

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: PERMIT AMENDMENT**APPLICATION NO.:** 5-88-794-A2**APPLICANT:** Bert J. Kelley**AGENT:** Darren Domingue**PROJECT LOCATION:** 26530 Latigo Shore Drive, City of Malibu; Los Angeles County

(APN 4460-019-025 and 4460-019-143)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Subdivision of 37,130 sq. ft. lot into three parcels and construction of three single family houses.**DESCRIPTION OF AMENDMENT:** After-the-fact approval to relocate the previously approved single family residence 10 feet seaward, install 20 below grade soldier piles along the western boundary of the property, construct a six foot tall vertical boundary wall on top of the soldier piles from Latigo Shores to the 25 foot contour line, and construct a six foot high front yard wall.**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department "Approval in Concept"**SUBSTANTIVE FILE DOCUMENTS:** Updated Soils and Engineering-Geologic Report dated February 17, 1997 prepared by GeoSystems; Building and Site Plans prepared by Darren Dominigue, AIA; Malibu/ Santa Monica Mountains Land Use Plan; California State Lands Commission Determination dated May 6, 1998; Coastal Development Permit denial 5-87-706 (Lachman); Coastal Development Permit 5-88-794 (Lachman/ Preferred Financial Corp.); Coastal Development Permit T-5-88-794 (Goldbaum); Coastal Development Permit 5-88-794-A1 (Goldbaum); Coastal Development Permit 4-97-168 (Shears); Coastal Development Permit 4-97-169 (Shears).**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*

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

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code of Regulations, Section 13166. In this case, the Executive Director determined that the proposed amendment is a material change.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission take one (1) vote adopting the following two-part resolution for the subject proposal:

Part A to approve the after-the-fact request to relocate the single family residence 10 feet further seaward than previously approved, construct that portion of a six foot high side yard wall from Latigo Shores Road to the 25 foot contour line, construct a six foot high front yard wall outside of the area designated for vertical access in the recorded offer to dedicate, and install sixteen below grade soldier piles located on the western boundary from the top of the bluff to the sixteen foot contour line with special conditions regarding assumption of risk, revised plans and condition compliance.

Part B to deny the after-the-fact approval for the installation of four of the below grade soldier piles between the fifteen foot contour line and the ten foot contour line and construction of that portion of a six foot high front yard wall to the extent located within the ten foot wide area designated for a vertical access in the recorded offer to dedicate.

STAFF RECOMMENDATION:

The staff recommends that the Commission take one (1) vote adopting the following two-part resolution:

A. MOTION:

"I move that the Commission adopt the staff recommendation, by adopting the two-part resolution set forth in the staff report."

STAFF RECOMMENDATION OF APPROVAL IN PART AND DENIAL IN PART:

Staff recommends a YES vote and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION

Part A: Approval with Conditions of a Portion of the Development.

The Commission hereby approves the portion of the amendment to the coastal development permit, involving: (1) the relocation of the single family residence, (2) construction of a six foot high side yard wall from Latigo Shores Road to the 25 foot contour line, (3) construction of a six foot high front yard wall outside of the area designated for vertical access in the recorded offer to dedicate, and (4) installation of sixteen below grade caissons located on the western boundary from the top of the bluff to the sixteen foot contour line, subject to the conditions below, on the grounds that as modified, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreational policies of Chapter 3 of the Coastal Act, 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, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

Part B: Denial of the Remainder of the Development

The Commission hereby **denies** a coastal development permit amendment for the portion of the proposed development involving the (1) installation of four of the below grade soldier piles descending the bluff from the sixteen foot contour line to the ten foot contour line, and (2) the construction of that portion of a six foot high, 10 foot wide front yard wall within the area designated in the recorded offer to dedicate vertical public access easement, on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and the first public road nearest the shoreline and is not in conformance with the public access and public recreational policies of Chapter 3 of the Coastal Act and would prejudice the ability of the local governments having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act; and would result in significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Special Conditions

NOTE: All standard and special conditions attached to the previously approved permit remain in effect (Exhibit 3). Additionally, Special Conditions 1 – 3 of this coastal development permit amendment also apply.

1. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding, landslides, bluff retreat, erosion, and earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands,

damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction 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 Commission-approved amendment to this coastal development permit.

2. Revised Plans

Prior to the issuance of this coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised project plans which illustrate that the ten foot portion of the six foot high wall within the recorded offer to dedicate a vertical public access easement and the four (4) caissons within the recorded offer to dedicate a lateral public access easement have been removed from these easement areas, as shown on Exhibits 6 and 7.

3. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is requesting an amendment to the original coastal development permit for after-the-fact approval to revise the location of the originally approved three-story single family residence to its as-built location, install 20 below grade soldier piles, construct a side yard wall six feet above existing grade along the western boundary of the property on top of the soldier piles, and construct a six foot high front yard wall along Latigo Shores Drive (Exhibit 4-3).

The subject site is a .28 acre lot located on a bluff above a sandy beach within the Corral Canyon Beach area (Exhibit 1 & 2) in the City of Malibu. The building site is located between Corral Canyon Beach and Escondido Beach. The Malibu/ Santa Monica Mountains Land Use Plan (LUP) designates this land as Residential I, which can be defined as:

"a group of housing units on gently sloping or flat terrain often within established rural communities. The maximum residential density standard is one dwelling unit per acre average."

