (1) "Updated Geologic and Soils Engineering Investigation, Proposed Residence, Southwest Corner of Piuma Road and Costa Del Sol Way, APN 4453-002-072, County of Los Angeles," Rybak Geotechnical, Inc., June 12, 2006; (2) "Limited Engineering Geologic Report, Evaluation of Percolation Test Holes P-11 and P-12, APN 4453-002-072, Costa Del Sol," SubSurface Designs Inc., August 28, 2006; and (3) "Proposed On-site Wastewater Treatment System, APN 4453-002-072, Costa Del Sol," SubSurface Designs Inc., October 24, 2006. These recommendations, including recommendations concerning foundations, construction, retaining walls, grading, septic system, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

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 that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Drainage and Polluted Runoff Control Plans

A. By acceptance of this permit, the applicant agrees to implement the final drainage and runoff control plans submitted with the permit application entitled "Grading and Drainage

Plan, Kinslow Residence,” dated August 3, 2007 and prepared by Robert Newlon Design, Inc., based on supporting calculations detailed in the report entitled “Hydrology/Hydraulic Study, Kinslow Residence, Costa Del Sol Way, Malibu, California,” dated May 21, 2007 and prepared by Robert Newlon Designs, Inc. The plan has been prepared by a licensed engineer and incorporates structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site

B. The permittee shall undertake development in accordance with the approved final plans listed above in Special Condition 2A. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Landscaping and Erosion Control Plans

Prior to issuance of a Coastal Development Permit, the applicant shall submit final 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 plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping and erosion control plans:

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. The area where the existing solar panel array and fencing are located on the southwestern portion of the parcel shall be restored and revegetated with native plant species within thirty (30) days after removal of the solar panel array and fencing occurs. To minimize the need for irrigation all landscaping and revegetation 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. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting shall be primarily of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such

planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

- 3) 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;
- 4) Vegetation within 30 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 thirty 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.
- 5) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- 6) Vertical landscape elements shall be planted around the proposed residence to soften views of the development from Piuma Road. All landscape elements shall be native/drought resistant plants

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 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.

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.

C) Monitoring.

- (1) 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 whether 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.
- (2) 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. The applicant, or successors in interest, shall implement the approved version of the revised or supplemental landscape plan.

4. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire; (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

5. Structural Appearance

By acceptance of this permit, the applicant agrees to utilize the color palette and material specifications for the outer surface of all structures provided as part of the permit application in a letter, dated July 3, 2007. Acceptable colors are limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored and constructed with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit No. 4-07-025 if such changes are specifically authorized by the Executive Director as complying with this special condition.

6. Lighting Restriction

- A. The only outdoor night lighting allowed on the subject parcel is limited to the following:
1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or fewer lumens than the amount generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
 2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or fewer lumens than the amount generated by a 60 watt incandescent bulb.
 3. The minimum necessary to light the entry area to the driveway with the same or fewer lumens than the amount generated by a 60 watt incandescent bulb.

- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

7. 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 excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

8. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to Coastal Development Permit 4-07-025.

9. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. 4-07-025. 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 any future development on any portion of the parcel. Accordingly, any future improvements to any portion of the property, including but not limited to the residence, garage, water tank, septic system, landscaping, and removal of vegetation or grading other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition Three (3), shall require an amendment to Coastal Development Permit No. 4-07-025 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

10. Deed Restriction

Prior to issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the

Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

11. Pool and Spa Drainage and Maintenance

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

12. Condition Compliance

Within 180 days of Commission action on this coastal development permit application or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Failure to comply with deadlines to submit the landscape monitoring reports, or any other requirements and conditions of this permit, will result in a violation of the subject permit and may result in the commencement of enforcement proceedings, including potential judicial action and administrative orders, as well as the recordation of a notice of violation in the chain of title for the property pursuant to Section 30812 of the Coastal Act.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 3,215-square-foot, two story, 27-foot-high single family residence with a 380-square-foot attached garage, septic system, driveway, auto court, landscaping, pool, retaining walls, and 710 cu. yds. of grading (690 cu. yds cut, 20 cu. yds fill). Additionally, the application includes the removal of an as-built 174-linear-ft. perimeter fence and a 408-square-foot solar panel array, on the southwestern portion of the property (**Exhibits 4-9**).

The project site is a primarily vacant 2.13-acre parcel (APN 4453-002-072) located at 330 Costa Del Sol Way, on the western side of Costa Del Sol Way and south of Piuma Road, in the Santa Monica Mountains area in western Los Angeles County (**Exhibits 1 and 2**). The property straddles a northeast-southwest trending ridgeline that extends from the southwest portion of the property to the northeast corner. The existing flat building pad where the residence is proposed is located below the ridgeline on a slope that descends in a southeasterly direction to Costa del Sol Way at an approximate gradient of 1:1 to 1.5:1 (H:V, Horizontal:Vertical). Steep slopes on the northern portion of the site descend from the ridgeline in a northwesterly direction to Piuma Road at an approximate gradient of $\frac{3}{4}$:1 to $1\frac{1}{2}$:1 (H:V). An east-west trending swale is present southeast of the ridgeline on the southern portion of the property and collects drainage from the slopes on this side of the ridgeline. Site drainage northwest of the ridgeline is generally by sheetflow runoff across existing contours towards Piuma Road.

The areas surrounding the subject parcel are developed with low density single family residences. While the subject parcel supports predominantly mixed chaparral vegetation, the location of this vegetation does not constitute an environmentally sensitive habitat area (ESHA), as the subject property is surrounded by development in all directions and is not part of a large, contiguous block of native vegetation. A portion of the Saddle Peak Trail is located to the south and east of the subject property. However, the Saddle Peak Trail does not cross any portion of the subject site and the proposed development will not result in any adverse impacts to public access.

Although, the subject parcel is vacant, existing development is located on the site including an unimproved dirt road and building pad on the northeastern portion of the site (where the proposed residence and driveway are proposed) which were constructed prior to the effective date of the California Coastal Act of 1976. In addition, an approximately 80-linear-ft. segment of an existing paved driveway crosses the southeastern corner of the subject site and provides access to an existing residence on the neighboring property at 333 Costa Del Sol Way. The existing residence at 333 Costa Del Sol Way was constructed in 1979 pursuant to the Commission's approval of Coastal Development Permit P-79-4708. In addition, vegetation clearance has also occurred on the western, eastern, and southern portions of the property as a result of the required fuel modification zones for existing adjacent residences and for the adjacent roadways. Further, unpermitted development has occurred without the required coastal development permit in the southwestern portion of the parcel including 174 linear ft. of fencing and a 480-sq.-ft. solar panel array, allegedly placed by a neighboring property owner. The applicant is proposing to remove the unpermitted fence and solar panel array on the subject parcel as part of this application.

