

CALIFORNIA COASTAL COMMISSION  
South Central Coast  
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**F8a**

Request Filed: April 12, 1996  
Staff: R. Richardson  
Staff Report: May 23, 1996  
Hearing Date: June 12-14, 1996  
Commission Action:

STAFF REPORT: REQUEST FOR RECONSIDERATION

APPLICATION NO.: 4-95-167R

APPLICANT: Sea Mesa Limited AGENT: Sherman Stacey

PROJECT LOCATION: 26800 Pacific Coast Highway, City of Malibu

PROJECT DESCRIPTION: Request for reconsideration of special condition #1, which required the applicant to reduce the height of a 6,016 sq. ft. single family residence to an approximate 132 ft. elevation.

COMMISSION ACTION AND DATE: Approval with conditions of the permit application: March 13, 1996.

REQUEST FOR RECONSIDERATION: Submitted on April 12, 1996 requesting reconsideration of Special Condition #1 of the permit.

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PROCEDURAL NOTE.

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant may request that the Commission grant reconsideration of any term or condition of a coastal development permit which has been granted. 14 California Code of Regulation, Section 13109.2.

Pursuant to Title 14 California Code of Regulations, Section 13109.4, the grounds for reconsideration of a permit action are as provided in Coastal Act Section 30627. Section 30627 of the Coastal Act provides:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision.

APPLICANT'S CONTENTION:

(1) Error of Law: The applicant contends that an error of law occurred because evidence was presented after the public hearing closed, preventing the applicant from rebutting that evidence.

(2) Error of Fact: The applicant contends that an error of fact occurred when the Commission found it was necessary to reduce the project height to protect the visual quality of the coastal zone.

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SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission deny the request for reconsideration of Special Condition #1 of the permit approval.

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STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Denial

The Commission hereby denies the request for reconsideration of the proposed project on grounds that no new relevant evidence has been presented which, in the exercise of reasonable diligence, could not have been presented at the hearing on the application 4-95-167, and that no error of fact or law has occurred which has the potential of altering the Commission's initial decision.

II. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is requesting a reconsideration of special condition #1 required by the Commission in the approval of coastal development permit 4-95-167 (Sea Mesa Limited). On March 13, 1996, the Commission approved the permit subject to six special conditions. The basis of the reconsideration request is special condition #1 which requires the applicant to reduce the height of the approved single family residence below the horizon line which is approximately a 132 ft. elevation. If the structure was built at the proposed elevation of 109 ft., the height of the structure would need to be reduced from 28 ft. to approximately 23 ft.

The site is located on a blufftop lot on the seaward side of Pacific Coast Highway (PCH). As stated on page 8 of the 4-95-167 (Sea Mesa Limited) staff report:

Staff visited the site with the applicant and determined after the visit that the height of the structure would intrude into the horizon line and impact the view of the coast from PCH. The applicant's agents confirmed this assertion and indicated that from Pacific Coast Highway traveling northbound, the horizon line was at an approximate elevation of 132 ft.

Special condition #1 was, therefore, required to insure that the proposed project did not disturb public views of the horizon from PCH consistent with Section 30251 of the Coastal Act which requires that public coastal views be protected.

The approved project, as conditioned, consists of a 6,076 sq. ft., 28 ft. high single family residence, 730 sq. ft. garage, 700 sq. ft. guest house, 7,200 sq. ft. tennis court, pool, septic system and 1,000 cu. yds. of grading (500 cu. yds. cut and 500 cu. yds. fill) on a 60,118 sq. ft. blufftop site.

The site has been the subject of a past coastal development permit involving the subdivision of two parcels into four single family residential lots, ranging in size from 1.3 to 2.2 acres. The approval was subject to special conditions regarding cumulative impact mitigation and septic system approval. In 1990, the Commission approved a 10,100 sq. ft. single family residence on the adjacent parcel to the west of the subject site [5-90-1139 (Weintraub)]. In order to insure that this project did not block the view of the ocean's horizon line, a special condition of approval requiring the structure's height be reduced was imposed. Under coastal permit amendment 5-90-1139A (Weintraub), the applicant requested that the structure be modified to allow for a change in design of the structure and a revision to the project's landscaping. The structure's design change, as proposed by the applicant, would result in an increase in the height of the structure which would intrude into the horizon line.