The subject lot is a legal lot created as a result of Coastal Development Permit 5-88-794 (Lachman/ Preferred Financial Corp.). A Certificate of Compliance has been issued by the Los Angeles County Department of Regional Planning. The subject parcel is located approximately 100 feet west of Los Angeles County property and 300 feet east of Dan Blocker State Beach (there is no improved access to this beach). The building site is visible from the County Beach and Pacific Coast Highway, which the Malibu/ Santa Monica Mountains Land Use Plan (LUP) has designated as a scenic highway.

The site and the two eastern adjacent lots have been subject to several previous coastal development permit applications. On June 8, 1988, the Commission denied Coastal Development Permit 5-87-706 (Lachman) for a request to divide the .85 acre parcel into five parcels and the construction of a five-unit condominium. In reviewing Coastal Development Permit 5-87-706, the Commission found that given that the bluff is composed of artificial fill constructed out over the sandy beach, the "fill" bluff would be subject to more wave hazard than a natural bluff. The Commission concluded that the toe of a natural bluff represents the landward limit of storm waves, as most of a sandy beach is subject to inundation. Based on this conclusion, any structure located seaward of the toe of the natural bluff would be well within the area of wave attack during storm events, and subject to more hazard than the original wave cut bluff. As a result the Commission denied the coastal development permit request on the basis that the proposed location of the condominiums on the bluff face was inconsistent with the wave hazard and geologic safety policies of the Malibu/ Santa Monica Land Use Plan (LUP) and the Coastal Act.

On December 13, 1988, the Commission approved Coastal Development Permit 5-88-794 (Lachman/ Preferred Financial Corp.) for the subdivision of a 37,130 sq. ft. lot into three parcels and the construction of three single family residences subject to ten (10) special conditions. The westernmost parcel is the applicant's parcel, the subject of this coastal development permit amendment. The special conditions of approval for the subdivision that yielded the parcel include assumption of risk, lateral and vertical access dedications, State Lands determination, storm design certification, construction methods and materials agreement, future improvements agreement, no beach development agreement, and cumulative impacts mitigation. On June 12, 1990 the Commission issued Coastal Development Permit 5-88-794, thus the ten special conditions applicable to the underlying subdivision have either been met and/ or are still in effect (Exhibit 3).

Several significant coastal issues were reviewed as part of the subdivision permit application, including the seaward encroachment on the face of the bluff. Caltrans created the existing bluff from fill materials placed on top and over the original bluff slope during the creation of the current alignment of Pacific Coast Highway. Because most of the lot is either bluff face or beach, in order to develop on the subject site, some encroachment on the bluff face must occur. In the review of the proposed subdivision proposal, the determining factors for establishing the farthest point seaward for the structures were the toe of the slope, the approximate location of the underlying bluff, and the location of the previous wave damage to the slope. The Commission in permitting

the proposed single family residences had to also consider both wave erosion hazards and the location of the septic system.

Based on Coastal Development Permit 5-87-706 (Lachman) any structure located seaward of the toe of the natural bluff would be well within the area of wave attack during storm events. Therefore, in the approved revised project, Coastal Development Permit 5-88-794 (Lachman), the applicant proposed to reduce the exposure to wave hazard by siting the single family residences at a higher elevation on the bluff above the area of wave action, and setting the caissons of the single family residence back further into the bluff slope and behind the wave scour line. The applicant proposed to place the caissons about halfway up the slope, 29' to 32' inland of the toe of the slope instead of at the toe of the slope as the original project proposed.

In approving Coastal Development Permit 5-88-794 (Lachman), the Commission chose to use the Caltrans road easement line located on the northern property line as the point of reference for measuring the seaward location of the single family residence. Due to the changing nature of the coastal bluffs, the Commission found that a distance of 44 feet seaward of the Caltrans road easement would be sufficient to mitigate against any potential wave hazard.

To ensure that any additional beach encroachment did not occur, the Commission approved Coastal Development Permit 5-88-794 attached with Special Conditions Two (2) and Eight (8) prohibiting any development below the 16 foot elevation. Special Condition Eight (8) states "this approval is based upon [the] assertion that no beach development, including leachfields or seawalls will be necessary to protect the development." Special Condition Two (2) required the applicant to record an irrevocable offer to dedicate a lateral access easement. The area covered by the now-recorded offer to dedicate extends the entire width of the property from the mean high tide line to the line approximating the toe of the underlying natural bluff, shown as elevation 16 (Exhibits 9-10).

The Relocation of the House:

On June 12, 1990 Coastal Development Permit 5-88-794 (Goldbaum) was issued. However, once construction was underway on the subject site, the applicant discovered that Los Angeles County Health Code Standards required a fifteen foot horizontal distance between the Caltrans road easement and the structure, where the Commission only approved 5 feet. The applicant relocated the structure to meet County health standards without first obtaining Commission approval for the changed location. Consequently, the existing single family residence was built 10 feet further seaward than approved by the Commission, in order to accommodate this 15-foot buffer. The current footprint of the residence is located on top of the steep bank with the most seaward extent of the structure located at the 29 foot contour line and the attached deck being at the 25 foot elevation. The existing single family residence is built on caissons and the septic system is located landward of the residence outside the wave uprush zone.

Other Development:

After the California Coastal Commission issued the coastal development permit, the County of Los Angeles issued the original local permit for the subject site because

during the planning and construction of the site, the City of Malibu remained unincorporated. The County approved the project subject to a condition requiring underground soldier piles to be installed along the western property boundary to protect the development from potential geological instability caused by an ancient landslide located on the adjacent property. However, the soldier piles were not included in the original coastal development permit issued by the California Coastal Commission and the applicant never applied for an amendment to construct the soldier piles, thus the Commission never approved these soldier piles. The soldier piles were not constructed at the time of construction of the single-family residence. Prior to the issuance of the Certificate of Occupancy, the City of Malibu, the local government, required the applicant to complete the construction of the soldier piles. The soldier piles are constructed of concrete 24 inches in diameter and bore to the bedrock 20-35 feet below existing grade. They are located along the western property line and extend from the 48 foot contour line to the 10 foot contour line.

