

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

MALIBU, CA 93001

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Th14d

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**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-98-171**APPLICANT:** Daniel Frumkes **AGENT:** John W. Starlin**PROJECT LOCATION:** 24958 Malibu Road, City of Malibu (Los Angeles County)**PROJECT DESCRIPTION:** After-the-fact approval of rip rap revetment with plank return wall to protect existing septic system and pile system for a beachfront single family residence.

Lot area:	9,000 sq. ft.
Building coverage:	2,000 sq. ft.
Height above existing grade:	2.5 to 10 ft. M.S.L. Datum

**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Department, Approval in Concept, dated 3-18-98; Department of Environmental Health, approval, dated May 4, 1998; Richard Calvin, maintenance manager, City of Malibu, letter to Daniel Frumkes, November 13, 1998; State Lands Commission, review letter, May 27, 1998.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan, County of Los Angeles, 12/11/86; U.S. Army Corps of Engineers. Los Angeles District. Reconnaissance Study of the Malibu Coast. 1994; John W. Starlin: letters to Daniel Frumkes, March 15, 1998 and May 2, 1998; letter report on wave mitigation wall, August 5, 1998; and letter report on wave mitigation wall, November 6, 1998; Coastal development permit P-7-6-77-1312 (Frumkes)

**SUMMARY OF STAFF RECOMMENDATION:**

The proposal is for a shoreline protective work inland of an existing area of lateral public access provided by a deed restriction required as a condition of the 1977 coastal development permit. The request is for approval of improvements that have already been undertaken during the 1997-98 winter storms without benefit of a coastal development permit. No emergency permit was issued for the development. Staff recommends approval of the project with a special condition of approval relating to: *assumption of risk*.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions.**

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

**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. **Compliance.** All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Condition

#### 1. Assumption of Risk

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from storm waves, erosion or flooding and the applicant assumes the risks from such hazards; and (b) that the applicant unconditionally waives any claim of liability against the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

### IV. Findings and Declarations

The Commission hereby finds and declares:

#### A. Project Description

The applicant requests approval after-the-fact for the construction of a rip rap revetment with a vertical wooden return wall system underneath an existing beachfront single family residence to protect the existing septic system and piles. The proposal is for approval of improvements that have already been undertaken during the 1997-98 winter storms without benefit of a coastal development permit. The applicant originally applied for an emergency permit to protect the residence due to erosion from both wave action and inland storm flow on March 3, 1998. Substantial amounts of sand had eroded away and an existing wood vertical seawall had been destroyed. The emergency permit application was never completed and no emergency permit was issued.

The rip rap has an irregular configuration approximately 100 ft. long and thirty five feet wide underneath the existing residence. In response to staff concern with the actual location of the rip rap, the applicant submitted a sketch indicating a revised project design and a letter from the structural engineer dated November 6, 1998. Both indicate that the project is completely under the existing structure. This places the rip rap landward of the area preserved for public access under the condition of the previous permit P-7-6-77-1312 (Frumkes) which required a deed restriction to provide lateral access to within five feet seaward of the residence.

The rip rap includes an 18 inch thick layer of filter rock overlain with one ton rocks capped on the face of the wall by two to four ton rocks. The plank return wall is proposed on the

upcoast side and is keyed into the bedrock. The rip rap on the down coast side is connected to existing rip rap on the adjoining property but does not intrude into that property. A minor amount of backfill is located behind the rip rap and return wall, which is not indicated as to quantity in the application, but is estimated as 100 cu. yds. based on staff review of the project plans.

The existing septic system is located approximately twenty feet landward of the proposed revetment. According to Larry Young, City of Malibu Environmental Health Officer, current building code standards require a 5 ft. minimum buffer between a septic system and a retaining wall in order to ensure a limited amount of lateral effluent movement, should the bottom fail. Young also indicated that the distance of twenty feet is necessary to provide for a replacement septic system seaward of the existing location, if found necessary in the future.

The project is located at 24958 Malibu Road, in the City of Malibu in the Puerco Beach area. Surrounding development consists of single family development facing a narrow sandy, rock and cobble beach.

#### **B. Shoreline Protective Devices**

As described below, there is evidence that this development along this section of Puerco Beach will require a shoreline protective device and that such development has the potential to impact the natural shoreline processes. Therefore, it is necessary to review the proposed project for its consistency with Sections 30235, 30250(a) and 30253 of the Coastal Act and with past Commission action.

Section 30235 of the Coastal Act states:

***Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.***

Section 30253 of the Coastal Act states:

***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.***

Section 30250(a) of the Coastal Act states, in part:

***New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.***

To assist in the determination of whether a project is consistent with sections 30235, 30253 and 30250(a) of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The Malibu LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast. Policies 166 and 167 provide, in concert with Coastal Act section 30235, that revetments, seawalls, cliff retaining walls and other shoreline protective devices shall be permitted only when required: to serve coastal-dependent uses; protect existing structures or new structures which constitute infill development; and only when such structures are designed and engineered to eliminate or mitigate the adverse impacts on the shoreline and sand supply. In addition, Policy 153 indicates that development of sites that are exposed to potentially heavy tidal and wave action shall require that development be set back a minimum of 10 ft. landward from the mean high tide line.

#### **Erosion Pattern of Puerco Beach**

Puerco Beach is a narrow section of the coast which has been heavily developed with single family homes and is located between Amarrillo Beach and Dan Blocker County Beach. Many of the existing residences along Puerco Beach employ bulkheads or other forms of shoreline protection to protect septic system leach field systems. Much of this existing development is exposed to recurring damage because of the absence of a sufficiently wide protective beach.

Having defined Puerco Beach as a narrow, heavily developed beach, the next step is to determine the overall erosion pattern of the beach. Determination of the overall beach erosion pattern is the key factor in determining the impact of the bulkhead on the shoreline. In general, beaches fit into one of three categories: 1) eroding; 2) equilibrium; or 3) accreting. The persistent analytical problem in dealing with shore processes in California is distinguishing long-term trends in shoreline change from the normal seasonal variation.

The U.S. Army Corps of Engineers. Los Angeles District. Reconnaissance Study of the Malibu Coast. 1994 identifies Puerco Beach as stable to slow erosion. In addition, the Shoreline Constraints Study by Moffatt and Nichol, Engineers dated June 30, 1992 also indicates that the subject beach is retreating at .25 to .75 feet per year. Based on the above information, the Commission concludes that the subject site is located on an eroding beach.

### Wave Runup/ Feasible Project Location

The Commission notes that many studies performed on both equilibrium and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists. In order to determine the impacts of the proposed bulkhead on the shoreline, the location of the proposed protective device in relationship to the expected wave runup as calculated by the location of the Mean High Tide Line must be analyzed.

The proposed structure will be located entirely beneath the proposed structure. Although the ambulatory MHTL can vary greatly along this portion of Puerco Beach, the applicant has submitted a plan view by the coastal engineering consultant indicating that the MHTL will be located approximately 86 ft. seaward of the proposed bulkhead. The applicant also has submitted a letter from the State Lands Commission (SLC) which indicates that the SLC does not, at this time, make any claim that the project encroaches onto public lands.

The project engineer, John W. Starlin's letter to Daniel Frumkes of March 15, 1998 indicates that the maximum wave uprush at the subject site. This point will be approximately at the 22.6 foot elevation which may reach a point ten feet seaward of the right of way line of the Malibu Road, i.e. landward of the project site if not protected with a bulkhead. This data indicates that inundation of the beach fronting the proposed bulkhead will occur during high tide and low beach profile conditions in the winter. What remains unclear is the frequency at which the inundation will occur.

In past permit actions, the Commission has found that one of the most critical factors controlling the impact of a bulkhead on the beach is its position on the beach profile relative to the surf zone. All other things being equal, the further seaward the wall is, the more often and more vigorously waves interact with it. The best place for a protective device, if one is necessary, is at the back of the beach where it provides protection against the largest of storms. By contrast, a protective device built out too close to the MHTL may constantly create problems related to frontal and end scour, as well as upcoast sand impoundment.