Based on the review of historic aerial photographs by staff, it appears that the as-built 480-sq.-ft. solar panel array and approximately 174 linear ft. of fencing was constructed on the subject parcel between 1994 and 2001. The applicant asserts that this development was constructed on the subject parcel by the owners of the existing single-family residence on the property immediately west of the subject site at 24564 Piuma

Road (APN 4453-002-074) without the permission of the property owner. Commission staff has confirmed that although the residence on the adjacent parcel to the west at 24564 Piuma Road was approved through Coastal Development Permit P-77-318, the fencing and solar panel array were constructed on the applicant's site without the required coastal development permit. In order to resolve the unpermitted development on this portion of the property, the applicant is proposing to remove the fence and the solar panel array and restore and revegetate the approximately 4,500 sq. ft. area to native chaparral habitat consistent with any required fuel modification requirements.

The subject 2.13-acre parcel was created by a Certificate of Exception issued by the County of Los Angeles on October 22, 1970 (**Exhibit 3**). Therefore, the subject parcel was created in compliance with all applicable laws at the time of creation prior to the effective date of the Coastal Act of 1976 and is, therefore, considered a legal lot.

B. Geologic and Wildfire Hazard

The proposed development is located in the Santa Monica Mountains, 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. Wildfires 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.*

Geology

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. The applicant has submitted the following reports for the proposed development: "Hydrology/Hydraulic Study, Kinslow Residence, Costa Del Sol Way, Malibu, CA," prepared by Robert Newton Design, Inc. on May 21, 2007; "Limited Engineering Geologic Report, Evaluation of Percolation Test Holes P-11 and P-12, APN 4453-002-072, Costa Del Sol," prepared by SubSurface Designs Inc. on August 28, 2006; "Proposed On-site Wastewater Treatment System, APN 4453-002-072, Costa Del Sol," prepared by SubSurface Designs Inc. on October 24, 2006; and "Updated Geologic and Soils Engineering Investigation, Proposed Residence, Southwest Corner of Piuma Road and Costa Del Sol Way, APN 4453-002-072, County of Los Angeles," prepared by Rybak

Geotechnical, Inc. on June 12, 2006. These reports address the geologic conditions on the site, including drainage, subsurface conditions, groundwater, landslides, faulting, and seismicity.

The property straddles a northeast-southwest trending ridgeline that extends from the southwest portion of the property to the northeast corner. The existing flat building pad where the residence is proposed is located below the ridgeline on a slope that descends in a southeastly direction to Costa del Sol Way at an approximate gradient of 1:1 to 1.5:1 (H:V, Horizontal:Vertical). Steep slopes on the northern portion of the site descend from the ridgeline in a northwesterly direction to Piuma Road at an approximate gradient of $\frac{3}{4}$:1 to $1\frac{1}{2}$:1 (H:V). The site is underlain by artificial fill, native soils, colluvium, and bedrock assigned to the Oligocene aged Sespe formation. The geologic consultants have found the geology of the proposed project site to be suitable for the construction of a single-family residence and septic system. The geologic and geotechnical engineering consultants in their geologic and engineering report state that:

Based on the results of our exploration, laboratory testing and analysis, it is the finding of this firm that construction of the proposed residence is considered feasible from a geologic and soils engineering standpoint, provided our advice and recommendations are followed and implemented during construction.

The geologic and geotechnical reports for the residence and septic system contain several recommendations to be incorporated into project construction, design, drainage, foundations, and sewage disposal to ensure the stability and geologic safety for the proposed project site and adjacent properties. To ensure that the recommendations of the consultant have been incorporated into all proposed development, the Commission, as specified in **Special Condition One (1)**, requires the applicant to comply with and incorporate the recommendations contained in the submitted geologic reports into all final design and construction, and to obtain the approval of the geotechnical consultants prior to commencement of construction.

The Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad 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 Conditions Two (2) and Three (3)**.

Further, the Commission finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition Three (3)** requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site. Invasive and non-native plant species are generally characterized as having a shallow root structure in

comparison with their high surface/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Three (3)**.

In addition, to ensure that excess excavated material is moved off site so as not to contribute to unnecessary landform alteration, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept material, as specified in **Special Condition Seven (7)**.

Furthermore, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition Eight (8)**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition Eight (8) avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

Special Condition Eleven (10) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as a restriction on the use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restriction are imposed on the subject property.

The report prepared by the geotechnical consultant for the project indicates that if their recommendations are followed, the project will be stable and will not contribute significantly to erosion on the project site or adjacent properties. Given that the Commission is aware of no evidence to the contrary of these geologic conclusions, the Commission finds that, as conditioned, the project will minimize potential geologic hazards on the project site and adjacent properties and assure stability and structural integrity and is therefore consistent with Section 30253 of the Coastal Act.

Wildfire

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which

are highly flammable substances (Mooney in Barbour, *Terrestrial Vegetation of California*, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wildfires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Special Condition Three (3) requires that the applicant submit a long-term fuel modification plan, approved by the Forestry Department of Los Angeles County. Implementation of this approved fuel modification plan will minimize the risk of wildfire to life and property at and adjacent to the project site. Although the risk of wildlife will be minimized with the implementation of the fuel modification plan, it can not be completely eliminated. Therefore, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition Four (4)**, assumption of risk, the applicants acknowledge the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition Four (4), the applicants also agree to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

C. 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, and 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, minimizing alteration of natural streams.

The property straddles a northeast-southwest trending ridgeline that extends from the southwest portion of the property to the northeast corner. The northwestern portion of the site is within a sensitive watershed area, as designated by the previously certified 1986 Malibu/Santa Monica Mountains Land Use Plan (LUP). The eastern portion of the

site where the residence is proposed to be constructed is within the Carbon Canyon watershed.

While no development is proposed in drainages onsite, the proposed development 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 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.

Therefore, in order to find the proposed development consistent with the water quality 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 Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th 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 No. Two (2)**, 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 policies of the Coastal Act.

Furthermore, interim erosion control measures 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, **Special Condition Three (3)** requires the applicant to revegetate all disturbed areas on the project site with native and noninvasive plant species compatible with the surrounding area in order to ensure that the proposed development will not adversely impact water quality or coastal resources.

The Commission also finds that both leakage and periodic maintenance drainage of the proposed swimming pool, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing the instability of the site and adjacent properties and potential impacts from pool chemicals (i.e. pool water algaecides, chemical pH balancing, and other water conditioning chemicals) on the designated ESHA and significant watershed. Therefore, the Commission imposes **Special Condition Fourteen (11)** on the subject application, which requires the applicant to use a non-chemical water purification system and to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool and spa will not include excessive chemicals that may adversely affect water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site septic system to serve the residence. 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. Finally, the County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

In conclusion, the Commission finds that the project, as conditioned, will maintain the biological productivity and quality of coastal waters by minimizing adverse effects of waste water, controlling runoff, and minimizing erosion. Therefore, the Commission finds that, as conditioned, the project is consistent with Section 30231 of the Coastal Act.