The applicant has constructed a brick sidewall without first obtaining Commission approval, which begins at Latigo Shores and descends down the bluff on top of the soldier piles until the 25 foot contour line, the location of the deck stringline. The applicant asserts that the purpose of this wall is to provide a privacy buffer between the subject site and the three adjacent sites including the County owned parcels, which are used by surfers to access Latigo Shores Point.

The applicant has also constructed a six foot high front yard wall which extends from the existing driveway to the western boundary of the property creating a side yard for the residence, without first obtaining Commission approval (Exhibit 6). The applicant has recently purchased the adjacent northern lot in order to enlarge his side yard. Approximately 10 feet of the front yard wall has been placed within the location of the recorded irrevocable offer to dedicate vertical public access easement required as a special condition of CDP 5-88-794.

To date, only the western parcel was developed with the original floor plan design approved under Coastal Development Permit 5-88-794. On November 5, 1997 the Commission approved Coastal Development Permits 4-97-168 (Shears) and 4-97-169 (Shears), for the construction of two single-family residences on the two adjacent lots to the east of the subject site. The footprint of both residences was approved with the footprint located at a maximum seaward extent at the 22 foot elevation in order to accommodate the proposed septic system. As previously stated, the applicant is proposing to relocate the single family residence seaward to the 22 foot contour line. Thus, the as-built footprint of the single family residence for which the applicant presently seeks approval will not extend further seaward than the two recently approved residences downcoast of the subject site.

B. Public Access/ Beach Encroachment

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:

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

- (1) it is consistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) adequate access exists nearby, or,*
- (3) agriculture would be adversely affected. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.*

All beachfront projects requiring a coastal development permit must be reviewed for their compliance with the public access provisions of Chapter 3 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 coast. The major access issue in such permits is the occupation of sand area by development. Coastal Act sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Section 30212 of the Coastal Act requires that adequate public access to the sea be provided to allow use of dry sand and rocky coastal beaches.

The Commission's experience in reviewing shoreline projects in Malibu indicates that individual and cumulative impacts on access include among others, encroachment on lands subject to the public trust thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to an ability to use and cause adverse impacts on public access.

1. Vertical Access

In approving Coastal Development Permit 5-88-794 (Lachman) for the underlying subdivision, the Commission found that the proposed project interfered with existing public access along the bluff and from Latigo Shores to the sandy beach. The Commission found that this property is on land that has been subject to public

prescriptive rights and was previously under public ownership. The bluff is a publicly constructed fill over lands subject to periodic flooding, a beach. The property was entirely in public ownership until the late 1940's when it was no longer needed as a highway.

The Commission findings for Coastal Development Permit 5-88-794 dated November 29, 1988 include evidence of public prescriptive rights. According to a 1972 aerial photograph, there were several trails over the bluff descending from Latigo Shores Drive to the beach. In addition, the abandoned portion of the old highway has continuously been used for beach parking and surfing at Latigo Point since the main highway was relocated in 1946. Prior to the approved subdivision and construction of three single-family residences, the property contained two distinct trails that descended the bluff. One path was located on the eastern portion of the parcel located two parcels to the east of the applicant's parcel (APN 4460-019-145), however this path is entirely blocked by the development of a single family residence approved by the Commission in Coastal Development Permit 5-88-794 and again in Coastal Development Permit CDP 4-97-168. The second historic trail is located on the western portion of the applicant's property. According to the staff report for coastal development permit application 5-88-794 dated November 11, 1988, the second path was to be partially blocked by an approved single family residence on 4460-019-143, the applicant's property, and lies mainly within the geologic setback area on the western end of the property. The Commission also considered evidence of substantial use of such accessways. Thus, the Commission found that both the vertical accessways on the bluff were subject to prescriptive rights. The Commission's findings of prescriptive access rights acquired through use identified in approving Coastal Development Permit 5-88-794 can be found in Exhibit 11.

The Santa Monica/ Malibu Land Use Plan provides guidance regarding the protection of existing public access. The Coastal Commission as guidance, in the review of development proposals in the Santa Monica Mountains has applied these policies. The following policy relates to prescriptive rights and provides policy guidance regarding the protection of existing public access:

Policy 55b Where evidence of public prescriptive rights or implied dedication (historic public use) is found in reviewing a coastal development permit application, an offer of dedication of the accessway or an equivalent public access easement to protect the types, intensity, and areas subject to prescriptive rights shall be required as a condition of permit approval. Development may be sited in an area of historic public use only if equivalent type, intensity, and area of replacement public access is provided on or within 100 feet of the project parcel.

The Malibu/ Santa Monica Mountains Land Use Plan (LUP) requires that in areas where there is evidence of public use development can only be allowed if access is replaced. Also, Section 30211 of the Coastal Act indicates that development shall not interfere with the public's right of access to the sea when acquired through use a legislative action.

In order to mitigate against adverse effects on existing and future rights of public access from Pacific Coast Highway to the sandy beach, the Commission approved Coastal

Development Permit 5-88-794 attached with Special Condition Three (3), which required recordation of an offer to dedicate an easement for public use:

"Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public pass and repass from Pacific Coast Highway to the shoreline..."