In the case of the proposed project, however, the applicant has submitted information from the consulting engineer which indicates that the proposed revetment is in the only feasible location. In his letter of November 6, 1998, John Starlin found that the placement of the proposed revetment further landward and further underneath the existing residence would require use of heavy equipment in a location where it would present a safety hazard. Starlin found that there would be potential damage to the piling system which would be catastrophic to the existing residential structure because of the shallow depth of the piling system. Further, Starlin found that a such landward placement would increase the possibility of overtopping and upsplash with possible future damage. In summary, Starlin found that the location was necessary at the proposed location to protect the piling system, residence and sanitary system, and allow for potential future expansion of the septic system.

### Impact on Beach Profile and Public Access

Based on this information, however, the Commission finds that the subject project at the proposed location has the potential to encroach into an area of the beach that is currently subject to wave action during storm and high tide events. As previously discussed, the Commission finds that Puerco Beach is a narrow retreating beach and that the proposed protective work at times will be subject to wave action during storm and/or high tide events. Therefore, the following discussion is intended to evaluate the impacts of the proposal on the beach based on the above information which identified the specific structural design, the location of the structure, and the shoreline geomorphology.

The proposed shoreline protection will be constructed on the beach under the existing residence and seaward of Malibu Road at the inland property line. Because the subject revetment is located further seaward, it will be subject to additional erosion and scour effects and potentially result in a greater degree of adverse impacts to sand supply and public access than the previous damaged wood shoreline protective device. Even though the precise impact of a structure on the beach is a persistent subject of debate within the discipline of coastal engineering, and particularly between coastal engineers and marine geologists, it is generally agreed that a shoreline protective device will affect the configuration of the shoreline and beach profile whether it is a vertical bulkhead or a rock revetment. The main difference between a vertical bulkhead and rock revetment seawall is their physical encroachment onto the beach.

It has been well documented by coastal engineers and coastal geologists that shoreline protective devices or shoreline structures in the form of either a rock revetment or vertical bulkhead will adversely impact the shoreline as a result of beach scour, end scour (the beach areas at the end of the seawall), the retention of potential beach material behind the wall, the fixing of the back beach and the interruption of longshore processes. In order to evaluate these potential impacts relative to the proposed structure and its location on Puerco Beach, each of the identified effects will be evaluated below.

Beach scour is the removal of beach material from the base of a cliff, seawall or revetment due to wave action. The scouring of beaches caused by seawalls is a frequently-observed occurrence. When waves impact on a hard surface such as a coastal bluff, rock revetment, or vertical bulkhead, some of the energy from the wave will be absorbed, but much of it will be reflected back seaward. This reflected wave energy in combination with the incoming wave energy, will disturb the material at the base of the seawall and cause erosion to occur in front and down coast of the hard structure. This phenomenon has been recognized for many years and the literature acknowledges that seawalls do affect the supply of beach sand.

The Commission notes that the proposed revetment will be located seaward of the landward extent of maximum wave uprush and will be periodically acted upon by wave action. In past permit actions, the Commission has found that shoreline protective devices which are subject to wave action tend to exacerbate or increase beach erosion. A 1981 statement signed by 94 respected coastal geologists indicates that sandy beach areas available for public use can be harmed through the introduction of seawalls. Thus, in evaluating an individual project, the Commission assumes that the principles reflected in that statement are applicable. To do otherwise would be inconsistent with the

Commission's responsibilities under the Coastal Act to protect the public's interest in shoreline resources and to protect the public's access along the ocean and to the water.

Where the shoreline is not armored, the most important element of sustaining the beach width over a long period of time is the retreat of the back beach and the beach itself. Dr. Craig Everts, in the above-noted Moffat & Nichol study, found that on narrow beaches uprush is reflected back seaward. Dr. Everts further concludes that armoring in the form of a seawall or revetment interrupts the natural process of beach retreat during a storm event and that, "a beach with a fixed landward boundary is not maintained on a recessional coast because the beach can no longer retreat." He concluded that narrow beaches typical of most of the California coast do not provide enough sacrificial sand during storms to provide protection against scour caused by breaking waves at the back beach line. This is the reason the back boundary of our beaches retreats during storms.

The Commission has observed this phenomenon up and down California's coast where a seawall has successfully halted the retreat of the shoreline, but only at the cost of usurping the beach. For example, at La Conchita Beach in Ventura County, placement of a rock revetment to protect an existing roadway has caused narrowing of the existing beach. Likewise, at City of Encinitas beaches in San Diego County, construction of vertical seawalls along the base of the bluffs to protect existing residential development above, has resulted in preventing the bluffs' contribution of sand to the beaches, resulting in narrowing.

As noted, Puerco Beach is a narrow and retreating beach where the protective device will be acted upon by waves during storm conditions. In addition, if a seasonal eroded beach condition occurs with greater frequency due to the placement of a revetment on the subject site, then the subject beach would also accrete at a slower rate. The Commission notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists. Therefore, the Commission notes that the subject revetment, over time, will result in potential adverse impacts to the beach sand supply resulting in increased seasonal erosion of the beach and longer recovery periods.

The impacts of potential beach scour is important relative to beach use for two reasons. The first reason involves public access. The subject property is located approximately 600 feet to the west of an existing vertical public access way. Beach scour at the base of the revetment will translate into a loss of beach sand available (i.e. erosion) at a more accelerated rate than would otherwise occur under a normal winter season if the beach were unaltered. which will affect this access way. The second impact relates to the potential turbulent ocean condition. Scour at the face of a seawall will result in greater interaction with the wall and thus, make the ocean along Puerco Beach more turbulent than it would along an unarmored beach area.

Thus, the Commission has ordinarily required that shoreline protection devices be located as landward as possible in order to reduce adverse impacts from scour and erosion. In the case of this project, the applicant has designed a revetment within the existing piling system and connecting to upcoast and downcoast adjacent shoreline protective devices. The applicant has located the subject bulkhead as far landward as feasible given the need to avoid affecting



the existing piles, harming the existing residential structure, and to provide for a future expansion area for the septic system.

In this case, the applicant has constructed shoreline protection which the consulting engineer determined is in the only feasible location. Although the subject revetment will create an increased amount of sand erosion and a commensurate loss of public access, the project site has a recorded deed restriction providing for lateral access up to 25 feet inland from the mean high tide line to within five feet of the structure. The proposed structure does not intrude seaward of the residence affecting the area restricted for public access in the recorded document. This will ensure that any potential adverse effects are mitigated to the maximum extent feasible. Consequently, the project is located at the most feasible location to protect the residence and septic system while minimizing beach erosion impacts.

Therefore, the project is consistent with applicable Coastal Act sections (PRC Sections 30235, 309250(a), and 30253) and with past Commission action. Public access impacts will be discussed in further detail below.

### Conclusion

In conclusion, Coastal Act sections 30235, 30253 and 30250(a) set forth the Commission's mandate relative to permitting shoreline protective devices and beachfront development. In this case, the project meets the Section 30253 criteria to allow a revetment to protect existing structures. The subject location was expressly chosen in order to avoid adversely affecting the pile system and existing single family residence during construction although it may adversely impact the beach profile on a seasonal basis.

In past permit actions, the Commission has required a lateral public access easement for new shoreline protection devices to mitigate adverse impacts to beach sand supply and public access. In the case of this project, the property has an existing deed restriction which mitigates to the extent practicable any possible adverse impacts to public access along the beach, and, therefore, no further condition is necessary to ensure public lateral access easement along the beach.

In addition, the project will minimize adverse impacts resulting from the proposed construction and is consistent with the applicable Coastal Act sections and with past Commission action. Therefore, the Commission finds that the proposed project is consistent with Sections 30235, 30250, and 30253 of the Coastal Act.

### C. Hazards and Geologic Stability

Coastal Act Section 30253 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.**

In addition to section 30253 of the Coastal Act, the certified Malibu/Santa Monica Mountains LUP contains several policies and standards regarding hazards and geologic stability. For example, Policy 147 suggests that development be evaluated for impacts on and from geologic hazards. Policy 153 suggests that no development should be sited closer to the sea than 10 ft. landward of the mean high tide line. These policies have been certified as consistent with the Coastal Act and used as guidance by the Commission in numerous past permit actions in evaluating a project's consistency with section 30253 of the Coastal Act.