D. Visual Resources

Section **30251** of the Coastal Act states:

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.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. Section 30251 also requires that development be sited and designed to protect views of scenic areas, minimize alteration of landforms, and be visually compatible with the surrounding area.

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of visual resources. The Coastal Commission, as guidance in the review of development proposals in the Santa Monica Mountains, has applied these policies.

- P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.***
- P125 New development shall be sited and designed to protect public views from LCP-designated highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on a sloped terrain should be set below road grade.***
- P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.***
- P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:***
- Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LUP.***
 - Minimize the alteration of natural landforms***
 - Be landscaped to conceal raw cut slopes***
 - Be visually compatible with and subordinate to the character of its setting.***
 - Be sited so as to not significantly intrude into the skyline as seen from public viewing places.***
- P131 Where feasible, prohibit placement of structures that will break the ridgeline views, as seen from public places***
- P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.***

P142 *New development along scenic roadways shall be set below the road grade on the down hill side wherever feasible, to protect designated scenic canyon and ocean views.*

The applicant proposes to construct a 3,215-square-foot, two story, 27-foot-high single family residence with a 380-square-foot attached garage, swimming pool, and 710 cu. yds. of grading (690 cu. yds cut, 20 cu. yds fill). The proposed project would be located adjacent to Costa Del Sol Way and Piuma Road. A portion of the Coastal Slope hiking trail exists along the east side of Costa Del Sol Way and extends both to the east and south of the project site. In addition, Piuma Road is identified in the certified Malibu/Santa Monica Mountains Land Use Plan as a "first priority" Scenic Highway. Further, the Saddle Peak Trail runs in a northeast-southwest direction adjacent to the eastern and southern portion of the property. The Saddle Peak Trail does not cross any portion of the subject site and the proposed project will not result in any adverse impacts to public access; however, the residence may be visible from a segment of the trail east of the subject parcel. The areas surrounding the subject parcel are developed with low density single family residences and those areas not developed are characterized by natural hillside terrain vegetated by native chaparral and oak woodland vegetation.

The development has been sited to minimize landform alteration on the site and will be cut into the eastern side of the ridgeline that bisects the subject parcel. The proposed residence will be constructed on an existing building pad that the applicant asserts supported a small residence in the mid-1950's and the existing dirt driveway will improved in the same location in order to provide an all-weather paved surface.

The maximum elevation of the ridgeline adjacent to the location of the proposed residence is 1850 ft. With a height of 27 feet from the final graded pad elevation of 1820 ft., the residence will not exceed the elevation of the ridgeline. Thus, the residence and associated structures will be not be visible by motorists traveling east on Piuma Road until they pass the intersection of Piuma Road and Costa Del Sol Way. The proposed development will, however, be clearly visible by motorists traveling west along Piuma Road, and may be visible by hikers utilizing the Saddle Peak Trail and the unnamed trail along Costa Del Sol Way.

Although the residence will be visible from certain portions of Piuma Road and may be visible from the Saddle Peak Trail, the proposed development will not significantly alter the existing visual resources in the area. While the subject property is currently vacant, there are existing single-family residences to the east, south, and west of the project site. Views towards the project site and the surrounding areas from Piuma Road and the public hiking rails presently include views of large single-family residences. Therefore, the proposed development will not change the overall character of the existing conditions in the area.

While the proposed development will be generally consistent with the other existing residential development within the surrounding area, the proposed residence will still

result in some unavoidable cumulative adverse impacts to visual resources due to its visibility from sensitive public viewing areas including the adjacent Saddle Peak Trail and Piuma Road. In past permit actions, the Commission has found that the visual impact of new development can be minimized by requiring all surfaces to be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows on the proposed residence be made of non-reflective glass. Therefore, to ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Five (5)**.

Further, in order to further minimize impacts to sensitive visual resources, **Special Condition Three (3)** requires that the landscape plan be designed with vertical elements to partially screen and soften the visual impact of the structure with trees and shrubs as viewed from Piuma Road and the Saddle Peak Trail. Visual impacts can be further reduced by the use of appropriate and adequate landscaping. Therefore, **Special Condition Three (3)** requires the applicant to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of Special Condition Three (3) will soften the visual impact of the development from public view areas. To ensure that the final approved landscaping plans are successfully implemented, Special Condition Three (3) also requires the applicant to revegetate all disturbed areas in a timely manner, including the portion of the site where the applicant is proposing to remove the unpermitted solar array and fencing, and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains creates a visual impact to nearby scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition Six (6)** limits night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the night time rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area. Additionally, the lighting restrictions will attenuate the impacts of unnatural light sources and reduce impacts to sensitive wildlife species that may move across the project site.

Finally, regarding future developments or improvements, certain types of development on the property, normally associated with a single-family residence, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area including, but not limited to, any increase in height of the structure that would exceed the ridgeline. Thus, it is necessary to ensure that any future development or improvements normally associated with the entire property, which might otherwise be exempt, is reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. Therefore, **Special Condition Nine (9)**, the Future Development Restriction, will ensure that the Commission will have the opportunity to

review future projects for compliance with the Coastal Act. Further, **Special Condition Eleven (10)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the project, as conditioned, minimizes adverse effects to visual resources by protecting public views to and along the coast, minimizing the alteration of natural landforms, and by being visually compatible with the character of the surrounding area. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

E. Unpermitted Development

Development has occurred on the subject parcel without the required coastal development permit including, but not limited to, the placement of 174 linear ft. of fencing and a 408-sq.-ft. solar panel array on the southwestern portion of the property. In order to resolve the issue of unpermitted development at the site, the applicant proposes to remove the unpermitted fencing and solar panel array and revegetate/restore the disturbed area to previously existing condition, consistent with any required fuel modification requirements. Therefore, in order to ensure that the applicant's proposal is adequately implemented, **Special Condition Three (3)** requires that the area where the unpermitted existing solar panel array and fencing are located on the southwestern portion of the parcel shall be restored and revegetated with native plant species within thirty (30) days after removal of the solar panel array and fencing occurs.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

F. Local Coastal Program

Section 30604 of the Coastal Act states:

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

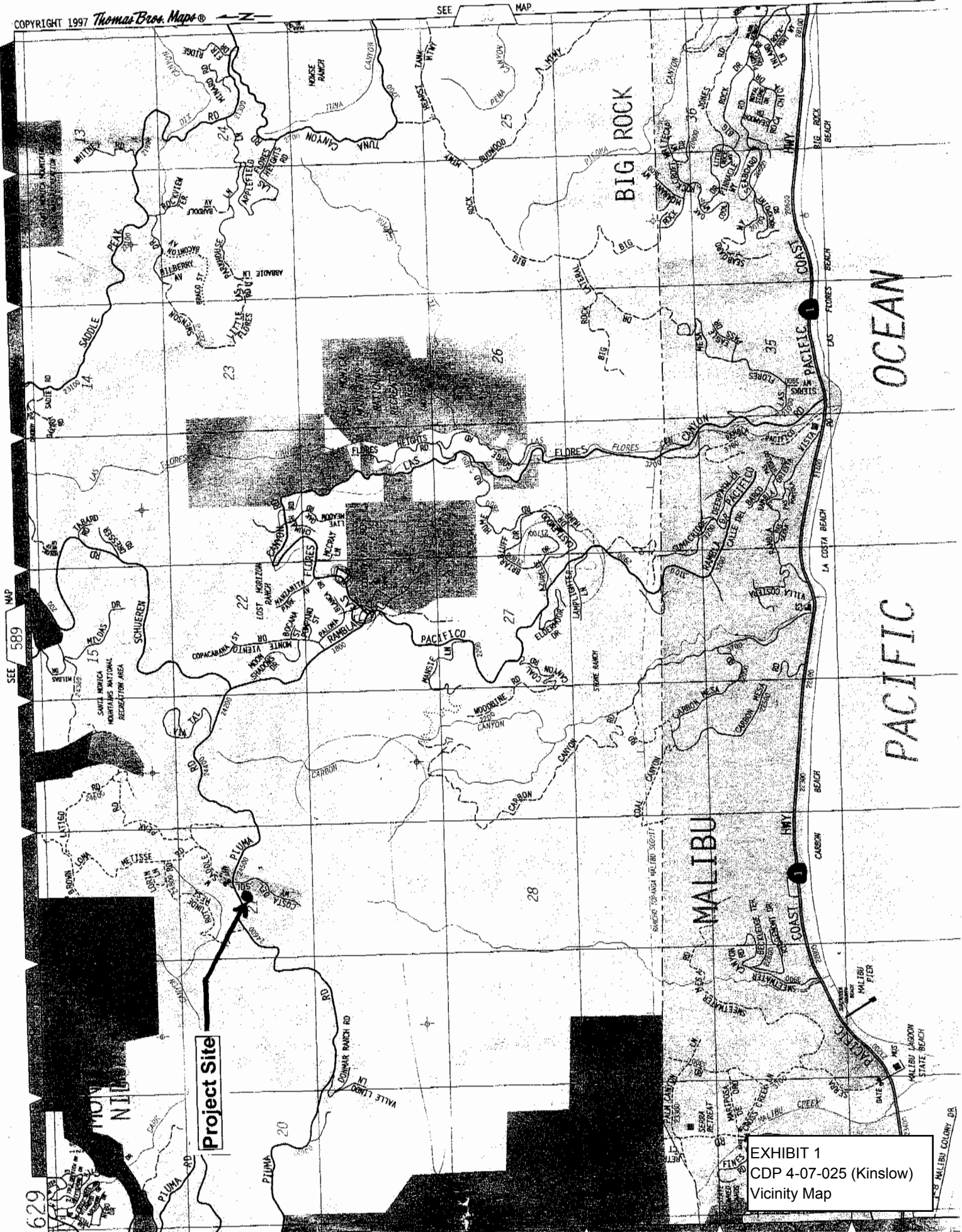
that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to 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 projects and are accepted by the applicant. As conditioned, the proposed developments 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 developments, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

H. 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 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, mitigation measures have been considered and incorporated into the project to minimize potential impacts. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required to minimize impacts include requiring drainage best management practices (water quality), interim erosion control (water quality), limiting lighting (visual resources), restricting structure color (visual resources), and requiring future improvements to be considered through a CDP. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.