The easement be described in metes and bounds and shall extend from the Pacific Coast Highway to the ordinary high tide of the Pacific Ocean, generally within the geologic setback along the western property line. The easement shall not be less than 10 feet in width, and shall be sited and designed to accommodate reasonable and safe pedestrian access from the highway to the area along the beach dedicated in condition 2. A more detailed description may either follow the stairway proposed in Exhibit 3 or otherwise follow a potential switchback within the general area identified as geologic setback in Exhibit 3 if the stairway cannot be feasibly constructed. The exact configuration of the easement shall be determined by the Executive Director. The easement shall enable a private or public agency accepting maintenance and liability to enter, improve, and maintain the access in order to provide pedestrian access to the shoreline..."

The vertical access offer to dedicate was recorded on the property on March 31, 1989, prior to the issuance of Coastal Development Permit 5-88-794 and is still in effect. This accessway substantially conforms to the historic vertical accessway on the applicant's parcel.

The applicant is requesting after-the-fact approval to relocate the single family residence 10 feet seaward, the construction of a six foot high front yard wall, the construction of a six foot high side yard wall, and the installation of 20 below grade soldier piles. The proposed location of the single-family residence is ten feet seaward than previously approved by the Commission. The recorded offer to dedicate vertical access easement descends the bluff adjacent to the single-family residence. According to an aerial photograph and a parcel map delineating the metes and bounds of the recorded vertical easement prepared by the Commission's mapping division, the proposed location of the single family residence will not encroach into this access area (Exhibits 9-10). Therefore, the Commission finds that the proposed location of the single family residence will not interfere with the public's right of access to the sea and is consistent with the Coastal Act's Chapter Three access policies.

The proposed six foot high front yard wall runs along the property's western boundary creating a side yard for the applicant. However, a portion of the front yard wall ten feet in length is located within and blocking the vertical accessway and area designated in the offer to dedicate vertical easement from Latigo Shores to the sandy beach. Although a public agency or a non-profit organization has not yet accepted the vertical access offer to dedicate, the proposed development within this accessway occupies the area intended for public use and lessens the likelihood of a formal agency acceptance of the

public accessway in the future by creating permanent obstacles that would likely chill any interest in expending resources for the use of the accessway. In past permit actions, the Commission has allowed these types of privacy walls provided that they do not obstruct the public's rights to access the beach. Therefore, the Commission approves a portion of the six foot high front yard wall located outside the recorded offer to dedicate vertical accessway easement (as shown in Exhibit 6) on the basis that a portion of the proposed front yard wall will not adversely affect public access and is consistent with Sections 30210, 30211, and 30212 of the Coastal Act.

The Commission finds that a portion of the six foot high front yard wall ten feet in length is located within the recorded vertical offer to dedicate vertical access easement. Thus, this portion of the proposed development will interfere with and adversely affect the public's prescriptive rights to access the beach, as well as lessening the intent of Special Condition Three of Coastal Development Permit 5-88-794, which required the applicant to record an irrevocable offer to dedicate a vertical access as mitigation for any adverse effects on access that the original subdivision and construction of three single family residences had on the beach. The applicant has not proposed to replace or relocate the portion of the vertical accessway obstructed by the wall. Section 30211 of the Coastal Act requires that development shall not interfere with the public's right of access. Based on Section 30210 and 30211 of the Coastal Act, the Commission finds that the 10 feet long portion of the proposed front yard wall located within the area of the recorded offer to dedicate is inconsistent with the policies of Sections 30210, 30211, and 30212 of the Coastal Act and, therefore, is denied (See Exhibits 6 and 7).

The Commission denies the portion of the proposed six foot high, ten foot long front yard wall located within the area designated in the recorded offer to dedicate a vertical access easement on the basis that the proposed project interferes with public access to the beach. The Commission approves only the portion of the six foot high front yard wall that is located outside of the area designated in the recorded offer to dedicate a vertical access easement.

In conclusion, the Commission approves only the proposed location of the single family residence and a portion of the six foot high front yard wall on the basis that the proposed development is consistent with Sections 30210, 30211, and 30212 of the Coastal Act.

2. Seaward Encroachment/ Lateral Access

The State Owns Tidelands, Which Are Those Lands Below the Mean High Tide Line as it Exists From Time to Time. By virtue of its admission into the Union, California became 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 of 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. The public trust doctrine also severely limits the ability of the State to alienate these sovereign lands into private ownership and use free of the public trust.

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.

The Commission Must Consider a Project's Direct and Indirect Impact on Public Tidelands. 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, relying in part on information supplied by the State Lands Commission, examines 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 reviewed the project on May 6, 1998 and presently does not assert a claim that the project intrudes onto sovereign lands (Exhibit 8). The Coastal Commission itself currently has no independent evidence that the Mean High Tide Line at this parcel 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 impacts the extent and availability of tidelands. In this case four soldier pile caissons are located in an area subject to wave action. The design and configuration of these caissons will not result in any significant scour of the beach from wave action. However, as discussed below, these caissons, if exposed, could adversely impact lateral public access along the beach and create hazards to beach users.

In past permit actions, the Commission has required that all new development on a beach provide for public lateral access along the beach in order to mitigate any adverse impacts to public access. In the review of Coastal Development Permit 5-88-794, the Commission found that the sandy beach located in front of the subject site was used by the public for recreational activities including surfing, picnics, and to access Don Blocker State Beach. The Commission found ample evidence of supporting prescriptive lateral

access rights of this beach by surfers, sunbathers, fisherman, Frisbee players, and walkers. The Commission's findings concerning lateral prescriptive rights are incorporated herein. Thus, the Commission found that the original permit for the subdivision could only be approved with proper mitigation. Special Condition Two (2) required an offer to dedicate a lateral access easement be recorded:

"The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public access and passive recreational use along the shoreline..."