The Malibu coast has been subject to substantial damage as a result of storm and flood occurrences, geological failures and firestorms. Therefore, it is necessary to review the subject project and project site against the area's known hazards. The subject project involves the construction of a rip rap revetment and wood return wall along a developed section of Puerco Beach. The project site is susceptible to flooding and/or wave damage from storm waves and storm surge conditions. Past occurrences have resulted in public costs (through low-interest loans) in the millions of dollars in the Malibu area alone.

The amount of erosion resulting from a storm depends on the overall climatic conditions and varies widely from storm to storm. Protection from this erosion depends largely on the funds available to construct various protective structures that can withstand high-energy waves. Along the Malibu coast, significant damage has also occurred to coastal areas from high waves, storm surge and high tides. In the winter of 1977-78, storms triggered numerous mudslides and landslides and caused significant damage along the coast. The southerly and southwesterly facing beaches in the Malibu area were especially hard hit by waves passing through the open windows between offshore islands during the 1978 and 1980 storms. These waves broke against beaches, seawalls, and other structures, causing damages of between \$2.8 and \$4.75 million to private property alone.

The "El Nino" storms in 1982-83 caused additional damage to the Malibu coast, when high tides of over 7 feet were combined with surf between 6 and 15 feet. These storms caused over \$12.8 million in damage to structures in Los Angeles County, many located in Malibu. Due to the severity of the 1982-83 storm events, they have often been cited as an illustrative example of an extreme storm event and used as design criteria for shoreline protective structures. Storms in 1987-88, 1991-92, and 1997-1998 did not cause the far-reaching devastation of the 1982-83 storms, however, they too were very damaging in localized areas and could have been significantly worse except that the peak storm surge coincided with a low tide rather than a high tide.

During the winter season, the proposed development will be subject to wave attack, flooding, and erosion hazards that in the past have caused significant damage to development along the California coast, including the Malibu coastal zone and the beach area nearby the subject property. The Coastal Act recognizes that new development, such as the construction of the proposed revetment and single family residence on a beach, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk.

In the case of this project, there has been a review by a qualified professional familiar with the project site and shoreline protective devices (John W. Starlin: letters to Daniel Frumkes, March 15, 1998 and May 2, 1998; letter report on wave mitigation wall, August 5, 1998; and letter report on wave mitigation wall, November 6, 1998) Given the findings and recommendations of these reports, the Commission finds that the proposed development is consistent with Section 3053 of the Coastal Act because it has been designed to provide stability and structural integrity based on a wave uprush study and analysis of beach erosion at the subject site.

Regardless, when development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. Therefore, the Commission finds that due to the unforeseen possibility of wave attack, erosion, and flooding, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be completely eliminated, *Special Condition one (1)* requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, when executed and recorded on the property deed, will also show that the applicant is aware of and appreciated the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

In summary, Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood and fire hazard, and assure stability and structural integrity. Beachfront development raise issues relative to a site's geologic stability. The Malibu shoreline has experienced coastal damage regularly from geologic instability induced by winter rains and heavy surf conditions. The Commission notes that the subject project is designed to minimize risks to life and property and assure stability and structural integrity. Therefore, the Commission finds that, as conditioned, the proposed development is consistent with sections 30253 of the Coastal Act.

#### **D. Public Access**

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities along the coast. The Coastal Act has several policies which address the issues of public access and recreation along the coast.

Section 30210 of the Coastal Act states:

***In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.***

Section 30211 of the Coastal Act states:

***Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.***

Section 30212 of the Coastal Act states (in part):

***(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...***

Section 30220 of the Coastal Act states:

***Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.***

All projects requiring a coastal development permit must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act. Based on the access, recreation and development sections of the Coastal Act, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline.

Construction of a rip rap seawall of the type proposed affects public access opportunities because it has a number of effects on the dynamic shoreline system and the public's beach ownership interests:

- Changes in the shoreline profile, particularly changes in the slope of the profile which result from a reduced beach berm width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on their own property.
- Access is diminished because through a progressive loss of sand; shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to

nourish the beach. The effect of this on the public are again a loss of area between the mean high water line and the actual water.

- Shoreline protective devices such as revetments and bulkheads cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach.
- If not sited landward in a location that insures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy.

Due to the aforementioned adverse impacts of shoreline protective structures on public access, the proposed shoreline protection device must be judged against the public access and recreation policies of the State Constitution, Sections 30210, 30220, and 30211 of the Coastal Act. Along the California coast, the line between land and ocean is complex and constantly moving.

The State of California is the owner of all tidelands and all lands lying beneath inland navigable waters. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The public trust doctrine restricts uses of sovereign lands to public trust purposes, such as navigation, fisheries, commerce, public access, water-oriented recreation, open space and environmental protection and severely limits the ability of the State to alienate these sovereign lands into private ownership and use free of the public trust. Consequently, the Commission must avoid decisions that improperly compromise public ownership and use of sovereign tidelands.

Where development is proposed that may impair public use and ownership of tidelands, the Commission must consider where the development will be located in relation to tidelands. The legal boundary between public tidelands and private uplands is known as the ordinary high water mark. (Civil Code, § 830.) In California where the shoreline has not been affected by fill or artificial accretion, the ordinary high water mark of tidelands is determined by locating the existing "mean high tide line." The mean high tide line is the intersection of the elevation of mean high tide with the shore profile. Where the shore is composed of a sandy beach whose profile changes as a result of wave action, the location at which the elevation of mean high tide line intersects the shore is subject to change. The result is that the mean high tide line (and therefore the boundary) is an "ambulatory" or moving line that moves seaward through the process known as accretion and landward through the process known as erosion.

Consequently, the position of the mean high tide line fluctuates seasonally as high wave energy (usually but not necessarily) in the winter months causes the mean high tide line to move landward through erosion, and as milder wave conditions (generally associated with the summer) cause the mean high tide line to move seaward through accretion. In addition to ordinary seasonal changes, the location of the mean high tide line is affected by long term changes such as sea level rise and diminution of sand supply.

In order to protect public tidelands when beachfront development is proposed, the Commission must consider (1) whether the development or some portion of it will encroach on public tidelands (i.e., will the development be located below the mean high tide line as it may exist at some point throughout the year) and (2) if not located on tidelands, whether the development will indirectly affect tidelands by causing physical impacts to tidelands.

In order to avoid approving development that will encroach on public tidelands during any time of the year, the Commission, usually relying on information supplied by the State Lands Commission, will look to whether the project is located landward of the most landward known location of the mean high tide line. In this case, the State Lands Commission presently does not assert a claim that the project intrudes onto sovereign lands. The Coastal Commission itself currently has no independent evidence that the Mean High Tide Line has ever moved landward into the project area.

Even structures located above the mean high tide line, however, may have an impact on shoreline processes as wave energy reflected by those structures contributes to erosion and steepens the shore profile, and ultimately to the extent and availability of tidelands. That is why the Commission also must consider whether a project will have indirect impacts on public ownership and public use of the shoreline.

The major access issue in this permit application is the occupation of sandy beach area by a structure and potential effects to shoreline sand supply and public access in contradiction of Coastal Act policies 30211 and 30221. The beaches of Malibu are extensively used by visitors of both local and regional origin and most planning studies indicated that attendance of recreational sites will continue to significantly increase over the coming years.

The public has a right to use the shoreline under the public trust doctrine, the California Constitution and California common law. The Commission must protect those public rights by assuring that any proposed shoreline development does not interfere with or will only minimally interfere with those rights. In the case of the proposed project, the potential for the permanent loss of sandy beach as a result of the change in the beach profile or steepening from potential scour effects.

Although this project is constructed in a sandy beach area, it is completely underneath the existing residence. It extends development of the revetment to a location no further seaward than existing residence, but will result in some indirect impacts on tidelands because the subject revetment is located in an area that is subject to wave attack and wave energy. The Commission must consider whether the project will affect a public right to use beachfront property, independent of who owns the underlying land on which the public use takes place. These types of public uses include:

- the public's recreational rights in navigable waters guaranteed to the public under the California Constitution and state common law;

- any rights that the public might have acquired under the doctrine of implied dedication based on continuous public use over a five-year period; and
- any additional rights that the public might have acquired through public purchase or offers to dedicate.