Project Site

EXHIBIT 1
 CDP 4-07-025 (Kinslow)
 Vicinity Map

CC2347

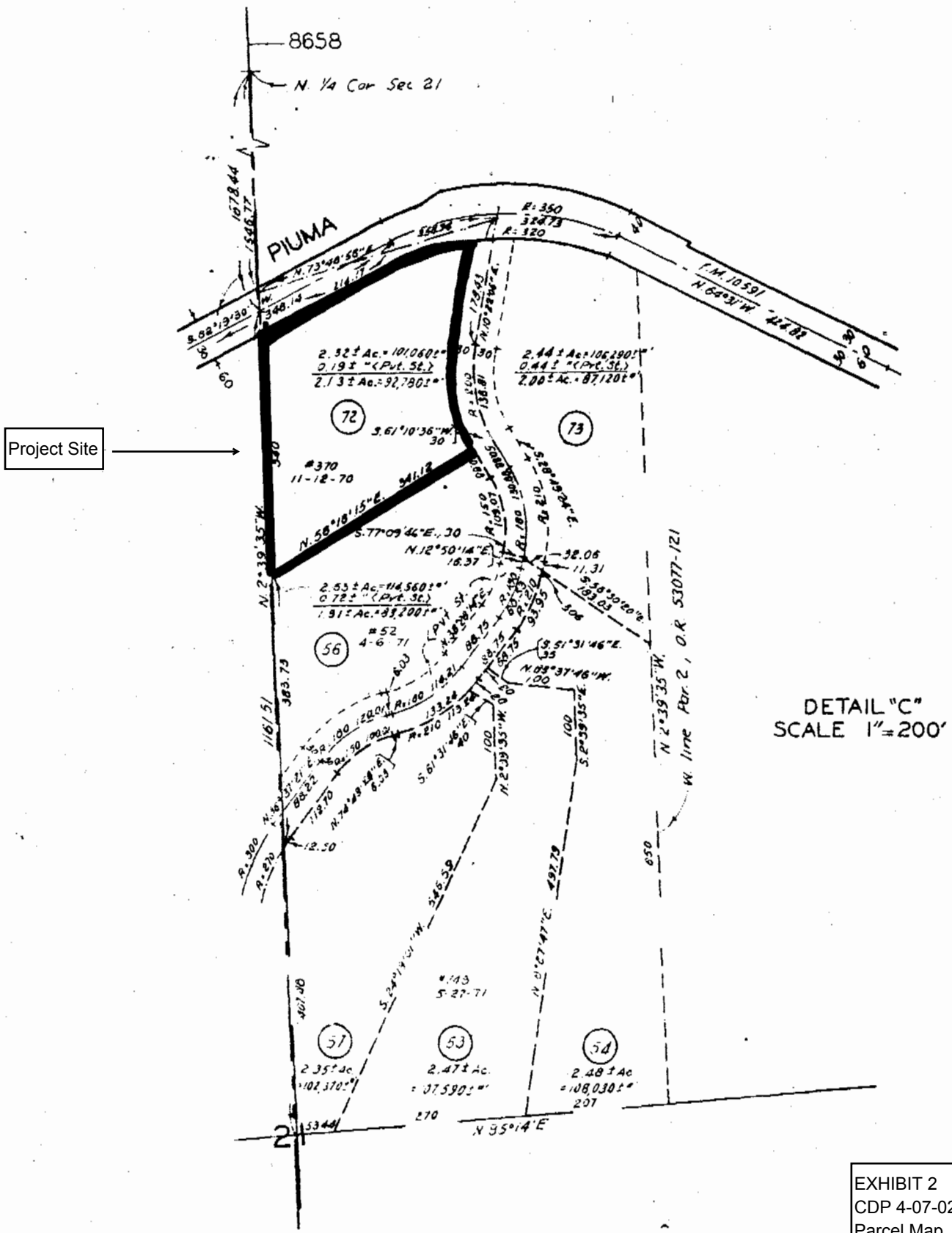


EXHIBIT 2
CDP 4-07-025 (Kinslow)
Parcel Map

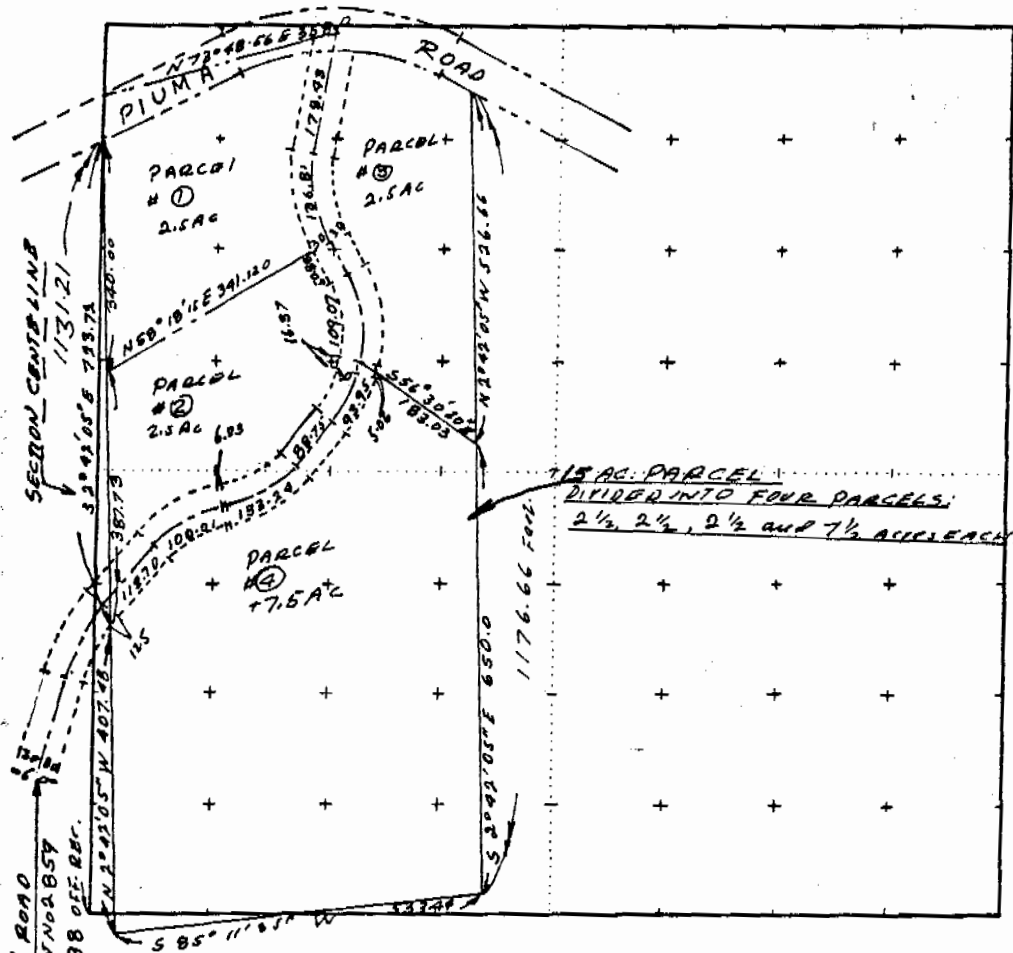
CE. 12338

CERTIFICATE OF EXCEPTION NO. _____

PLOT PLAN MAP

CC 2347

Section: 21
Township: 1-S
Range: 17-W



RECORDED 60' ROAD
EASEMENT INSINO 859
8CD4004 PG 198 OF REC.
MAY 16, 1968.

COUNTY OF LOS ANGELES
REGIONAL PLANNING COMMISSION

APPROVED

Certification of Exception:

DATE: OCT 22 1970 BY: *SJK*

Name of Applicant: VENTNOR OF THE PACIFIC LTD

Prepared by: STEPHEN J. VERNON - 724 ALMAR AVE. PACIFIC PALIS 454-1

EXHIBIT 3
CDP 4-07-025 (Kinslow)
Certificate of Exception

PROJECT DESCRIPTION:
 100% SITE PLAN FOR THE PROPOSED
 100% SITE PLAN FOR THE PROPOSED
 100% SITE PLAN FOR THE PROPOSED
 100% SITE PLAN FOR THE PROPOSED

