

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Filed: 11-13-95
49th Day: 1-1-96
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Staff: SPF-VNT *SPF*
Staff Report: Nov. 16, 1995
Hearing Date: December 12-15, 1995
Commission Action:



STAFF REPORT: PERMIT AMENDMENT

W22a

APPLICATION NO.: 4-93-069A

APPLICANT: Max Palevsky

AGENT: Weiser and Associates

PROJECT LOCATION: 28060 Sea Lane, City of Malibu; Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Reconstruction and revegetation of a coastal bluff including 800 cubic yards of grading (100 cu. yds. cut, 700 cu. yds. fill), placement of erosion control revegetation mat on the slope, and landscaping slope area to restore bluff damaged by wave action.

DESCRIPTION OF AMENDMENT: Increase the grading to 1,200 cubic yards (200 cu. yds. cut, 1,000 cu. yds. fill), add a drain water diverter at the existing drain pipe, add two rip-rap sections at the base of the drain pipes, and change the existing raised wood stairway to a railroad-tie stairway on grade.

LOCAL APPROVALS RECEIVED: Approval in concept from the City of Malibu.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 4-93-069 (Palevsky) and the Malibu 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.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the conditions below, is consistent with the requirements of the Coastal Act.

III. Special Conditions.

NOTE: Unless specifically altered by the amendment, all conditions attached to the previous permit remain in effect.

None.

IV. Findings and Declarations.A. Project Description and Background

This is an after-the-fact permit amendment application for changes to the plans regarding the restoration of the coastal bluff. Specifically, the changes include increasing the total grading by 400 cubic yards, adding a water diverter and rip-rap devices at the outfall of the drainage pipes as required by the City of Malibu, and changing the stair design to an at-grade railroad tie stairway. These changes have already occurred. All work to restore the bluff, including the landscaping has occurred.

Previously, under the original permit, the applicant was granted a permit to reconstruct and revegetate the bluff after significant damage to the bluff occurred by wave action. There is an existing single family residence at the top of the bluff. The seven acre lot also contains a tennis court, caretakers unit, beach house, concrete walkways and a private septic system. All existing development on site was built with Coastal Development Permits circa 1973.

B. Bluff Development and Hazards

This project involves changes to an approved bluff restoration project located east of Paradise Cove. The Commission recognizes bluffs as a visual and environmental resource. Development of bluff faces must comply with the Chapter Three policies of the Coastal Act regarding geologic hazards as well as those policies regarding the protection of visual and environmental impacts. Moreover, those developments which alter shoreline processes will only be permitted when they are designed to mitigate or eliminate adverse impacts and are required to serve coastal dependent uses or to protect existing structures or public beaches from erosion. Those Coastal Act Sections which apply in this case are as follows:

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

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 30253 of the Coastal Act states in part:

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 along bluffs and cliffs.

The applicant originally proposed the reconstruction and revegetation of the bluff to stabilize the bluff after wave action severely eroded the base of the bluff. In the original permit the Commission found that the proposed restoration and revegetation of the bluff face was necessary to protect the existing residence, and concluded that the proposed development would minimize adverse impacts. The consulting engineer identified five alternatives to stabilizing the bluff. The applicant applied for the

this amendment. When recontouring the slope to the approved contours, the applicant's engineer found it necessary to import an extra 300 cubic yards. This additional yardage accounts for the 100 cubic yards of slough material and the additional amount needed from shrinkage and recompaction. Thus, the final plans reflect the approved plans; no changes in the topography has occurred.

The proposed water diverter and rip-rap sections were required by the City of Malibu in order to reduce erosion at the base of the bluff and avoid the undercutting of the bluff face. These structures are located at the base of the bluff and do not represent significant structures on the beach. Without the rip-rap and water diverter, water from the drainage pipes would undercut the toe of the bluff and cause erosion and eventual failure of the bluff face. Thus, the devices are necessary for the mitigation of future hazards.