These use rights are implicated as the public walks the wet or dry sandy beach below the mean high tide plane. This area of use, in turn moves across the face of the beach as the beach changes in depth on a daily basis. The free movement of sand on the beach is an integral part of this process, and it is here that the effects of structures are of concern.

In past permit actions, the Commission has required that new shoreline protective devices, be located as landward as possible in order to reduce adverse impacts to the sand supply and public access resulting from the development. In the case of this project, staff notes that the applicant has designed the subject revetment as far landward as feasible in order to avoid the destruction of the existing structure or piling system, and to provide adequate buffer space and protection for the existing septic system.

In addition, in past permit actions, the Commission has also required a lateral public access easement for new shoreline protection devices to mitigate adverse impacts to beach sand supply and public access. While to conclude with absolute certainty what impacts the subject development would cause on the shoreline processes and public access, a historical shoreline analysis based on site-specific studies would be necessary. Although this level of analysis has not been submitted by the applicant, in order to mitigate any possible adverse impacts to public access, the applicant has already recorded a deed restriction to provide public lateral access to within 5 feet of the residence as previously described. Because the applicant has dedicated lateral access along the southern section of the lot, and no seaward expansion is proposed beyond the existing residence, it has not been necessary for Commission staff to engage in an extensive analysis of the potential adverse effects to public access resulting from the proposed project. As such, no new special condition is necessary.

Although the seawall, which is exposed to wave action, may adversely impact the beach profile on a seasonal basis and, as such, result in adverse impacts to sand supply and public access, the Commission notes that the subject revetment is located as far landward as feasible and that the proposed project with the previous deed restriction is designed to minimize potential adverse effects to public access. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, 30212 and 30220 of the Coastal Act.

#### **E. Violation**

Unpermitted development has taken place prior to submission of this permit application including the construction of a rip rap revetment and a return wall. Consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of portions of the permit does not constitute a waiver of any legal

action with regard to the alleged violation 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 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 not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).***

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed 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).

G. 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)(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 which the activity may have on the environment.

The Commission finds that, 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.



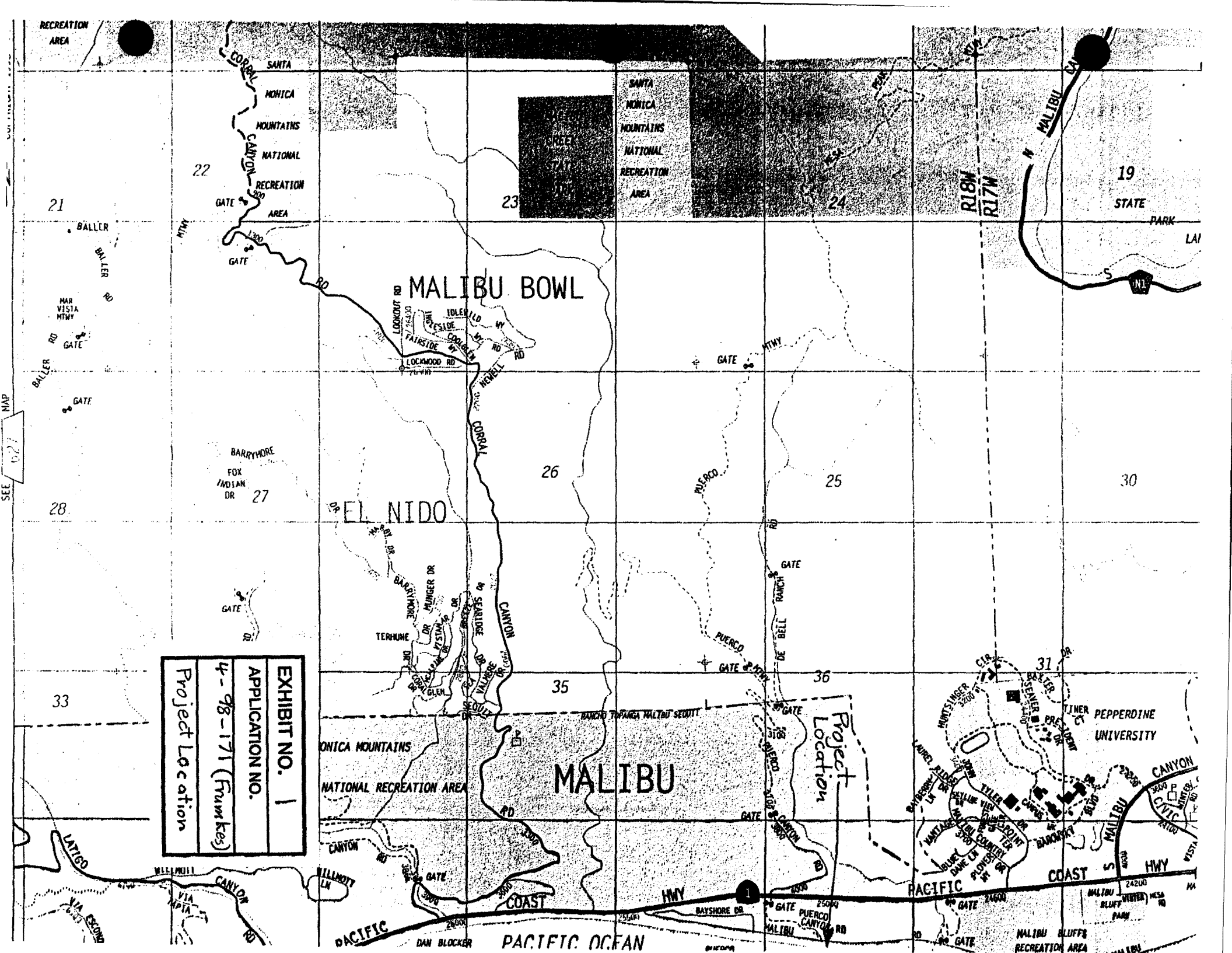


EXHIBIT NO. 1
APPLICATION NO.
4-98-171 (Fruwkes)
Project Location

SEE MAP 027

RECREATION AREA  
CORRAL CANYON NATIONAL RECREATION AREA

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

STATE PARK LAI  
MALIBU CIVIC CENTER

MALIBU BOWL

EL NIDO

MALIBU

Project Location

PEPPERDINE UNIVERSITY

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

PACIFIC OCEAN  
PACIFIC COAST HWY

MALIBU BLUFFS RECREATION AREA  
MESA PARK

21  
28  
33  
BALLER RD  
MAR VISTA HWY  
GATE  
BARRYMORE FOX INDIAN DR  
LATIGO CANYON RD  
WILLIMOTT LN  
VIA NITA

22  
27  
35  
CORRAL CANYON RD  
LOOKOUT RD  
LOCKWOOD RD  
BARRYMORE DR  
MUNGER DR  
TERHUNE DR  
WILLIMOTT LN

23  
26  
35  
CORRAL CANYON RD  
LOCKWOOD RD  
NEWELL RD  
SEASIDE DR  
VALERIE DR  
DAN BLOCKER

24  
25  
36  
PUERCO RD  
DE BELL RANCH  
GATE PTH  
BAYSHORE DR

19  
30  
31  
STATE PARK LAI  
PEPPERDINE UNIVERSITY  
MOUNTAIN VIEW  
TILER  
MANTANA LN  
BLUFF CANYON RD  
MESA PARK  
MESA

CALIFORNIA STATE LANDS COMMISSION  
100 Howe Avenue, Suite 100 South  
Sacramento, CA 95825-8202



ROBERT C. HIGHT, Executive Officer  
(916) 574-1800 FAX (916) 574-1800  
California Relay Service From TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2929

Contact Phone: (916) 574-1892  
Contact FAX: (916) 574-1925  
E-Mail Address: smithj@slc.ca.gov

May 27, 1998

RECEIVED  
File Ref: SD 98-05-113

JUN 18 1998

OFFICE OF THE  
CALIFORNIA COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Dan Frumkes  
24958 Malibu Road  
Malibu CA 90265

Dear Mr. Frumkes:

**SUBJECT: Coastal Development Project Review for Installation of Rock  
Revetment and Wood Return Wall at 24958 Malibu Road, Malibu**

This is in response to your request for a determination by the California State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your project, as we understand them, are these:

You have constructed a rock revetment and wood return wall to protect your residence at 24958 Malibu Road in Malibu. From the plans and photos submitted, it appears that the rock revetment is located for the most part underneath the residence, although a few rocks appear to be located just seaward of the most seaward pilings supporting the residence. The wood return wall is located on the west side of the property landward of the revetment. This is a well-developed stretch of beach with numerous residences both up and down coast.