OWNER:
 YONG KIN SLOW
 4800 BROADWAY AVE
 LOS ANGELES, CA 90008

ARCHITECT:
 EDWARDS & KELCEY ARCHITECTS
 1000 W. 10TH ST.
 LOS ANGELES, CA 90008

SOIL ENGINEER:
 RYAN GEOTECHNICAL, INC.
 1000 W. 10TH ST.
 LOS ANGELES, CA 90008

CIVIL ENGINEER:
 ROBERT PROULSEN, INC.
 1000 W. 10TH ST.
 LOS ANGELES, CA 90008

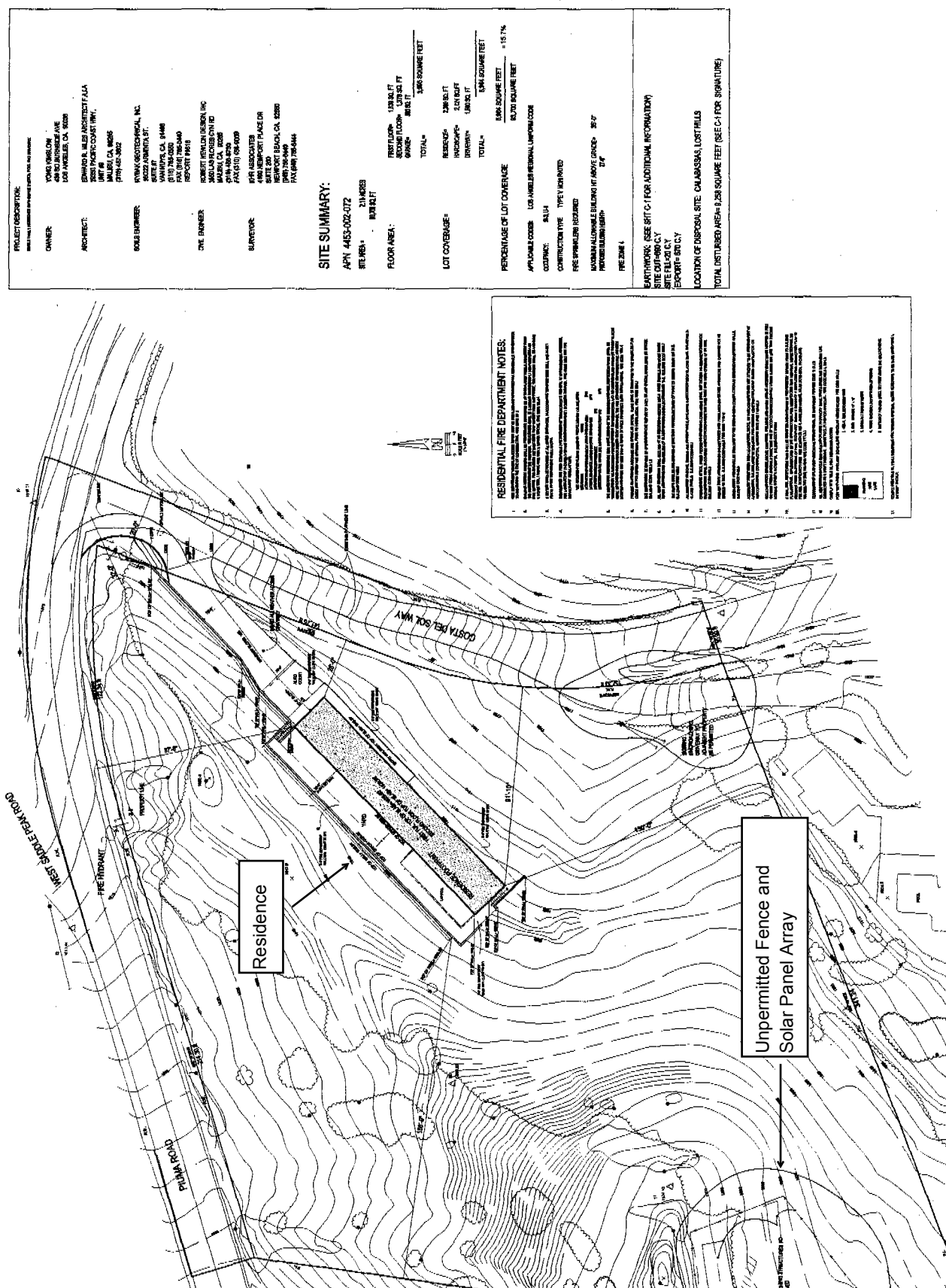
SURVEYOR:
 WPA ASSOCIATES
 1000 W. 10TH ST.
 LOS ANGELES, CA 90008

SITE SUMMARY:
 APN 4453-002-012
 ZONING: RM 1.5
 FLOOR AREA: 1,200 SQ. FT.
 LOT COVERAGE: 15.7%

PERCENTAGE OF LOT COVERAGE: 15.7%
 APPLICABLE CODE: LOS ANGELES RESIDENTIAL ZONING CODE
 CONSTRUCTION TYPE: TYPE V UNFINISHED
 FIRE SPRINKLER REQUIRED: NO
 HUMAN ALLOWABLE BUILDING HEIGHT CRITERIA: 25 FT.
 FIRE ZONE: 1

EARTHWORK, SEE SHEET C-1 FOR ADDITIONAL INFORMATION
 SITE UTILITY
 EXISTING UTILITY
 LOCATION OF DISPOSAL SITE, CALABASSAS MOUNTAINS
 TOTAL DISTURBED AREA = 2,200 SQUARE FEET (SEE C-1 FOR SIGNATURE)

SITE PLAN



RESIDENTIAL FIRE DEPARTMENT NOTES:

1. THIS PLAN IS SUBJECT TO THE CALIFORNIA FIRE DEPARTMENT'S REVIEW AND APPROVAL.
2. ALL BUILDINGS SHALL BE CONSTRUCTED TO MEET THE CALIFORNIA FIRE DEPARTMENT'S REQUIREMENTS.
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19. ALL BUILDINGS SHALL BE CONSTRUCTED TO MEET THE CALIFORNIA FIRE DEPARTMENT'S REQUIREMENTS.
20. ALL BUILDINGS SHALL BE CONSTRUCTED TO MEET THE CALIFORNIA FIRE DEPARTMENT'S REQUIREMENTS.