At the March 13, 1996 Commission meeting the Commission coastal development permit amendment application 5-90-1139A (Weintraub) described above and the subject permit application 4-95-167 (Sea Mesa Limited) were scheduled as items 20a and 21a respectively. These items were heard separately by the Commission with separate public hearings and voting on each. When the Commission heard item 20a (5-90-1139A, Weintraub), three people addressed the Commission during public testimony: Mr. Weintraub, the amendment applicant; Mr. Stacey, the agent for 4-95-167 (Sea Mesa Limited); and Mr. Kimbrough, representative of adjacent property owners. The comments made by all three individuals were related to special condition #1 which required the applicant to reduce the structure's height. Mr. Stacey indicated that due to the similarity of the issue of structure height reduction for both 5-90-1139A (Weintraub) and his client's permit application 4-95-167 (Sea Mesa Limited), it was necessary for him to testify during the Weintraub public hearing (5-90-1139A). The Commission approved the project (5-90-1139A, Weintraub) with special conditions on a 10-0 (1 abstention) vote. When the Commission heard item 21a (4-95-167, Sea Mesa Limited) three people addressed the Commission during public testimony: Ms. Login, the applicant; Mr. Stacey, her agent; and Mr. Kimbrough, representative of adjacent property owners. The Commission approved the project with special conditions on a 9-0 (2 abstention) vote.

The staff presentation on the first item 20a (5-90-1139A, Weintraub), included a discussion of the public views of the coast along the 27 mile long coastline of the City of Malibu. During the staff presentation and comments four slides of the blufftop area were shown and information relating to past coastal development permit actions regarding view issues was given. In addition, Mr. Weintraub, the applicant (5-90-1139A) asked to show the four slides used by the staff to illustrate his points regarding the coastal view issue.

Moreover, the applicant for reconsideration's agent, Sherman Stacey, during the Weintraub hearing (5-90-1139A) showed 9 slides and one enlarged site plan of another coastal development permit application approved by the Commission to demonstrate their position relative to the blufftop's coastal scenic value. The slides presented by Mr. Stacey during the Weintraub hearing included pictures of the project site, three of which were taken from PCH to illustrate the view of the coast that an individual traveling in a car would have. In total, the Commission was provided with an extensive presentation of evidence by all sides regarding the issue of coastal views along this piece of property.

Since these projects, which are located adjacent to one another, were scheduled for hearing at the same Commission meeting and the issue of concern (height limitation and protection of public views) was the same, the staff comments and the comments made by Mr. Stacey (as the agent of record for permit application 4-95-167, Sea Mesa Limited) provided for item 20a were incorporated into the record of the applicant's public hearing (item 21a). At the start of the staff report for item 21a, the Commission was asked to incorporate the testimony provided by Mr. Stacey during the public hearing for item 20a.

During the Commission's discussion of item 20a and after the public hearing on 20a (5-90-1139A, Weintraub), Commissioner Wan shared several thoughts with the Commission. First, Commissioner Wan discussed the existing coastal view of the subject area blufftop and she distributed four photographs of the project area taken during the drive by the site from PCH. The photographs distributed by Commissioner Wan were similar to the slides shown by Mr. Stacey during the Weintraub hearing (5-90-1139A) in that they were also taken from PCH to demonstrate the coastal view of individuals traveling the highway by automobile. Second, she commented on a conversation she had with the original subdivision applicant, Mr. Ian Robertson (coastal development permit 5-89-514). The discussion she relayed to the Commission pertained solely to whether or not view issues were discussed at the time of review of the original subdivision application. Mr. Stacey had previously represented to the Commission that view issues were considered and disregarded as an issue of importance during the review of the original subdivision. In addition, page 10 of staff report 4-95-167 (Sea Mesa Limited) quotes one of the applicant's agent as stating that:

staff investigated the viewshed issue and determined that approval of this subdivision (coastal development permit 5-89-514, Robertson) would result in the construction of homes that would block views to the ocean...staff then determined that view blockage in this location was not significant...

Commissioner Wan's comments clearly responded to that which was raised by the applicant's agent as presented during the Weintraub (5-90-1139A) public hearing and as cited in the 4-95-167 (Sea Mesa Limited) staff report. Therefore, Commissioner Wan was not raising a new issue given that the staff report discussed this in detail (pages 2 and 10), letters from the applicant's agent which also discussed this issue in detail were attached to the staff report (Exhibit 9) and Mr. Stacey discussed this issue during his testimony at the Weintraub hearing.