We understand that staff of the California Coastal Commission (CCC) never issued an emergency permit authorizing the project, although you indicate that you received verbal approval from CCC staff prior to beginning the work. It is also our understanding that you have not submitted an application to the CCC for a regular coastal development permit. Presumably, your requesting a jurisdictional determination from the CSLC is being done in anticipation of filing such an application.

Our files reflect a deed restriction for public access recorded against the property. We anticipate the effect, if any, of this revetment and return wall on the recorded deed restriction will be addressed by the CCC in their consideration of your application for a coastal development permit.

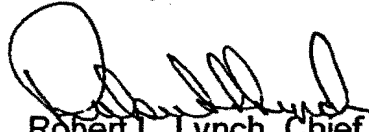
EXHIBIT NO. 2
APPLICATION NO. P1072
4-98-171(Frumkes)
State Lands Review

We do not at this time have sufficient information to determine whether this project will intrude upon state sovereign lands or interfere with other public rights. Development of information sufficient to make such a determination would be expensive and time-consuming. We do not think such an expenditure of time, effort and money is warranted in this situation, given the limited resources of this agency and the circumstances set forth above. This conclusion is based on the size and location of the property, the character and history of the adjacent development, and the minimal potential benefit to the public, even if such an inquiry were to reveal the basis for the assertion of public claims and those claims were to be pursued to an ultimate resolution in the state's favor through litigation or otherwise.

Accordingly, the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters. This conclusion is without prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to our attention.

If you have any questions, please contact Jane E. Smith, Public Land Management Specialist, at (916) 574-1892.

Sincerely,



Robert L. Lynch, Chief  
Division of Land Management

cc: Art Bashmakian, City of Malibu

EXHIBIT NO.	2 of 2
APPLICATION NO.	4-98-17 (Frumkes)
State Lands Review	

11/11/98 11:28 AM DANIEL FRANKES

John W. Starlin

760-737-8445

P-1

Nov 06 98 03:25P

JOHN W. STARLIN & ASSOCIATES • STRUCTURAL ENGINEERING

P. O. Box 461875  
Escondido, CA 92048-1875  
Ph. 760-745-9863  
Fax 760-737-8445 E-mail jstarlin@abec.com

November 6, 1998

Mr. Daniel Frankes  
24958 Malibu Road  
Malibu, CA 90265

Re: Wave Mitigation Wall @ 24958 Malibu Road, Malibu, CA.

Dear Mr. Frankes,

In response to our conversation regarding additional comments by the "Coastal Commission" listed below are the criteria used for the placement of your Wave Mitigation Wall.

1. Minimize the beach and coastal impact.
2. Provide protection for the structure and sanitary system.
3. Provide fair ease of construction as well as safety during the construction process.
4. Minimize adverse effects due to storm conditions in excess of design conditions.

Since the decision was made to place the wall entirely under the residence (we understood that if we kept to the criteria Coastal Commission approval would be much easier) it became mandatory that the wall be placed as far seaward as possible. The following reasons were discussed as length and became the deciding factor in the wall placement.

Due to the age of the structure and the fact that it is a wood pile foundation system there was great worry as to the possibility of damage during the construction of the wall. The use of heavy equipment to move and place the large rocks posed a potential safety hazard. Any damage to the piling by this equipment or misplacement of the rocks would be catastrophic to the existing residential structure. The embedment depth of these piles are not as deep as would be required by present day standards and it was mandatory that we not undermine these piles (which would have been probable if the wall was moved further under the residence). Since the wall was to be under the residence the top of the wall could not be at the design height that would be required for a new "Sea Wall/Bulkhead". This means that there is the possibility of greater overtopping than would normally be allowed. To minimize the adverse effects of pile overtopping, which will result in up splash, it is necessary to minimize the area above the wall to limit possible future damage. Finally this wall is a protection of the sanitary system as well as the foundation system. To give maximum protection (and allow for a future field) as much distance as possible between the wall and the beach field is necessary.

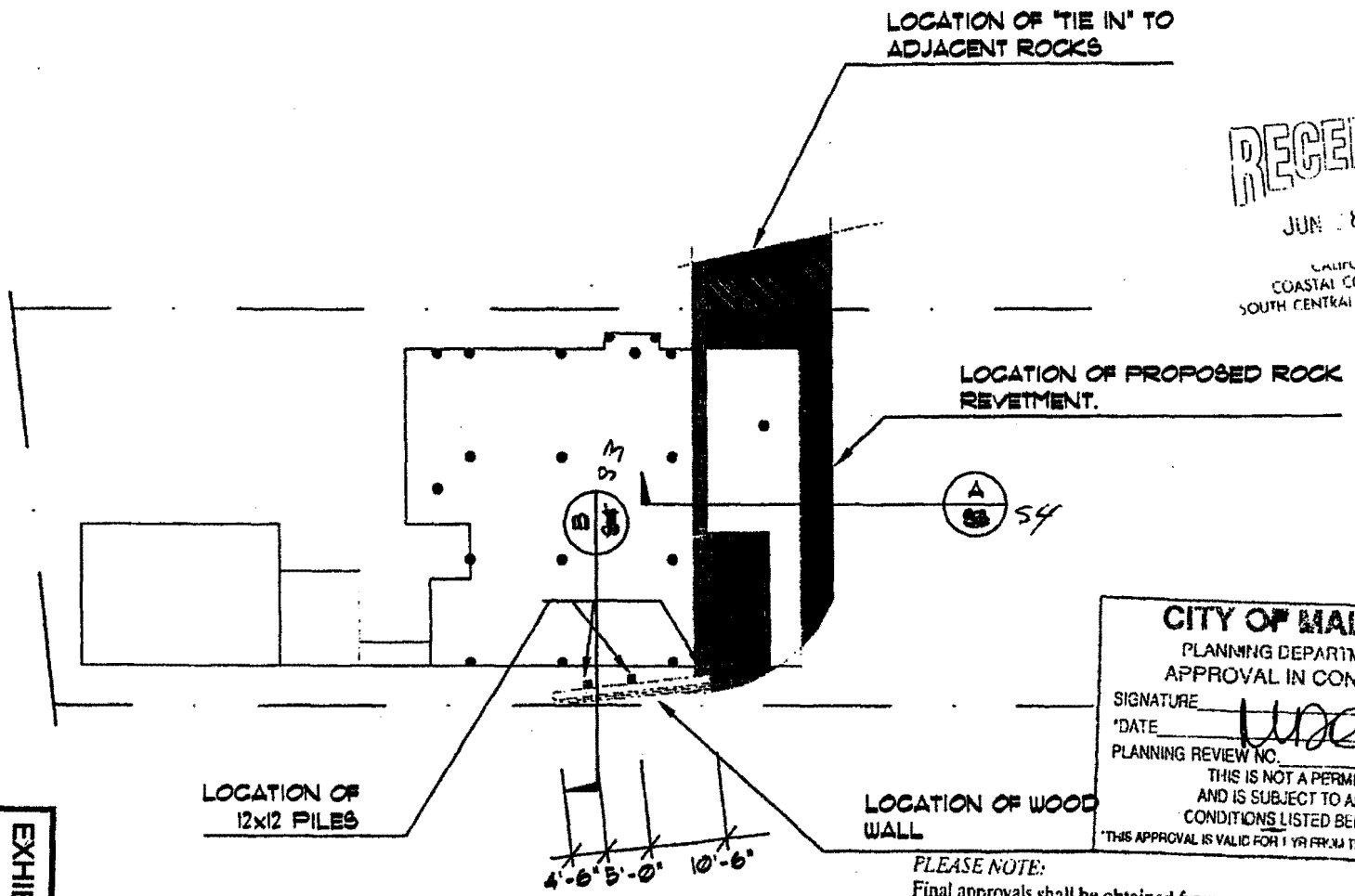
The placement as well as the design of this wall is a compromise of all of the above. It is my professional opinion that to move the wall further under the residence would have been dangerous as well as limited the effectiveness of the wall to protect the residence. Should you have any questions or need further clarification on this design please contact me. Thank you for this opportunity to be of professional service.