The Commission finds that the proposed developments are necessary for bluff stabilization. The minor changes in the grading did not alter the final topography and are in substantial conformance with the approved topography. Finally, as noted in the original permit staff report, although the development will serve to stabilize the bluff, complete stabilization can not be ensured. In the original permit, the applicant was required to assume risk of failure and expressly waive any potential claim of liability against the Commission for any damages suffered as a result of undertaking this project.

As proposed, the Commission finds that the proposed development is consistent with Sections 30235, 30240, 30251 and 30253 of the Coastal Act.

C. Violation

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

D. Local Coastal Program

Section 30604 of the Coastal Act states that:

- 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

conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create 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 development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

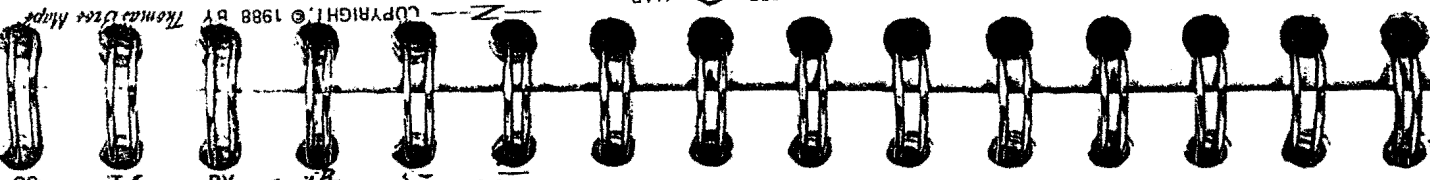
E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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)(i) 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 impact which the activity may have on the environment.

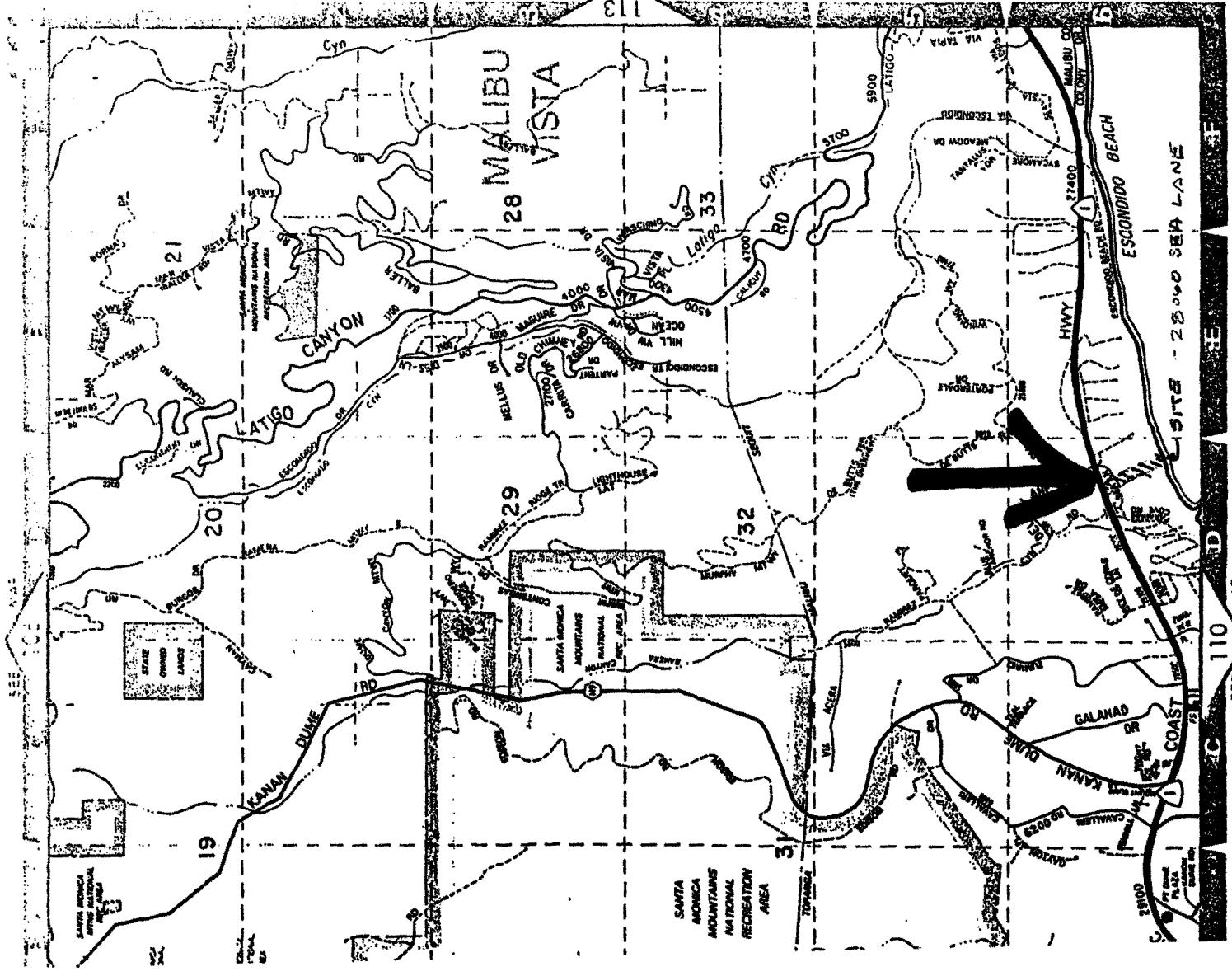
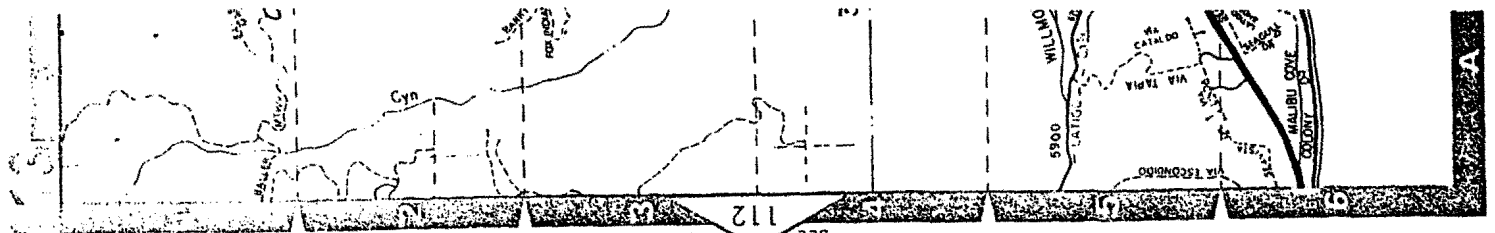
The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the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