Third, Commissioner Wan shared a conversation she had with the applicant for amendment's original architect, Mr. Ron Goldman (5-90-1139A, Weintraub) regarding the required revision of the original project plans to achieve a height reduction to conform with Coastal Act policy to protect public views of the coast. The 4-95-167 staff report states on page 10:

In 1991, under coastal development permit 5-90-1139 (Weintraub), the Commission found it necessary to protect this same stretch of the view corridor by conditioning the approval of the project to reduce the height of the structure, fencing and landscaping to an elevation below the horizon line. The approval of a higher structure would have adversely impacted this vista and given the site's proximity to PCH from the coast within this segment of the highway, vistas are limited.

Again, Commissioner Wan was not raising an issue new to that which is cited above in the staff report. Therefore, her comments related to the issue of structure height reduction and coastal views as articulated in staff reports 4-95-167 (Sea Mesa Limited) and 5-90-1139 (Weintraub).

As stated previously, the subject permit applicant's agent, Mr. Sherman Stacey made comments at the time of the public hearing during both item 20a (permit amendment application 5-90-1139A, Weintraub) and item 21a (permit application 4-95-167, Sea Mesa Limited). Mr. Stacey asked and received additional time in addressing the Commission during his public testimony given on item 20a. In the staff presentation for item 21a, staff advised the Commission to incorporate into the record the testimony provided by Mr. Stacey in item 20a. During public testimony received by the Commission on item 21a, Mr. Stacey again addressed the Commission. At this time he reiterated his previous remarks from the public hearing of item 20a and made other comments.

#### B. Grounds for Reconsideration

Pursuant to Section 30627(b)(4) of the Coastal Act, the Commission has the discretion to grant or deny requests for reconsideration. Section 30627(a)(2), states that the Commission shall decide whether to grant reconsideration of any term or condition of a coastal development permit which has been granted. The applicant's request for reconsideration (letter attached) requests that special condition #1 of the permit be reconsidered.

Section 30627 (b)(3) states, in part, that the basis for the request for reconsideration shall be that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing. In addition, Section 30627(b)(3) states, in part, that the basis for the request for reconsideration shall be that an error of fact or law has occurred which has the potential of altering the initial decision.

The applicant's request for reconsideration (letter attached), contends that there is an error of fact and of law which has the potential of altering the Commission's decision. For the following reasons, staff recommends that the Commission find that there is no relevant new evidence and that there has not been an error of fact or law and that even if such error of fact or law had occurred, there was no potential that such error would have altered the Commission's decision.

1. Is there "relevant new evidence?"

As an initial matter, staff notes that the applicant does not contend that there is any relevant new evidence which could not have been presented at the hearing on the matter. Although this is not one of the stated grounds for the applicant's request for reconsideration, staff notes that this ground is not presented by the facts at issue here. The applicant has not submitted any new evidence nor has staff review disclosed any. The reasons given by the applicant as the basis for an asserted error of law or fact do not suggest that there is any new evidence which could not have been presented at the hearing. The Commission therefore finds that there is no relevant new evidence which could not have been presented at the hearing on this matter.

2. Is there "an error of fact which has the potential of altering the initial decision?"

The applicant asserts that "The Commission made an error of fact in its findings when it found that it was necessary to reduce the project height to protect the visual quality of the coastal zone as set forth in Public Resources Code Section 30251." First, the applicant contends that the evidence presented indicated that the site's ocean view from PCH is very limited. This assertion is not accurate. As presented to the Commission in photographs and staff explanation of site visits, this bluff top area contains one of the last coastal public views found along this stretch of PCH (Latigo Canyon Road to Escondido Beach). The evidence provided to the Commission showed clearly that the project as described would intrude into the horizon line. Evidence relative to the project's intrusion into the horizon line and visual illustrations of the ocean along the site were presented at the Commission hearing. As described by staff at the hearing and illustrated in the slides, the applicant was required to stake the site to demonstrate the maximum height of the structure. Staff visited the site with the applicant and determined after the visit that the height of the structure would intrude into the horizon line and impact the view of the coast from PCH. In correspondence, which were Exhibit 9 of the staff report, the applicant's agents confirmed this assertion and indicated that from Pacific Coast Highway traveling northbound, the horizon line was at an approximate elevation of 132 ft. Therefore, the applicant's assertion that, "The evidence was uncontroverted that very limited visibility of the waters of the Pacific Ocean could be obtained from Pacific Coast Highway", is incorrect. No error of fact is presented. Rather, this assertion serves merely to re-argue the special condition, which is the subject of the reconsideration request.