EXHIBIT 4
 CDP 4-07-025 (Kinslow)
 Site Plan

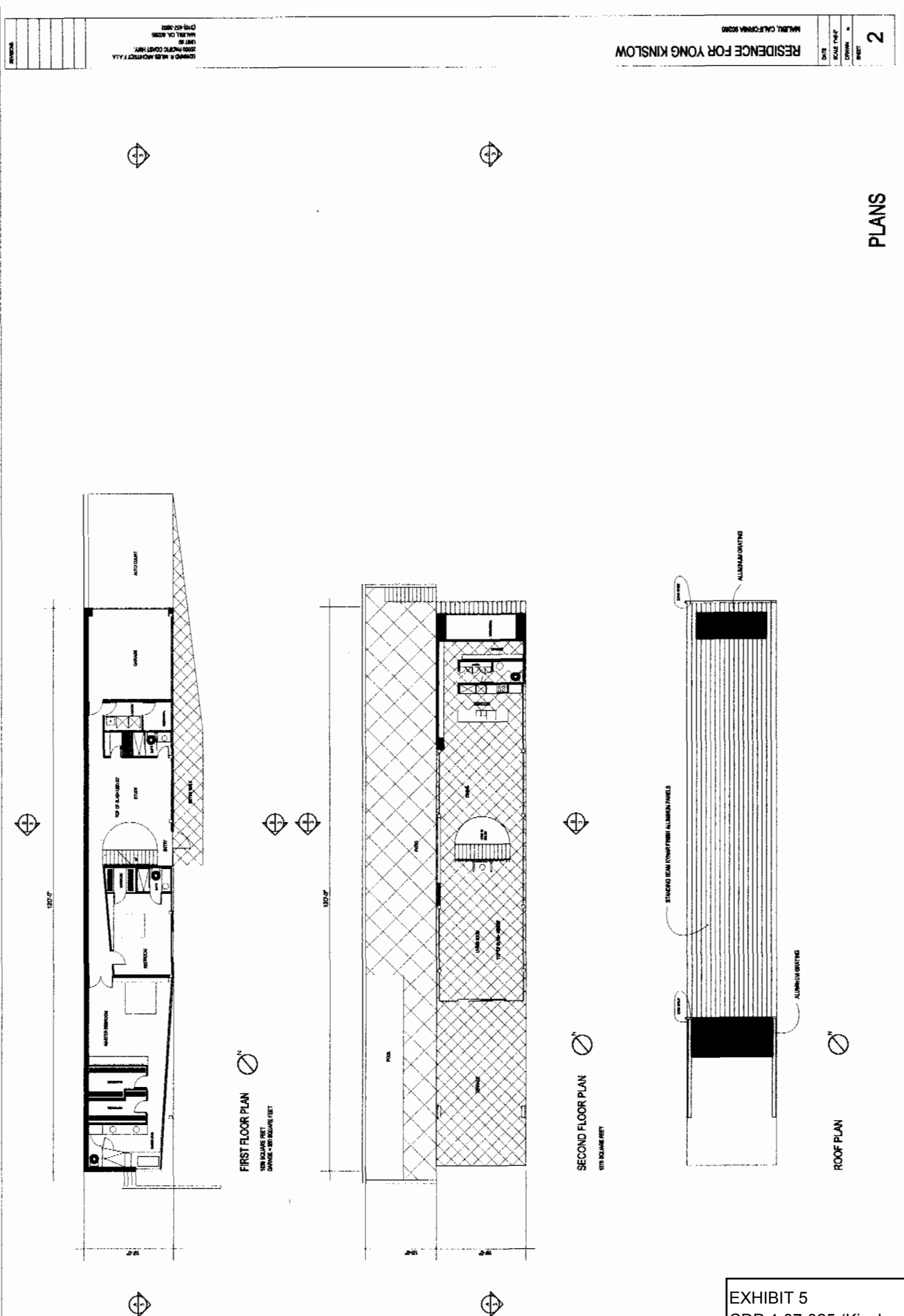


EXHIBIT 5
 CDP 4-07-025 (Kinslow)
 Floor Plans

ELEVATIONS

4

RESIDENCE FOR YONG KINSLOW
 2820 CALIFORNIA BOSS

EMERSON S. MILES ARCHITECT P.A.
 2200 PLYMOUTH COURT EAST
 SUITE 100
 BURLINGAME, CA 94010
 (415) 339-9222

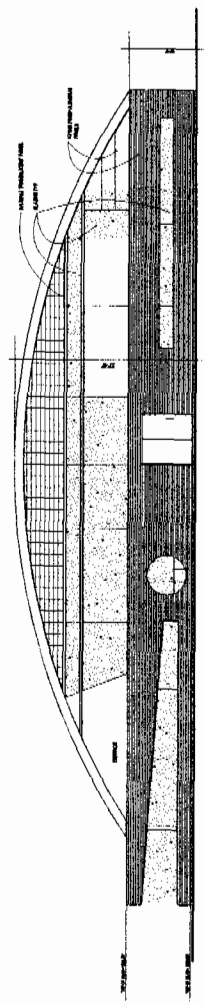
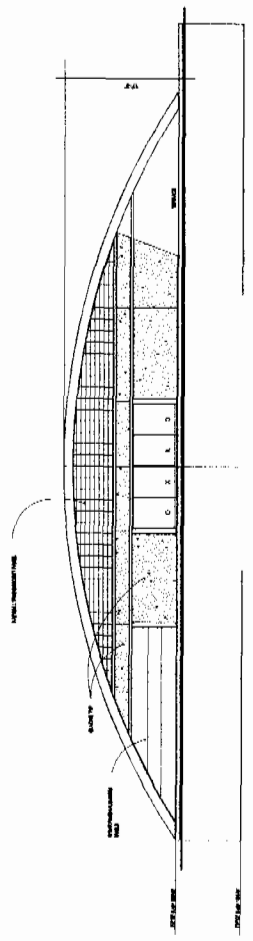
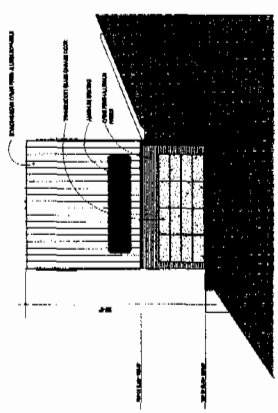
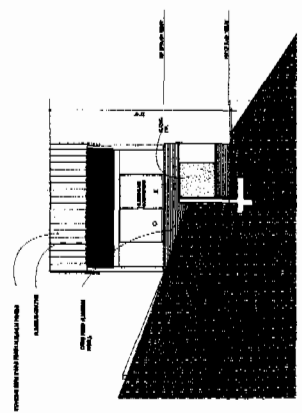