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THOMAS GUIDE



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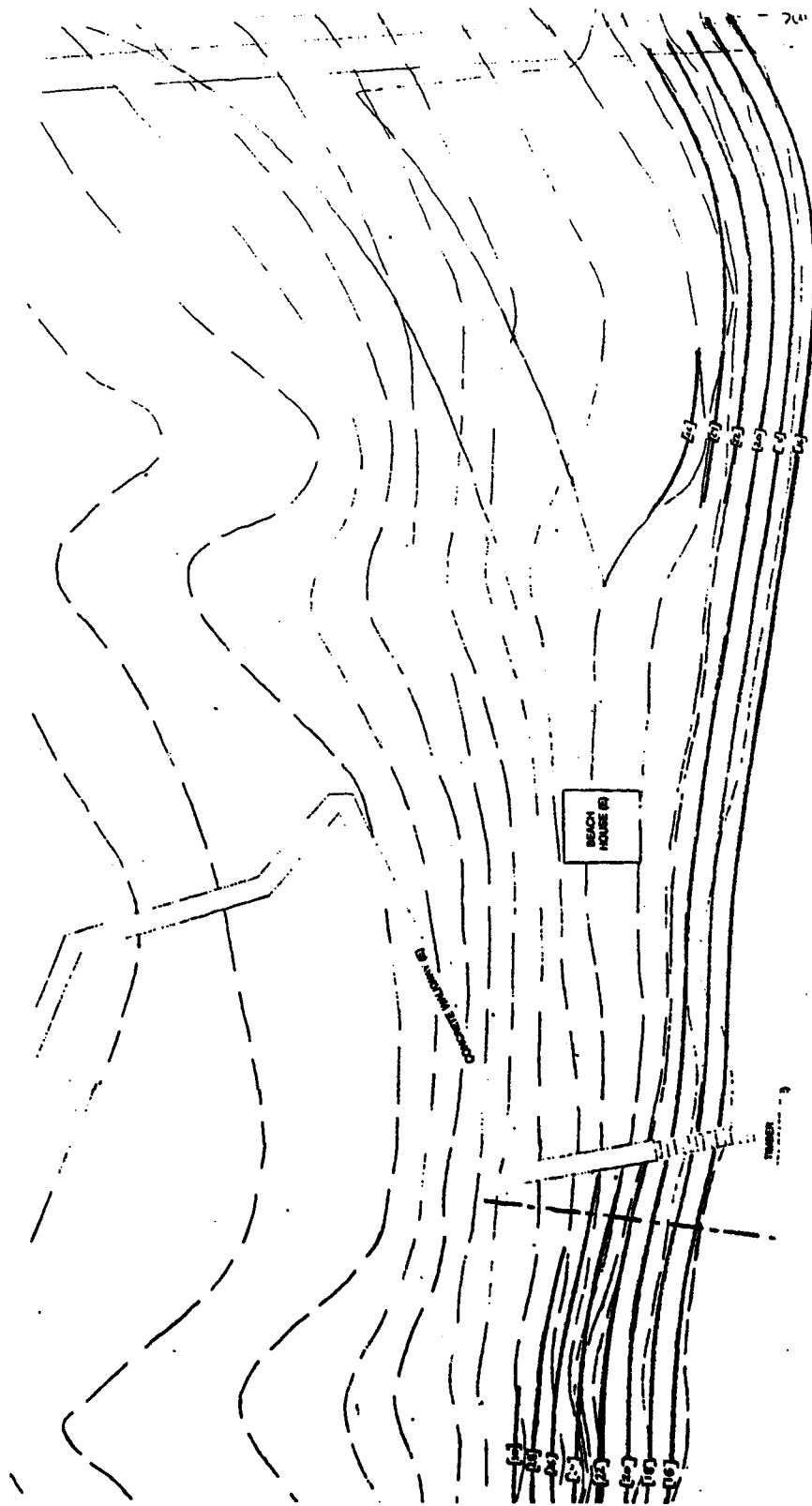
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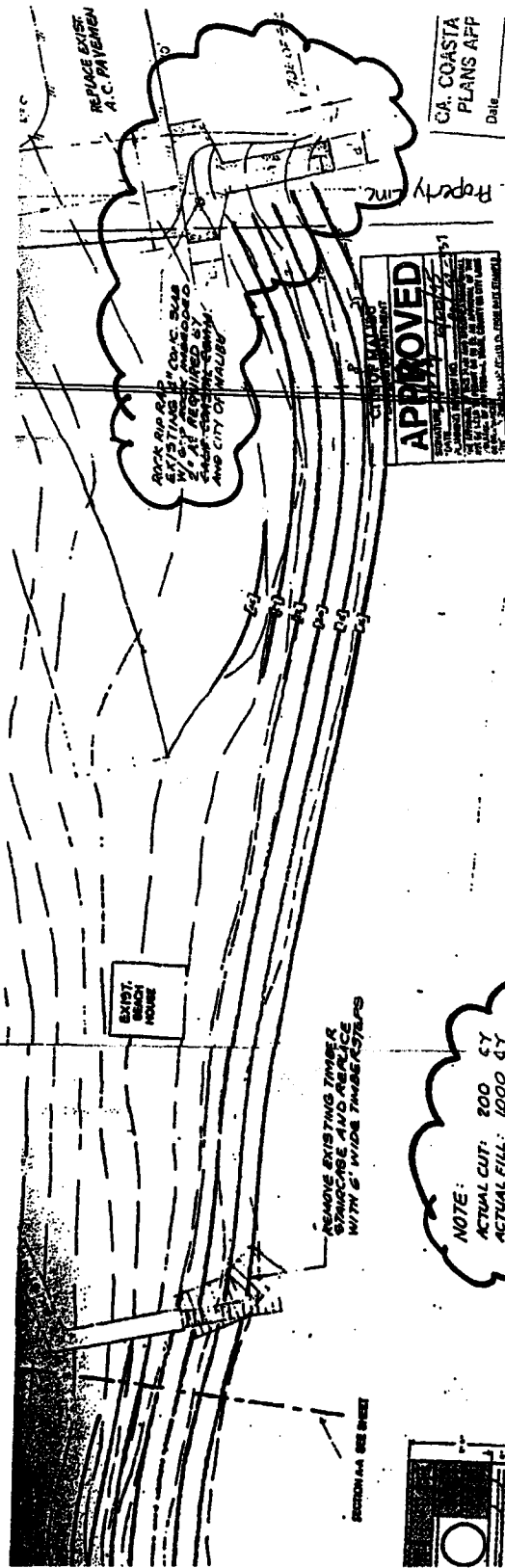
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CA. COASTA PLANS APP
Date
Sig