Second, the applicant's assertion that other properties in the vicinity will obstruct coastal views is not pertinent to the request for revocation. As stated in the staff report on page 9 of the staff report, "Clearly, views along several segments of PCH, which are located predominately to the east of the Malibu Civic Center, have been obstructed by residential and commercial development that occurred before the Coastal Act in many instances." The contention of other properties obstructing public views was presented to the Commission by the applicant's agent twice at the Commission meeting: during the public testimony for item 20a (5-90-1139A, Weintraub) and the public testimony for the subject item 21a (4-95-167, Sea Mesa Limited). Furthermore, information regarding the Commission's past permit action in the vicinity where heights were reduced by Commission action to preserve the horizon line

were also presented to the Commission. Several pertinent examples were presented. Therefore, the assertion all other private residential property in the vicinity has been developed so as to obstruct the public's coastal views will not support an alleged error of fact. Rather, this assertion serves merely to re-argue the special condition, which is the subject of the reconsideration request.

Third, the applicant asserts that restricting the project height to the horizon line will not result in protecting the public's view of the coast. This is not an error of fact in which a reconsideration could be granted. The height of the horizon line, 132 ft. elevation, was provided by the applicant to Commission staff. As presented to the Commission, there are few public view opportunities similar to those found at the subject site along this stretch of PCH (Latigo Canyon Road to Escondido Beach) due to the highway's inland location and lower elevation (where residential development is sited at higher elevation levels). As stated in special condition #1, the structure need only be reduced to insure that the horizon line (where the water meets the sky) be visible. The special condition did not require the applicant to reduce the height of the structure to allow for the visibility of all coastal water from PCH. Thus, by the applicant's own assertion, the Commission required the applicant to maintain the visibility of the horizon line and this does not constitute an error of fact. Again, the applicant is re-arguing the special condition. The Commission therefore finds that, based upon the above applicant's assertions, no error of fact occurred which has the potential of altering the Commission's initial decision.

3. Is there "an error of law which has the potential of altering the initial decision?"

The applicant contends that the Commission committed an error of law in the hearing proceedings based on the assertion that, "Commissioner Wan improperly collected and presented evidence on factual issues before the Commission after the close of public hearing." As stated in the preceding section, Commissioner Wan made several comments after the close of the public hearing regarding coastal permit amendment 5-90-1139A (Weintraub). Her comments, however, were made before the public hearing began for the subject application, 4-95-167 (Sea Mesa Limited).

First, Commissioner Wan mentioned that she drove by the parcels in question and took a video (which was later distilled into four pictures) of what she saw as she drove by the site. These pictures were shared with the rest of the Commission and represented four of the 17 pictures shown to the Commission during the Commission hearing (where four pictures were presented by staff and nine pictures by Mr. Stacey, the applicant's agent). As stated in the preceding section, Commissioner Wan's pictures were taken from PCH in an automobile similar to the three slides presented by Mr. Stacey that were taken from PCH.

Second, Commissioner Wan relayed to the Commission her conversation with the applicant of the underlying subdivision, Mr. Robertson. Commissioner Wan stated that this conversations pertained as to whether or not the issue of coastal views and structure height on the subject sites were ever considered. Mr Stacey, in his presentation to the Commission represented that view issues were considered and disregarded as an issue of importance during review of the

original subdivision (5-89-514, Robertson). In addition, Mr. Heacox, agent to the applicant, in his letter to staff which was distributed to the Commission as Exhibit 9 of the 4-95-167 staff report also represented that view issues were not considered an issue during the Commission review of the original subdivision permit (5-89-514, Robertson). Therefore, the issue of whether visual issues had been presented during the review of the original subdivision (5-89-514, Robertson) was not new to Mr. Stacey, since he presented this issue in his testimony during the Weintraub hearing.