Sincerely,

Jack Starlin, S.E.  
John W. Starlin & Associates

EXHIBIT NO. 3
APPLICATION NO.
4-98-171 (Frankes)
letter from Structural Engineer

EXHIBIT NO.	4g
APPLICATION NO.	4-98-171 (Frumkes)
Site Plan/Local Review	



**RECEIVED**  
 JUN 18 1998  
 CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

**CITY OF MALIBU**  
 PLANNING DEPARTMENT  
 APPROVAL IN CONCEPT  
 SIGNATURE \_\_\_\_\_  
 DATE \_\_\_\_\_  
 PLANNING REVIEW NO. \_\_\_\_\_  
 THIS IS NOT A PERMIT  
 AND IS SUBJECT TO ANY  
 CONDITIONS LISTED BELOW  
 \*THIS APPROVAL IS VALID FOR 1 YR FROM THE DATE STAMPED

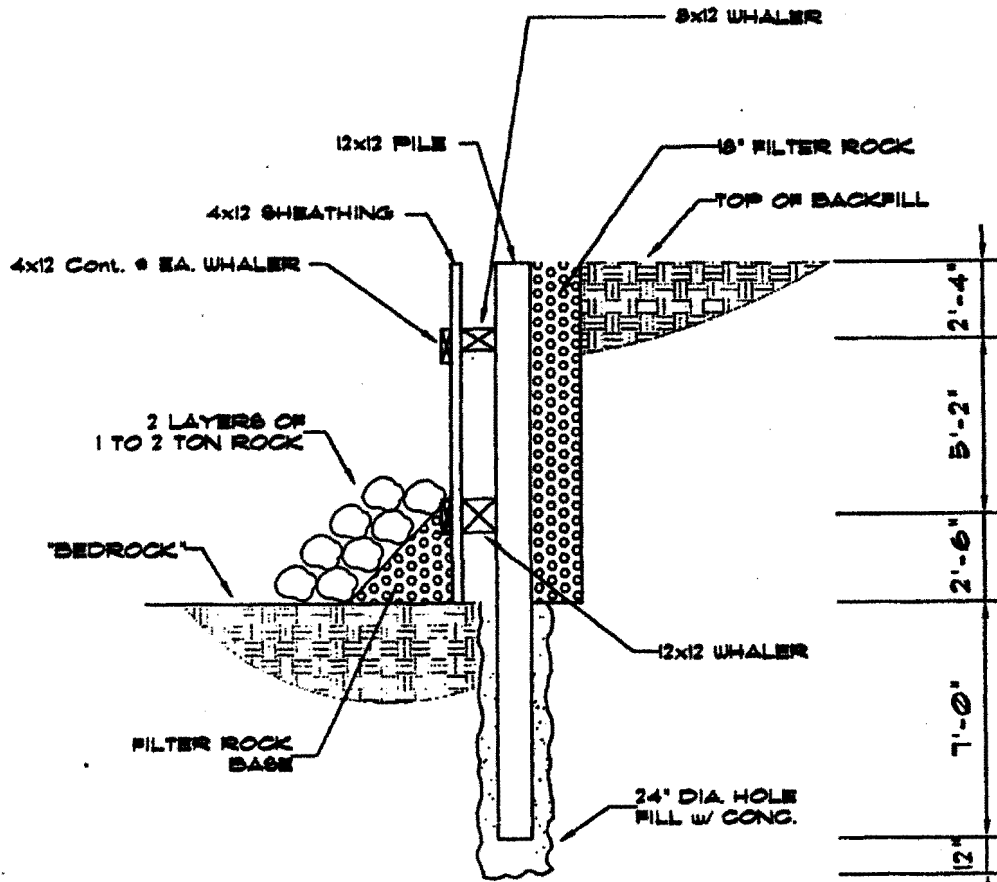
**PLEASE NOTE:**  
 Final approvals shall be obtained from  
 the CITY GEOLOGIST and CITY  
 ENVIRONMENTAL HEALTH  
 SPECIALIST prior to issuance of  
 final Planning approval.



**John W. Starlin & Associates**  
 Structural Engineering  
 1028 W. El Norte Parkway, #256  
 Escondido, CA 92026  
 Ph: (760) 745-9863  
 Fax: (760)-737-8445  
 E-mail: jstarlin@obac.com

**Wave Mitigation Wall**  
 Frumkes Residence  
 24958 Pacific Malibu Road  
 Malibu, CA 90265

EXHIBIT NO. 4b  
 APPLICATION NO. 4-95-171 (Frumkes)  
 Elevation of Return Wall



**WALL SECTION**

10

PLEASE NOTE:  
 Final approvals shall be obtained from the CITY GEOLOGIST and CITY ENVIRONMENTAL HEALTH SPECIALIST prior to issuance of final Planning approval.

RECEIVED

JUN 08 1998

CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

**CITY OF MALIBU**  
 PLANNING DEPARTMENT  
 APPROVAL IN CONCEPT  
 SIGNATURE \_\_\_\_\_  
 DATE \_\_\_\_\_  
 PLANNING REVIEW NO. \_\_\_\_\_  
 THIS IS NOT A PERMIT  
 AND IS SUBJECT TO ANY  
 CONDITIONS LISTED BELOW  
 \*THIS APPROVAL IS VALID FOR 1 YR FROM THE DATE STAMPED.