The applicant shall extend the entire width of the property from the mean high tide line to the line approximating the toe of the bluff, shown as elevation 16 on the maps provided by the applicant..."

The recorded irrevocable offer to dedicate public lateral easement extends the entire natural width of the property from the mean high tide line to the line approximating the toe of the bluff, shown as elevation 16. The irrevocable offer to dedicate was recorded on December 12, 1989. It has not yet been accepted.

To ensure that development does not encroach into the lateral access area and the sandy beach area at this site, the Commission attached Special Condition Eight (8) which states:

Prior to the issuance the applicant shall agree that this approval is based upon his assertions that no beach development, including leachfields or seawalls will be necessary to protect the development. Prior to the issuance of the permit the applicant shall present final drawings for approval by the Los Angeles County Health Department for a septic system that 1) requires no seawall, 2) involves no waivers of the Los Angeles County Plumbing Code, 3) is not located on the beach (below elevation 16).

The applicant is bound by this condition and the recorded offer to dedicate through its predecessor's agreement to and compliance with the condition and its acceptance of benefits by exercising development rights under the permit.¹

One component of the proposed project includes the installation of twenty below grade soldier piles. The Commission notes that four (4) of the proposed soldier piles are placed seaward of the sixteen foot contour line and are located on the sandy beach within the recorded offer to dedicate lateral access. The Commission finds that these four soldier piles located on the sandy beach have the potential to become exposed which would obstruct the public's right to access. The exposed soldier piles occupy a portion of the sandy beach and pose a physical obstacle to beach users and surfers who utilize the sandy beach. The piles are currently under the sand or below fill, but could be exposed as a result of beach erosion or erosion of fill in the future. Therefore, the Commission finds that the four soldier piles located between the 16 foot contour line and

¹ Roscoe Holdings v. State, 212 Cal. App. 642 (1989); Ojavan Investors v. California Coastal Commission, 26 Cal. App. 4th 516 (1994).

the 10 foot contour line will adversely affect and interfere with the public right of the use dry sand as required per Sections 30210 and 30211 of the Coastal Act and are contrary to the mitigation condition (Special Condition 8) that binds the applicant.

The remaining sixteen soldier piles begin at the western boundary of the property and extend to the seventeen foot contour line and will not be within that area the Commission previously delineated as the sandy beach or for lateral access. In order to ensure that all proposed development is located landward of the sixteen foot contour line, the Commission finds it necessary that the applicant submit revised plans which eliminate the four seaward soldier piles as required in Special Condition Two (2). The Commission finds that attached with Special Condition Two, 16 of the 20 proposed caissons located landward of the sixteen foot contour line will not adversely affect the recorded offer to dedicate lateral access and are consistent with the access policies of the Coastal Act.

3. "Stringline Policy"

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum access, protect public views and minimize wave hazards as required by Coastal Act Sections 30210, 30211, 30212, 30251, and 30253, the Commission has developed the "stringline" policy to control the seaward extent of development. As applied to beachfront development, the stringline limits extension of a structure or deck area to a line drawn between the nearest adjacent corners of adjacent structures and decks. The Commission has applied this policy to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches. In addition, the Commission has found that restricting new development to building stringlines is an effective means of controlling seaward encroachment to ensure maximum public access as required by Sections 30210 and 30211 of the Coastal Act and to protect public views and the scenic quality of the shoreline as required by Section 30251 of the Coastal Act.

In this case, the applicant is applying for approval to relocate the footprint of the residence to the 29 foot elevation, 10 feet seaward from the location the Commission originally approved, and construct a six foot high concrete side yard wall on top of the soldier piles beginning at the northwestern corner of the property and descending to the 25 foot elevation level. Both the wall and the footprint of the single-family residence would be located landward of the 16 foot elevation. During the review process of Coastal Development Permits 4-97-168 and 4-97-169 (Shears) for two adjacent single family residences, the Commission approved the footprints of the single-family residences at the 22 foot elevation of the coastal bluff and the deck stringline at approximately the 20 foot contour line. The Commission found that the proposed single family residences were located *"within a stringline between the single family residence to the west (the subject site) and the five condominiums to the east."*

The proposed footprint of the single-family residence would be located landward of the adjacent residence at approximately the 29 foot elevation while the attached deck would extend seaward to the 25 foot contour line. During the review of Coastal Development Permits 4-97-168 and 4-97-169, the two adjacent properties to the east, the Commission used the stringline policy to determine the location of the residences. In determining the

stringline, the Commission used the present location of the subject single-family residence, the 29 foot contour line, to determine the maximum seaward location of the proposed residential sites. The Commission finds that the 29 foot elevation, the proposed relocation of the footprint of the subject single-family residence, would be consistent with past Commission actions on Latigo Shores. Therefore, the Commission finds that the new location of the residence is consistent with Sections 30210, 30211, and 30212 of the Coastal Act.

The applicant is also proposing after-the-fact approval for a side yard wall located on the western boundary of the property on top of the below grade soldier piles. The proposed privacy wall extends to the deck stringline located at the 25 foot contour line. The Commission notes that the property located immediately west of the subject site is vacant. Therefore, in determining the stringline of the side yard wall the Commission has drawn a straight line between the deck of the residence and the wall at the 25 foot contour line. The Commission finds that the vertical wall extending from Latigo Shores to the 25 foot elevation on both APN 4460-019-025 and 4460-019-143 will be located within the stringline and will not have any individual or cumulative effects on public access.