Third, Commissioner Wan told the Commission about her conversations with the architect for the permit amendment applicant, Mr. Goldman (permit 5-90-1139, Weintraub). Commissioner Wan stated that this conversation related to the required revision of the original project plans to achieve a height reduction to protect the public view of the horizon line. This too was an issue that was contained in the staff report (page 2 and 10), where the similar issue of achieving view protection along this stretch of PCH (Latigo Canyon Road to Escondido Beach) was raised in a permit matter. In fact, Mr. Stacey's own comments in his presentation to the Commission during the Weintraub hearing (5-90-1139A) raised the issue of whether other coastal permits within the vicinity were required to maintain public views. Commissioner Wan's comments, therefore, were not the introduction of new information. Rather, her comments were in response to the issues presented by applicant's agents.

Contrary to the applicant's assertions, the applicant did have a chance to address the Commission a second time and rebut Commissioner Wan's comments that were made during Commission discussion of the amendment. The applicant's agent, Mr. Stacey, did speak a second time following Commissioner Wan's comments. Thus, the applicant had an opportunity to rebut her comments during the public hearing on Sea Mesa Limited (4-95-167). Therefore, the contention that an error of law occurred for procedural reasons is unfounded.

With regard to Commissioner Wan's sharing with other Commissioners her observations made while driving by a site. Commissioners often share their experiences in the coastal zone at the Commission hearings. Such interactions, with other Commissioners is a valuable and expected process at the hearing and occur often. There is no error of law in a Commissioner driving by a project site and sharing her observations. The applicant's agent drove by this site, took photos and presented them, as did staff. Commissioner Wan's observations added to the already preceding discussion about site views. Even if this had been an error of law, it would not have had the potential of altering the Commission's decision given that the staff report and slide presentation included substantial evidence to demonstrate the project's intrusion into the horizon line. As stated in the staff report, the applicant was required to stake the site with poles at the approximate elevation levels of the residence and at the elevation of the tennis court fence. Staff determined after visiting the site that the height of the structure would intrude into the horizon line and impact the view of the coast from PCH. In addition, correspondence attached to the staff report (Exhibit 9) from the applicant's agents confirmed that the project would intrude into the horizon line by approximately 5 ft. when traveling northbound on Pacific Coast Highway (where the horizon line was at an approximate elevation of 132 ft.). Furthermore, staff presented four slides which depicted both the subject site and the coastal view obtained from PCH. Moreover, the staff report summarized the Commission's 1991 review of coastal view obstruction



that would occur from development on the adjacent site (5-90-1139 and 5-90-1139A). Therefore, Commissioner Wan's comments represented just one more piece of information in the scope of substantial evidence that presented to the Commission.

As noted above the subject of telephone conversations were discussed as to whether or not the view corridor issue had arisen in the pervious permit actions which had occurred on the site. Again, these comments were all within the scope of the arguments made by the applicant's agents as stated above. There is no error of law in Commissioner Wan sharing that information, however. In any event, the subject matter related to one minor point in an evidentiary presentation. Whether these discussions arose is not critical to whether the Commission required a height restriction. Moreover, the agent presented testimony regarding his interpretation of the meaning of the old coastal development permit subdivision review by staff and the Commission's approval. Therefore, the information shared by Commissioner Wan was not the raising of a new issue and did not have the potential of altering the Commission's decision.

Although the applicant contended at the hearing that the absence of height limitations on the subdivision mattered in the review of the subject single family residence, this is not accurate. As presented to the Commission, several subdivisions located within the Santa Monica Mountains area have been approved by the Commission where the visual impacts of future residences would be left to be analyzed at the time individual permits were sought. In cases such as the underlying subdivision, where the lots created are relatively flat (i. e. minimal landform alteration necessary to build a house) and where the lots contain more than one building pad, a review of visual impacts that future residential projects may have does not typically occur. Thus, the residential development that follows the subdivision is intended to be reviewed individually, where the least environmentally damaging alternative will be sought in accordance with the Coastal Act. In the case of the subject project, for all the reasons contained in Section IVC of the staff report, special condition #1 required the applicant to reduce the height of the structure, consistent with Section 30251 of the Coastal Act. Commissioner Wan's comments merely echoed the evidence contained in staff report. Therefore, the requirement of limiting the height of the structure was based on the project's intrusion into the public's view of the coast and not on the conversations that Commissioner Wan shared with the Commission. The Commission therefore finds that if there had been an error of law, there was no potential that such error would have altered the Commission's decision.