EXHIBIT 7
 CDP 4-07-025 (Kinslow)
 Elevations

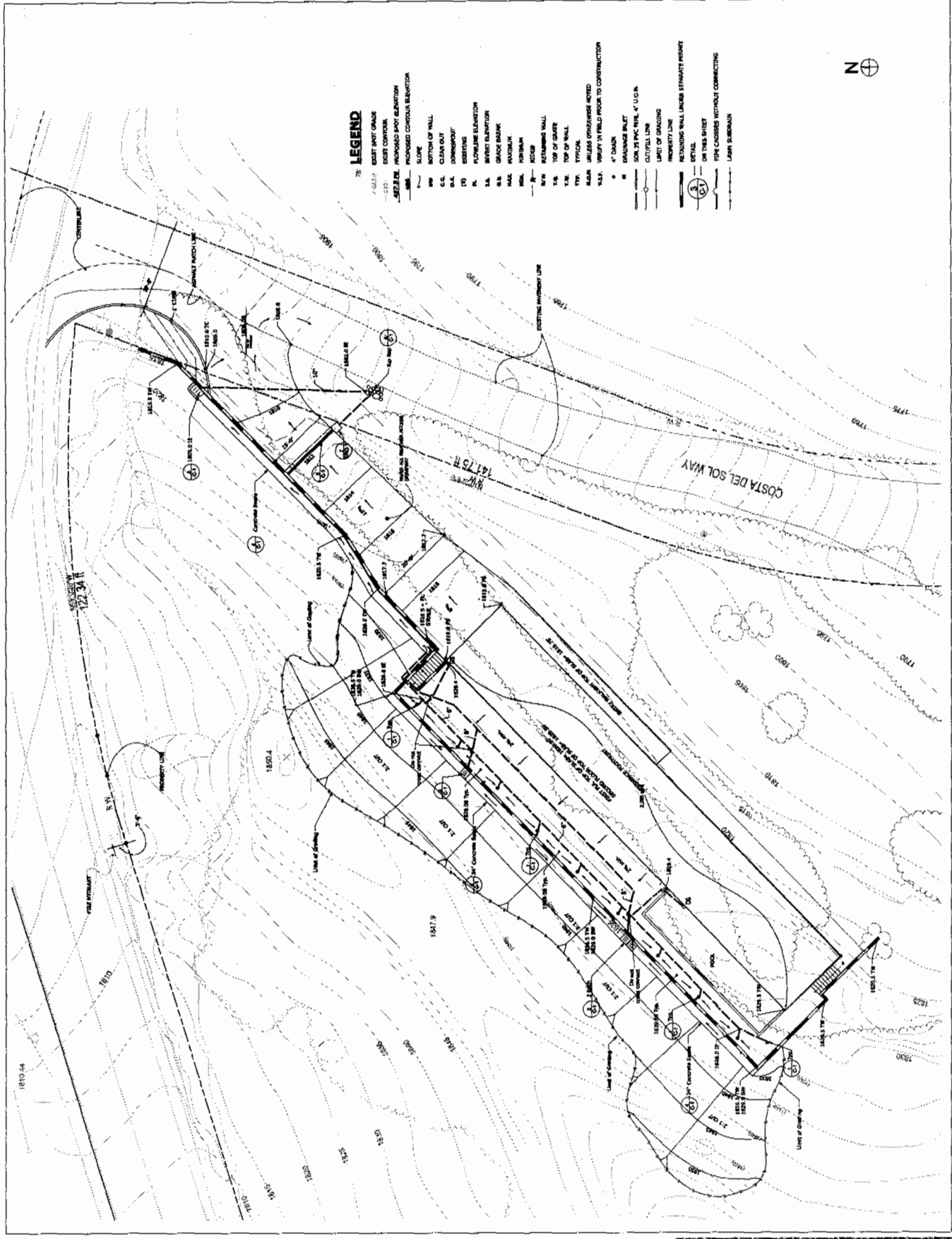
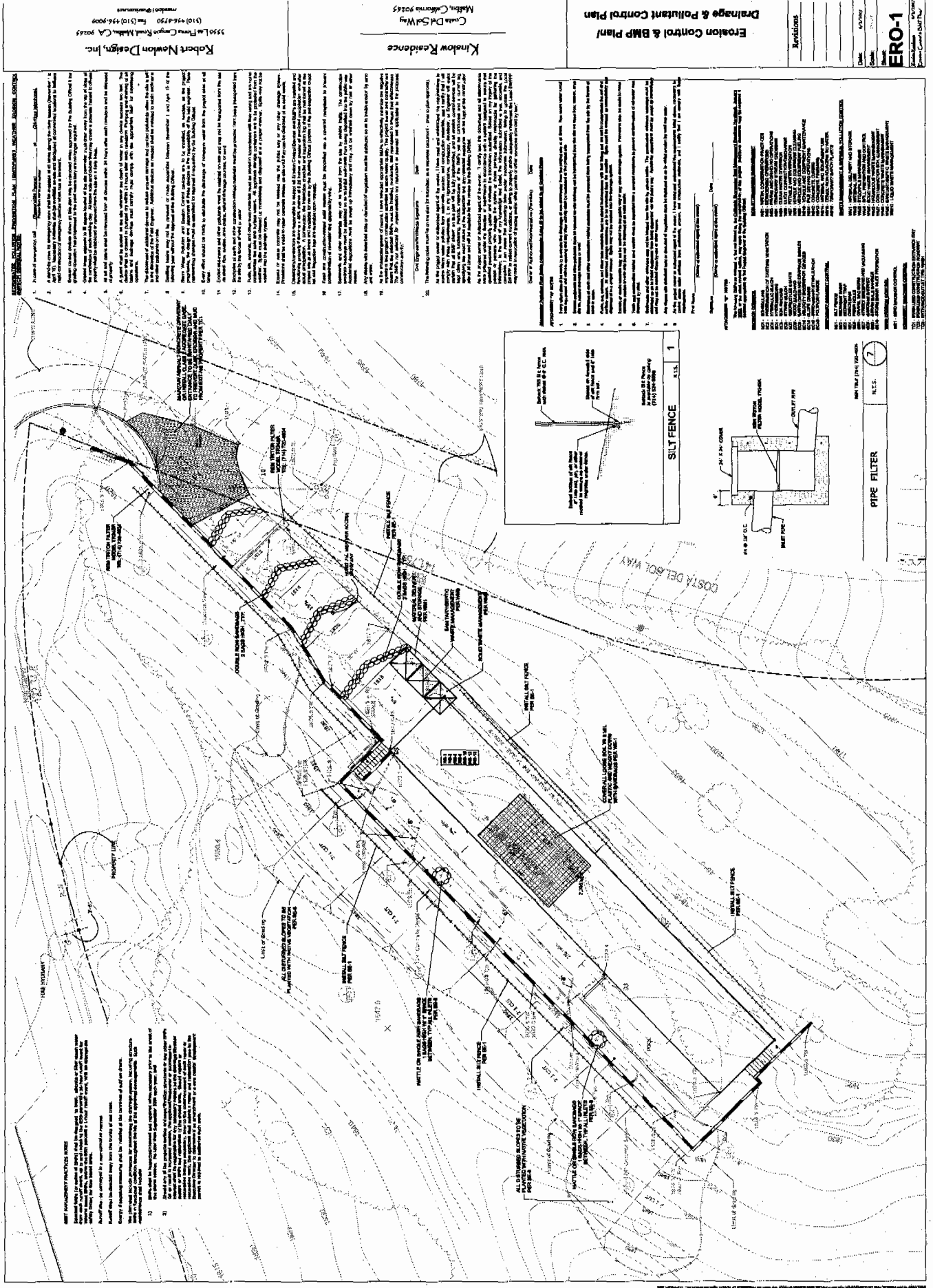


EXHIBIT 8
 CDP 4-07-025 (Kinslow)
 Grading and Drainage Plans



1. The purpose of this plan is to provide a detailed description of the erosion control measures to be installed on the site during construction.
2. The plan is based on the information provided by the applicant and the site visit conducted on 04/10/2025.
3. The plan is subject to the approval of the City of San Diego, Department of Public Works, Engineering Division.
4. The plan is based on the information provided by the applicant and the site visit conducted on 04/10/2025.
5. The plan is subject to the approval of the City of San Diego, Department of Public Works, Engineering Division.
6. The plan is based on the information provided by the applicant and the site visit conducted on 04/10/2025.
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Robert Newton Design, Inc.
3350 La Tijera Canyon Road, Malibu, CA 90265
(310) 426-4750 Fax (310) 426-9009
rnewton@robertnewton.com

Kinslow Residence
Casta Del Sol Way
Malibu, California 90265

Erosion Control & BMP Plan
Drainage & Pollutant Control Plan

ERO-1
Date: 04/10/2025
Scale: 1" = 10'-0"