4. Conclusion

The applicant is proposing after-the-fact approval for the relocation of the previously approved single family residence 10 feet seaward, the construction of a six foot high front yard wall, the construction of below grade soldier piles, and the construction of a six foot high side yard wall. The Commission **approves** the relocation of the single family residence to its current location, the construction of the front yard wall located outside of the area designated in the recorded offer to dedicate a vertical access easement, the installation of sixteen soldier piles descending from the 48 foot contour line to the 16 foot contour line, and the construction of a side yard wall descending the bluff from Latigo Shores to the 25 foot contour line. The Commission finds that the above-described proposed development will not interfere with public access or with the areas designated in the recorded offers to dedicate and will be consistent with the Commission's stringline policies. Thus, the Commission finds that these aspects of the proposed development, as conditioned, are consistent with Sections 30210, 30211, and 31212 of the Coastal Act.

The Commission also finds that the construction of a six foot high, 10 foot long front yard wall within the recorded offer to dedicate a vertical accessway and the installation of four below grade soldier piles descending the sandy beach from the sixteen foot contour line to the ten foot contour line will block the areas of vertical and lateral offers to dedicate easements, and interfere with public access. Therefore, the Commission finds that these portions of the proposed development are inconsistent with the applicable Chapter 3 sections of the Coastal Act.

C. Geological Stability

Section 30253 of the Coastal Act states in part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed development is located in the Malibu/Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, fire, and flooding. Development along the City of Malibu's coastline is consistently at risk from wave hazards and bluff instability.

Section 30253 of the Coastal Act states that new development must assure stability and structural integrity. In addition, the certified Malibu/ Santa Monica Mountains Land Use Plan (LUP) contains several policies and standards regarding hazards and geologic stability. The Commission often uses these policies as guidelines in reviewing projects within the Malibu area. Policy 153 suggests in areas where a high potential of tidal or wave action exists, development should be sited more than 10 feet landward of the mean high tide line.

Policy 153 On sites exposed to potentially heavy tidal or wave action, new development and redevelopment shall be sited a minimum of 10 feet landward of the mean high tide line. In a developed area where new construction is generally infilling and is otherwise consistent with LCP policies the proposed new structure may extend to the stringline of existing structures on each side.

In reviewing the proposed project for the consistency with Section 30253 of the Coastal Act, the Commission must review both the potential geologic hazards of the site and the site's geologic stability.

1. Storm, Wave, and Flood Hazard

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 proposed project and project site against the area's known hazards. The subject site is susceptible to flooding and/ or wave damage as a result of storm waves and storm surge conditions.

The applicant is proposing to relocate the single family residence ten feet seaward, the construction of a six foot high front yard wall, the construction of 20 below grade soldier piles, and the construction of a six foot high side yard wall. The slope of the subject site is a fill slope constructed by Caltrans during the construction of Pacific Coast Highway. In reviewing Coastal Development Permit 5-88-794 (Lachman), the Commission found that the artificial fill slope constructed out over the sandy beach would be subject to even more wave hazard than a natural bluff. Most of a sandy beach is subject to inundation, therefore, the toe of the natural bluff represents the landward limit of storm waves.

Based on this information, any structure seaward of the toe of the natural bluff would be well within the area of wave attack during storm events.

As a part of the subdivision application request (CDP 5-88-794), a wave uprush study was conducted by David Weiss, Structural Engineer on November 21, 1988. The report recommended that the proposed single family residences are supported by a caisson or pile type foundation and that no finished floor level be placed lower than +17.5 feet M.S.L. datum. The proposed location of the single family residence footprint will extend seaward to the 29 foot contour line and the vertical side yard boundary wall extend seaward to the 25 foot elevation, which would meet the recommendations of the wave uprush study. Therefore, the Commission finds that the proposed location of the single-family residence and side yard wall is consistent with Section 30253 of the Coastal Act.

However, the applicant is also proposing to install 20 below grade soldier piles. Four of these soldier piles will be located below the 16 foot contour line. According to the wave uprush study prepared by David Weiss dated November 21, 1988, any development below the 17 foot contour line will be exposed to wave uprush. The sixteen soldier piles that are landward of the 16 foot contour line would not be exposed to direct wave uprush. However the four soldier piles below the 16 foot contour would be exposed to wave uprush. Although the soldier piles are located in the fill slope, consistent exposure of the erodible fill to wave action as well as fluctuating levels of sand would cause the soldier piles to eventually be exposed. Exposed soldier piles on the beach could create an unsafe condition for beach users particularly during high tides. The proposed caissons are intended to protect the existing single family residence from an ancient landslide located on the adjacent parcel to the west of the subject site. They are not designed to protect the residence from wave action. Therefore, the Commission denies the four caissons placed seaward of the 16 foot contour line because in their present location the caissons pose a potential threat to the members of the public and is not consistent with Section 30253 of the Coastal Act.

2. Site Geologic Stability and Hazards

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 assures stability and structural integrity. The applicant is proposing to construct 20 soldier piles along the western portion of the property to protect the existing single family residence from an ancient active landslide located on the adjacent parcel. The applicant has submitted an Updated Soils and Engineering-Geologic Report dated February 17, 1997 prepared by GeoSystems. The geologic report states:

"It is our opinion [that] the design and location recommendations of the previously approved soldier pile system remain applicable. It should be noted that the soldier piles are not required to support the existing residential structure. The existing structure is supported on deepened piles embedded in competent bedrock. The soldier piles are designed to prevent lateral extension of the primarily off-site landslide."