For the reasons stated above, the Commission finds that this request for reconsideration does not meet the requirements of Section 30627(b)(3) of the Coastal Act and is denied.

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Reconsideration
Request, Sea Mesa Limited

LAW OFFICES OF  
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CALIFORNIA  
 COASTAL COMMISSION

April 12, 1996

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CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

Mr. Gary Timm  
 California Coastal Commission  
 South Central Coast Area Office  
 89 South California Street  
 Ventura, California 93001

Re: Application No. 4-95-167 (Sea Mesa, Ltd.)

Dear Mr. Timm:

On behalf of Sea Mesa, Ltd., I hereby request reconsideration of the Commission's action on March 13, 1996, to approve with Condition Permit No. 4-56-167. This request for reconsideration is made in accordance with Public Resources Code §30627 and California Code of Admin. Regs., Title 14, §13109.2. The request for reconsideration relates to the Commission's decision to impose Special Condition No. 1. This request is made on the grounds that there was an error of law or fact which has the potential of altering the initial decision.

1. Error of Law.

The Commission committed an error of law in the hearing proceedings which had the effect of denying a fair hearing to the Applicant. Commissioner Wan improperly collected and presented evidence on factual issues before the Commission after the close of the public hearing. Commissioner Wan presented photographs and testified concerning conversations which she had with an architect who had previously been involved in a project application on adjoining property but who was no longer involved. By doing so after the public hearing had been closed, Commissioner Wan foreclosed the possibility that the Applicant could rebut the testimony. Since Commissioner Wan's evidence included matters which were not also included in the Staff Recommendation, the Applicant was not able to be prepared prior to the hearing to meet the evidence presented by Commissioner Wan.

As a member of the Commission who is also a resident of the City of Malibu, Commissioner Wan's participation in the gathering and presentation of evidence has a disproportionate influence on the deliberations of the Commission when considering matters which are proposed in the City of Malibu. It is both a historical observation and a natural consequence that other

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Commissioners will listen carefully and deferentially to the views of a Commissioner who is the Commissioner who has the closest physical proximity to a project. When that Commissioner also undertakes the gathering of additional evidence which is not shared with the Applicant prior to the hearing (as the Staff Recommendation shares the evidence relied upon by the Staff at least 10 days before the hearing), the impact upon the fairness of a hearing is manifest.

When a Commissioner who must exercise discretion also gathers physical evidence with regard to the facts of a matter before that Commissioner and presents that evidence to the remaining Commissioners after a public hearing has been held but prior to the vote on the matter, the Applicant is denied a fair hearing. The Commission is required by law to conduct a fair hearing and the failure to provide a fair hearing is an error of law.

The Applicant contends that but for Commissioner Wan's presentation of evidence to support her position, that there may have been a motion to amend or delete Special Condition No. 1 and that such a motion might have been approved by the Commission.

2. Error of Fact.

The Commission made a error of fact in its findings when it found that it was necessary to reduce the project height to protect the visual quality of the coastal zone as set forth in Public Resources Code §30251. The evidence was uncontroverted that very limited visibility of the waters of the Pacific Ocean could be obtained from Pacific Coast Highway. Substantially all other private residential properties in the vicinity had been developed (including developments approved by the Commission) in a manner which also obstruct views of the waters of the Pacific Ocean even when such views are substantially more expansive than the view across the Applicant's property.

Finally, the limitations of Special Condition No. 1 will not result in a structure which does not obstruct the visibility of the waters of the Pacific Ocean from Pacific Coast Highway. The elevation of 132 feet chosen by the Commission as the maximum roof height was found by the Commission to be the "horizon line". The effect of the condition is that the structure may obstruct all views of the waters of the Pacific Ocean but may not extend higher to the height limit of 28 feet of the City of Malibu because the additional 5 feet would then obstruct the view of a portion of the sky above the horizon of the Pacific Ocean.

LAW OFFICES OF  
SHERMAN L. STACEY

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Applicant respectfully requests that the Commission grant this request for reconsideration.

Very truly yours,

  
SHERMAN L. STACEY

SLS:js

cc: Ms. Paula Login