**John W. Starlin & Associates**  
 Structural Engineering

Ph. (760) 745-9863  
 Fax (760) 737-8445  
 E-mail jstarlin@bbc.com

P.O. Box 481675  
 Escondido, CA 92046-1675

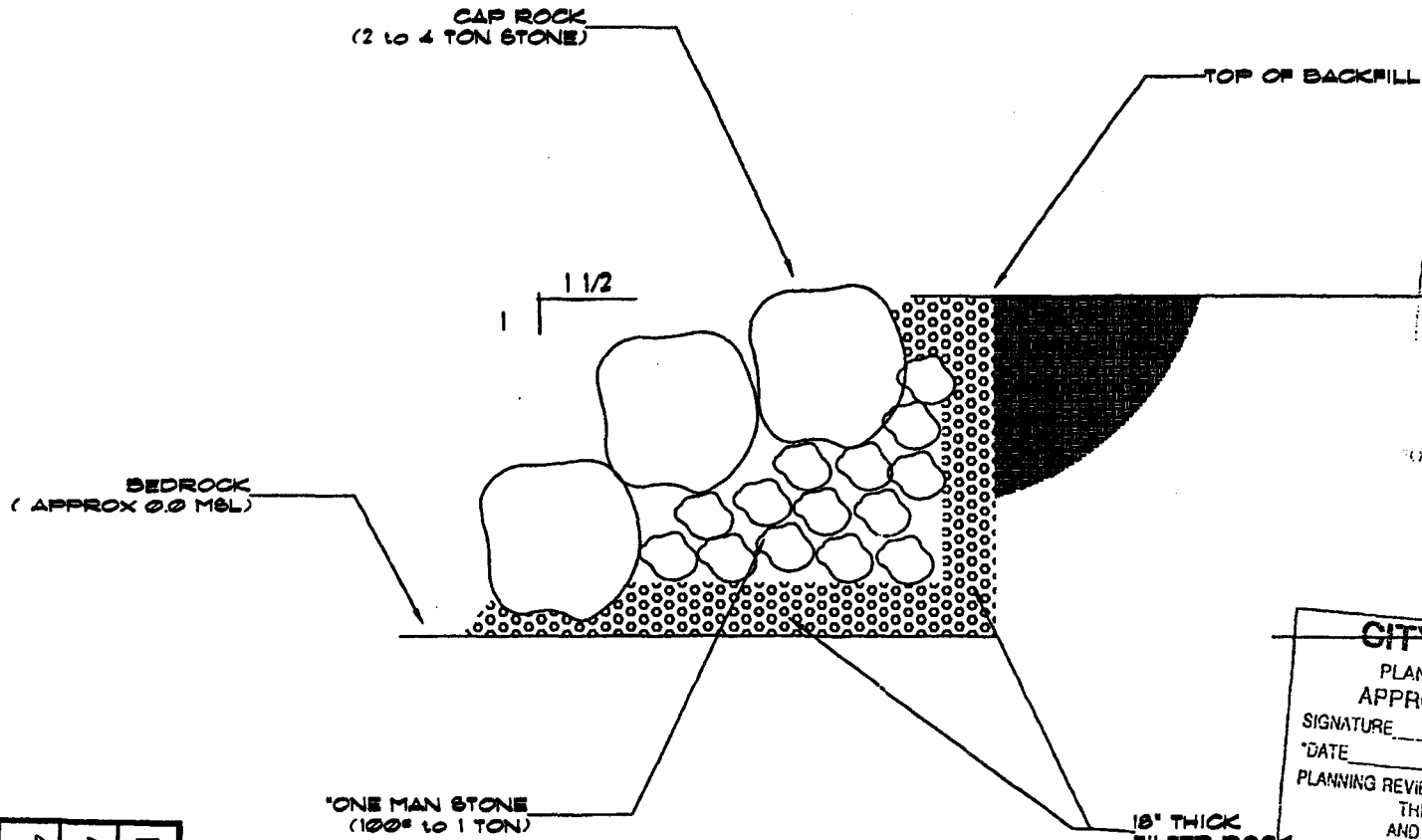
Wave Mitigation Wall

Frumkes Residence  
 24958 Pacific Malibu Road  
 Malibu, CA 90265

Page

53

of 5 Pages



**RECEIVED**  
 JUN 18 1998  
 PLANNING DEPARTMENT  
 24958 PACIFIC MALIBU ROAD  
 MALIBU, CALIFORNIA 90265

**CITY OF MALIBU**  
 PLANNING DEPARTMENT  
 APPROVAL IN CONCEPT  
 SIGNATURE: *[Signature]*  
 DATE: \_\_\_\_\_  
 PLANNING REVIEW NO. \_\_\_\_\_  
 THIS IS NOT A PERMIT  
 AND IS SUBJECT TO ANY  
 CONDITIONS LISTED BELOW  
 \*THIS APPROVAL IS VALID FOR 1 YR FROM THE DATE STAMPED.

**PLEASE NOTE:**  
 Final approvals shall be obtained from  
 the **CITY GEOLOGIST** and **CITY**  
**ENVIRONMENTAL HEALTH**  
**SPECIALIST** prior to issuance of  
 final Planning approval.



**ROCK SECTION**



EXHIBIT NO. 4c
APPLICATION NO.
4-98-171C Frumkes
Rip Rap Cross Section

**John W. Starlin & Associates**  
 Structural Engineering  
 Ph: (760) 745-9863  
 Fax: (760) 737-8445  
 E-mail: jstarlin@abac.com

**Wave Mitigation Wall**  
 Frumkes Residence  
 24958 Pacific Malibu Road  
 Malibu, CA 90265

CALIFORNIA COASTAL COMMISSION  
SOUTH COAST REGIONAL COMMISSION  
556 E. OCEAN BOULEVARD SUITE 3107  
P.O. BOX 1430  
LONG BEACH, CALIFORNIA 90801  
(213) 590-5071 (714) 846-0648



COASTAL DEVELOPMENT PERMIT

Application Number: P-7-6-77-1312

Name of Applicant: Daniel R. Frumkes

24958 Malibu Road, Malibu, CA 90265

Permit Type:  Emergency  
 Standard  
 Administrative

Development Location: 24958 Malibu Road, Malibu, CA

Development Description: Construct a 1059 square foot, second-story  
addition to existing one-story, single-family dwelling with existing  
two-car garage and apartment unit, 30 feet above centerline of frontage  
road, with conditions.

I. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

Prior to issuance of permit, applicant shall submit a deed restriction  
for recording: 1. granting lateral public access up to 25 feet inland  
from the mean high tide line, however, in no case will said dedication  
be nearer than five feet to the proposed development; and 2. limiting  
the use of the structures to a duplex.

Condition/s Met On \_\_\_\_\_ By jr

EXHIBIT NO. 5  
APPLICATION NO. F7  
4-98-171  
Deed Restriction



II. The South Coast Commission finds that:

A. The proposed development, or as conditioned:

1. The developments are in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976.
2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

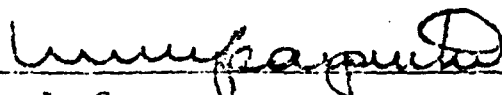
III. Whereas, at a public hearing, held on August 4, 1977 at Torrance by a unanimous vote permit application number P-7-5-77-1312 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on July 5, 1979.

  
M. J. Carpenter  
Executive Director

I, \_\_\_\_\_, permittee/agent, in receipt of Permit Number P-7-5-77-1312 and have contents.

EXHIBIT NO. 5
APPLICATION NO. 2087
4-98-171 (Frankes)
Deed Restriction

Beginning at a point in the Southerly line of the 80 foot strip of land described in the Deed from T.R. Cadwalader, et al, to the State of California, recorded in Book 15228 Page 342, Official Records of said County, said point of beginning being South 8° 29' 45" West 40 feet and Easterly 357.33 feet along the arc of a curve normal to said last mentioned course and concave Northerly with a radius of 4034 feet from Engineer's centerline station 825 plus 37.48 at the Easterly extremity of that certain centerline course described in the Deed of said 80 foot strip as South 81° 30' 15" East 1375.67 feet; which point shall be known in this description as Point "A", thence Easterly 50 feet along the Southerly line of said 80 foot strip on the arc of the above described curve, thence South 8° 29' 45" West to the ordinary high tide line of the Pacific Ocean which is also the true point of beginning; thence North 8° 29' 45" East 25.00 feet; thence Westerly along a line parallel to said tide line to the intersection of said line and a line which bears South 8° 29' 45" West from Point "A", thence South 8° 29' 45" West to said tide line; thence Easterly along said tide line to the true point of beginning; PROVIDED HOWEVER, that such interest as is created by this instrument shall never encumber any portion of the parcel of real property described in Exhibit "I" to this instrument which lies within 105 feet of the northerly boundary of said parcel of real property.

Exhibit "II"

79-640866

EXHIBIT NO.	5
APPLICATION NO.	30F 1
4-98-171 (Frumkes)	
Deed Restriction	

2

A parcel of land being a portion of the Rancho Topanga Malibu Sequit, in the County of Los Angeles, State of California, as confirmed to Matthew Keller by Patent recorded in Book 1 Pages 407 et seq. of Patents, records of said County, particularly described as follows:

Beginning at a point in the Southerly line of the 80 foot strip of land described in the Deed from T. R. Cadwalader, et al, to the State of California, recorded in Book 15228 Page 342, Official Records of said County, said point of beginning being South 8° 29' 45" West 40 feet and Easterly 357.33 feet along the arc of a curve normal to said last mentioned course and concave Northerly with a radius of 4034 feet from Engineer's centerline station 825 plus 37.48 at the Easterly extremity of that certain centerline course described in the Deed of said 80 foot strip as South 81° 30' 15" East 1375.67 feet; thence Easterly 50 feet along the Southerly line of said 80 foot strip on the arc of the above described curve; thence South 8° 29' 45" West to the ordinary high tide line of the Pacific Ocean; thence Westerly along said tide line to the intersection of said tide line and a line which bears South 8° 29' 45" West from the point of beginning; thence North 8° 29' 45" East to the point of beginning.

EXCEPTING therefrom all minerals, oil, petroleum, asphaltum, gas, coal and other hydrocarbon substances in, on, within and under said lands and every part thereof but without right of entry, as reserved by Marblehead Land Company, in Deed recorded July 10, 1944 in Book 21112 Page 44, Official Records.

ALSO EXCEPTING any portion of said land lying outside of the patent lines of the Rancho Topanga Malibu Sequit, as such lines existed at the time of the issuance of the patent, which was not formed by the deposit of alluvion from natural causes and by imperceptible degrees.

Exhibit "I"

EXHIBIT NO. 5
APPLICATION NO. 4 of 7
4-98-171 (Frankes)
Deed Restriction

19-640838

STATE OF CALIFORNIA }  
COUNTY OF Los Angeles } ss.