These plans if present on the site & show building & cc officials on rec



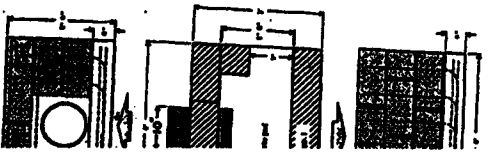
APPROVED
DATE: 1/10/95
BY: [Signature]

DATE: 1/10/95
BY: [Signature]
PROJECT NO.: 1234
SHEET: 1-10-15



NOTE:
ACTUAL CUT: 200 CY
ACTUAL FILL: 1000 CY
TOTAL EARTHWORK: 1200 CY

APPROVED
DATE: 1/10/95
BY: [Signature]



HARVEY A. GOODMAN
CIVIL ENGINEER

834 17TH STREET
SANTA MONICA, CALIFORNIA 90403
TEL: (310) 829-1037
FAX: (310) 828-5062

October 14, 1995

City of Malibu
23805 W. Stuart Ranch Road
Malibu CA

Ref: Grading Construction
28060 Sea Lane
Malibu CA

Gentlemen:

Based on my field evaluation on September 27, 1995, the as-built construction of the improvements are substantially in accordance with the grading plans prepared for this project. The area covered and the elevation contours conform to those shown on the original coastal commission approved plans.

Sincerely,



HARVEY A. GOODMAN
Civil Engineer



DESCRIPTION OF PROPOSED AMENDMENT

1. Change grading portion from a cut of 100 cu. yds. to a cut of 200 cu. yds. and from a fill of 700 cu. yds. to a fill of 1000 cu. yds..
2. Add drain water diverter at existing drain pipe and two rip-rap sections.
3. Change existing raised wood stairway to railroad tie stairs on grade.

Notes

The original permit for this work was to provide for reconstruction and revegetation of the toe of the coastal bluff which was cut away by wave action during the heavy winter storms of 1983/84. The provision was for a cut of 100 cu. yds. and a fill of 700 cu. yds.. During the cutting process, due to sloughing off of the soil, we actually cut (or lost) approx. 200 cu. yds. of material. Then our actual fill amounted to approx. 1000 cu. yds. total. (700 cu. yds. plus an extra 200 cu. yds., plus an extra 100 cu. yds. to make up for the material lost in sloughing off). As will be noted by the attached final report of our civil engineer Mr. Harvey Goodman, the topography and horizontal dimensions are in substantial agreement with the original approved plans and with the original condition of the toe prior to the storm damage.

The diverter basin and rip-rap sections were items imposed on us by the City Malibu inspector.

The change in the stairway which connects the existing concrete walkway to the sand beach from a raised wood stair to an on grade stair of railroad ties was recommended by our soils engineers as being more helpful in preventing wave action from undercutting the existing concrete walkway. We also suggest that the railroad tie stair makes a more natural looking feature than does a raised wooden stairway.