The applicant has submitted plans that have been reviewed and approved by the consulting geologist as conforming to all recommendations within the Engineering-

Geologic Report. As stated above, the proposed soldier piles are not necessary to support the existing single family residence or as a protection device against wave action, but instead are designed to prevent lateral extension of the off-site landslide, which could adversely effect the residence. According to the Updated Soils and Engineering-Geologic Report the 20 soldier piles located along the western property line are intended to "protect the site from encroachment of a landslide located immediately west of the property."

The Commission notes that according to the Los Angeles County Geologic map the western boundary of the property has been designated as a restricted use area as a result of the landslide. The Commission finds the soldier piles are located within the area designated as restricted use. 16 of the 20 soldier piles are located along the western boundary and act as a barrier between the landslide and the single family residence. The four soldier piles located seaward of the 16 foot contour line are located approximately 30 to 45 feet seaward of the residence and, therefore, do not appear necessary to provide protection for the residence. The applicant has not provided any information that indicates that these four soldier piles are necessary to protect the residence from a potential landslide. As cited above, when the fill around these four soldier piles erodes and the pilings are exposed on the beach they will pose as a significant hazard to beach users and will interfere with lateral access along the coast.

In addition, as previously stated, Special Condition Eight (8) of Coastal Development Permit prohibits any development below the sixteen (16) foot contour line. Four of the proposed soldier piles are located within the sixteen to the ten foot contour line. Thus, they are located within the area restricted from development as a result of previous Commission action.

The Commission finds that the four pilings located seaward of the 16 foot contour line are inconsistent with Section 30253 of the Coastal Act because they would not minimize the risks to life and property. The Commission approves the remaining 16 soldier piles because they are consistent with Section 30235 of the Coastal Act and afford some protection to the residence. Therefore, the Commission finds it necessary that the applicant submit revised plans which eliminate the four seaward soldier piles which are found to be inconsistent with Section 30253 as required in Special Condition Two (2).

In addition, 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. In 1988 the Commission approved the subdivision and the construction of three residences attached with the following special conditions to mitigate against adverse hazardous impacts associated with development of beach front residences: assumption of risk, storm design certification, no beach level development, and revised plans. These conditions are still in effect and are referenced in Exhibit 3. However, as previously stated the proposed soldier piles associated with the new location of the house and walls proposed here were not a part of the original coastal development permit. Therefore, the Commission finds it necessary to require the applicant to record an assumption of risks to ensure that the applicant or any future owners are aware of and assume the risks associated with the proposed development as described in Special Condition One (1).

The Commission finds that only as conditioned above is the proposed installation of sixteen soldier piles consistent with Sections 30235 and 30253 of the Coastal Act.

D. Environmentally Sensitive Habitat Areas and Visual Resources

The Coastal Act defines an environmentally sensitive area in Section 30107.5 of the Coastal Act as:

"...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed in such areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas.*

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act states that permitted development should minimize the alteration of natural landforms and be visually compatible with the surrounding areas. Section 30240 of the Coastal Act requires all proposed development located adjacent to environmentally sensitive habitat areas to be designed to prevent impacts, which would significantly degrade such areas. The Malibu/ Santa Monica Mountains Land Use Plan has designated the existing intertidal area and sensitive kelp beds located off shore as an environmentally sensitive habitat area. In addition, the LUP has also designated Pacific Coast Highway as a scenic highway.

ESHA

During the initial review of subdivision request, the Commission found that any beach level development could have the following potential adverse impacts on intertidal resources: 1) impacts during construction; 2) reduction of intertidal bird habitat due to the increase in foot traffic and the increase in the number of dogs and cats; and 3) run off from the project. As mentioned above, the Santa Monica Mountains/ Malibu LUP designates the offshore kelp beds and intertidal area as ESHA. In order to reduce the effects of impacts from construction and run off, the Commission approved the underlying permit attached with Special Condition Six (6) "Construction Materials and Methods." This condition ensures construction activity and site disturbance will not adversely impact the offshore ESHA areas. This condition remains in effect for this coastal development permit amendment as well (Exhibit 3).

The Commission finds that aspects of the proposed development approved herein will not adversely affect the offshore intertidal zone and kelp beds. Therefore, as previously conditioned the proposed amendment is consistent with Section 30240 of the Coastal Act.

VISUAL

In the review of this project, the Commission has analyzed the potential impacts on public visual resources. In reviewing Coastal Development Permit 5-88-794 the Commission found that the construction of three single-family residences would adversely impact the visual resources. Thus, the permit was conditioned to reduce the residence from a four level structure to a three level structure. The Commission also found that public views of the coast were not entirely blocked due to the County owned parcel located to the west and Corral Canyon Beach located to the east.

The applicant is proposing to relocate the previously approved single family residence ten feet seaward and construct a six foot high front yard wall. The Commission finds that the proposed development will not obstruct any views along Pacific Coast Highway because the scenic highway is at a higher elevation than the subject site. Although the applicant is proposing to relocate the single-family residence approximately 10 feet seaward than originally approved, the height of the residence will remain at a maximum height of 28 feet, as the Commission previously approved. Due to the elevation of Pacific Coast Highway the proposed six foot high front yard wall located along Latigo Shores would not obstruct any views of the ocean or sandy beach. However, the front yard wall could partially obstruct ocean views from Latigo Shores Drive for approximately 26 feet. However, this obstruction will not create any significant adverse visual impacts because the area of obstruction is minor. In addition, the Commission finds that the proposed project is consistent with other beachfront projects the Commission has approved and existing development located along Latigo Shores Drive. Thus, the Commission finds that the 26 foot long, 6 foot high front yard wall will not result in any significant adverse visual impacts.