DANIEL R. FRUMKES  
[Signature]  
Permittee

On June 6, 1979, before me, the undersigned Notary Public, personally appeared Daniel R. Frumkes and \_\_\_\_\_, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Witness my hand and official seal the day and year in this certificate first above written.



[Signature]  
Notary Public, in and for the  
County of Los Angeles,  
State of California.

TO BE FILLED IN BY COMMISSION \_\_\_\_\_

This is to certify that the deed restriction set forth above, dated June 6, 1979, and signed by Daniel R. Frumkes and \_\_\_\_\_ Permittee,

is hereby accepted by order of the California Coastal Commission, South Coast Region, on June 8, 1979 and said Commission consents to recordation thereof by its Executive Director, its duly authorized officer.

Date \_\_\_\_\_

By \_\_\_\_\_  
Chairman, California Coastal  
Commission, South Coast Region

STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } ss.

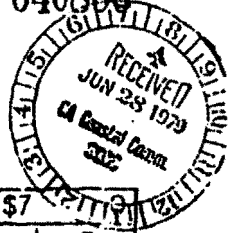
On this 11th day of June, 1979, before me, the undersigned Notary Public, personally appeared DONALD E. WILSON, known to me to be the Chairman of the California Coastal Commission, South Coast Region, and known to me to

EXHIBIT NO. 5  
APPLICATION NO. 5 of 7  
4-98-171 (Frumkes)  
Deed Restriction

RECORDING REQUESTED BY AND MAIL TO  
NAME CCC/SCR  
STREET PO Box 1450  
CITY Long Beach, CA 90801



79-640866



RECORDED IN OFFICIAL RECORDS  
OF LOS ANGELES COUNTY, CA  
27 MIN. PAST 12 P.M. JUN 13 1979  
Recorder's Office

CALIFORNIA COASTAL COMMISSION  
SOUTH COAST REGION  
DEED RESTRICTION

FEE \$7  
5

This instrument, made this 7 day of July,  
1979, by Daniel R. Frumkes and \_\_\_\_\_, of the ~~SSS~~  
~~XXXXXXXXXX~~ County of Los Angeles, State of California, hereinafter  
collectively referred to as "the Permittee;"

WHEREAS, pursuant to the California Coastal Act of 1976,  
Sections 3000 through 30900 of the California Public Resources Code,  
the Permittee has made Application No. P-1312 to the California Coastal  
Commission, South Coast Region, for the issuance of a permit for the  
construction of additions to existing single family residence

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Describe Proposed Project)  
on certain real property owned ~~by Permittee~~/  
(Other - State Permittee's  
interest in subject property)

by the Permittee and more particularly described below; and  
WHEREAS, said Commission has determined to grant said  
application and issue a permit for the construction of additions  
to existing single family residence

\_\_\_\_\_  
\_\_\_\_\_  
(Describe Approved Project)

EXHIBIT NO. <u>5</u>
APPLICATION NO. <u>6 of 7</u>
<u>4-46-171 (Frumkes)</u>
<u>Deed Restrictions</u>

NOW, THEREFORE, in consideration of the issuance of said development permit, and of the benefit conferred thereby on the subject property, Permittee agrees that there shall be, and hereby is, created the following restriction on the use and enjoyment of said property, to be attached to and become a part of the deed to the property: The general public shall have the right to pass and re-pass across a strip of land 25 feet in width which is more particularly described in exhibit "II" attached hereto.

Permittee acknowledges that any violation of this deed restriction shall constitute a violation of the permit and shall subject Permittee or any other violator thereof to civil action for violation of the terms of said permit and of the Coastal Act of 1976. Said deed restriction shall apply to the additions to existing single family dwelling (Project)

to be constructed/~~remodeled~~/ (other)

on that certain real property in the ~~City of~~ \_\_\_\_\_ County of Los Angeles, State of California, described as: See Exhibit "I" attached hereto.

(Legal Description/Address of the Property)

Unless specifically modified or terminated by affirmative vote of the issuing Commission, said deed restriction shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective, and during the period that the development authorized by said permit, or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the real property describ

EXHIBIT NO. <u>5</u>
APPLICATION NO. <u>7 of 7</u>
<u>4-98-171 (Frumkes)</u>
<u>Deed Restriction</u>

1. Elevations shown  
 based on Los A  
 2. No study of  
 property has b

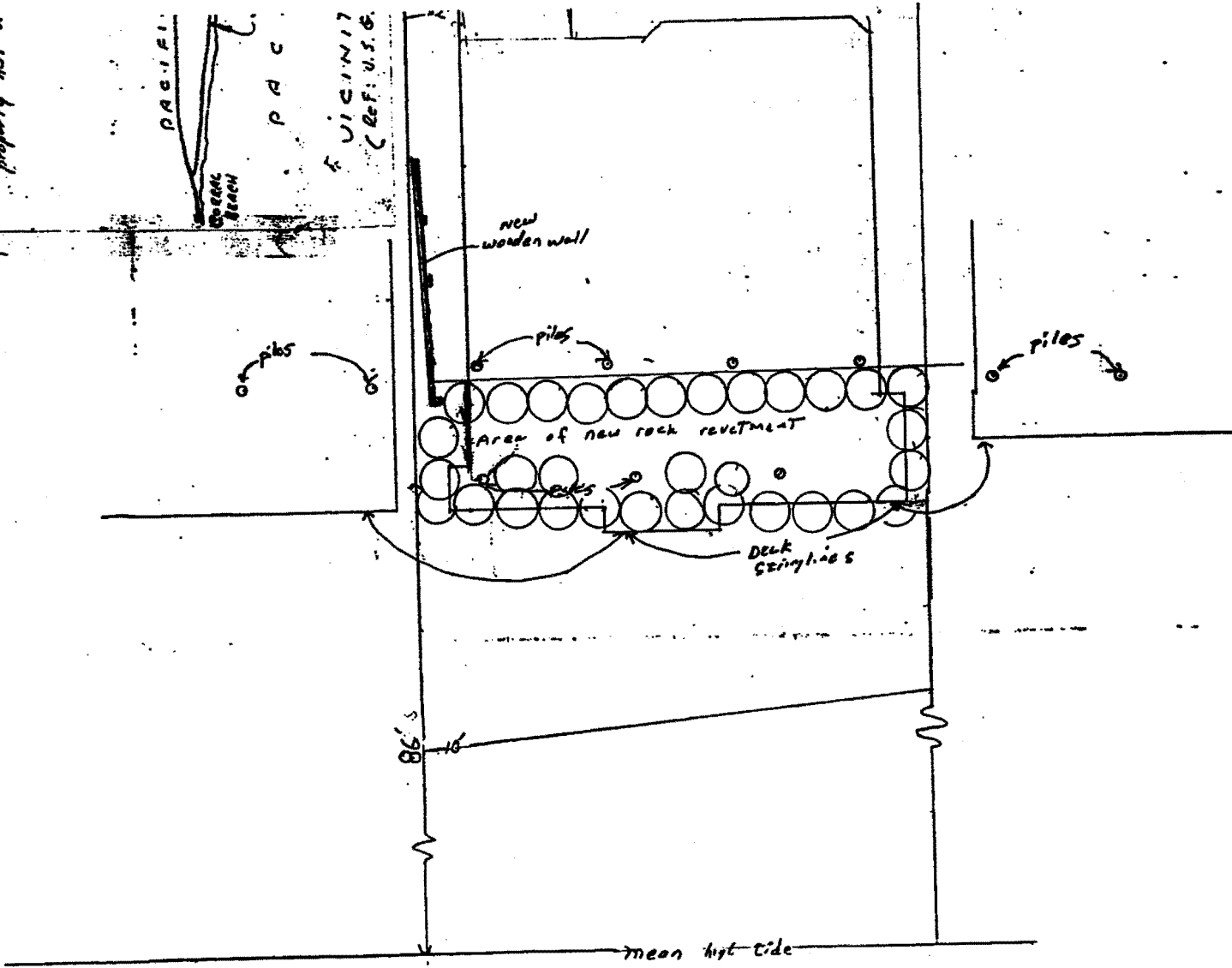


EXHIBIT NO.	6
APPLICATION NO.	
4-95-171 (Fruvkes)	
Relation to Mean high Tide Line	