The proposed project also includes a six foot high privacy wall between the subject site and the adjacent property and 20 below grade caissons. The wall as proposed extends from Latigo Shores Road seaward to the deck stringline, approximately the 25 foot elevation. The proposed privacy wall will be visible from the County properties located both to the east and west of the subject site and the beach. However, the vertical

privacy wall will not extend further than the existing decks of the single-family residence nor will it extend beyond the deck stringline. In addition, the proposed wall is consistent with the existing development within this area. Therefore, the Commission finds that the proposed privacy wall will not cause any adverse visual affects on views from the beach public view areas or from Pacific Coast Highway.

The applicant is also proposing to construct 20 below grade soldier piles along the western boundary of the property. Although all of the caissons will be located below the existing grade and will not be visible at the time of installation, four of these soldier piles are located below infill on the sandy beach and are susceptible to wave action and beach erosion. As a result of erosion and the fluctuating levels of sand along this stretch of beach the soldier piles could potentially be exposed. The exposed soldier piles located on the sandy beach would adversely affect the scenic and visual qualities of the coastal areas and are not consistent with the applicable sections of the Coastal Act. Therefore, the Commission finds that the four caissons located on the sandy beach are inconsistent with Sections 30240(b) and 30251 of the Coastal Act and finds that the 16 caissons located along the western portion of the property above the 16 foot contour line as consistent with Section 30251. In order to ensure that all proposed development is located landward of the sixteen foot contour line, the Commission finds it necessary that the applicant submit revised plans which eliminate the four seaward soldier piles as required in Special Condition Two (2). The Commission finds that as conditioned by Special Condition Two, 16 of the 20 proposed caissons located landward of the sixteen foot contour line will not adversely affect the visual and scenic views from Pacific Coast Highway or the sandy beach and, therefore, is consistent with Section 30251 of the Coastal Act.

CONCLUSION

The Commission denies the construction of four below grade caissons because the development as proposed would adversely effect the visual qualities of Latigo Shores. Therefore, the development as proposed is inconsistent with Section 30251 and 30240 of the Coastal Act.

The Commission approves the portion of construction of a front yard wall located outside the vertical access area offered to be dedicated as vertical access, the revised location of the single family residence, the construction of 16 below grade caissons located between the 48 foot and the 16 foot contour line, and the construction of a privacy wall located from Latigo Shores to the 25 foot contour line attached with an assumption of risk condition and revised plans. The development as proposed will not adversely affect the visual and scenic views of the beach area or Pacific Coast Highway, a designated scenic highway and, therefore, is consistent with Section 32051 and 30240 of the Coastal Act.

E. Violation

Unpermitted development has taken place on the property prior to submission of this permit amendment application including the relocation of the footprint of the previously approved single family residence ten feet seaward, the construction of twenty below grade soldier piles, the construction of a six foot high vertical privacy wall, the construction of a six foot high front yard wall. In addition, the applicant has placed approximately 500 cu. yd. of fill on the sandy beach, constructed a concrete patio located underneath the residence and posted unpermitted "No Parking" signs along Latigo Shores Drive. Furthermore, the applicant has placed landscaping which includes a lawn and non-native vegetation, and a railroad tie stairway area along the western portion of the property. Additional landscaping including a lawn is located on the sandy beach on top of the fill immediately seaward of the existing single family residence. This aspect of the violation is being handled separately.

The applicant is also in violation of Special Conditions 2 (Vertical Access), 3 (Lateral Access), 7 (Future Improvements), and 8 (Seaward Development) of the underlying permit. The applicant is applying for an after-the-fact approval for the seaward location of the residence, construction of the soldier piles, construction of the vertical boundary wall, and construction of the front yard wall. The other unpermitted developments will be resolved through other enforcement actions. To ensure that the proposed project is carried out in a timely manner, Special Condition Two (4) of this permit amendment requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of the permit within 90 days of the Commission action. All other existing development will be resolved through enforcement measures.

Consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action on the permit amendment request does not constitute a waiver of any legal action with regard to any portion of the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal Development 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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with 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 as

conditioned for approval for a portion of the project will not create adverse impacts and is consistent with the Chapter 3 policies of the Coastal Act. The Commission finds that the portion of the project that is approved (Part A) will not prejudice the ability of the City of Malibu to prepare a Local Coastal Program for the unincorporated area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a). The portion of the project that is denied (Part B) will prejudice the ability of the City of Malibu to prepare a Local Coastal Program for Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act.

G. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse impacts that the activity may have on the environment.

There are no negative effects caused by the approval of the portion of the development described in Part A which have been adequately mitigated. Therefore, the portion of the project involving the relocation of the single family residence, the installation of sixteen of the soldier piles (Exhibit 7), the construction of a side yard wall from Latigo Shores to the 25 foot contour line, and the construction of a front yard wall as shown in Exhibit 6, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, this portion of the proposed amendment, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

However, the remainder of the development, which consists of the construction of four below grade caissons within the recorded lateral easement and the construction of a six foot high front yard wall within the recorded vertical easement (Exhibit 6), is not consistent with CEQA and the policies of the Coastal Act. There are feasible alternatives to this portion of the development that would lessen the impact on the environment. Further, this portion of the proposed project would result in significant adverse effects on the environment, within the meaning of the CEQA. Therefore, this portion of the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act.

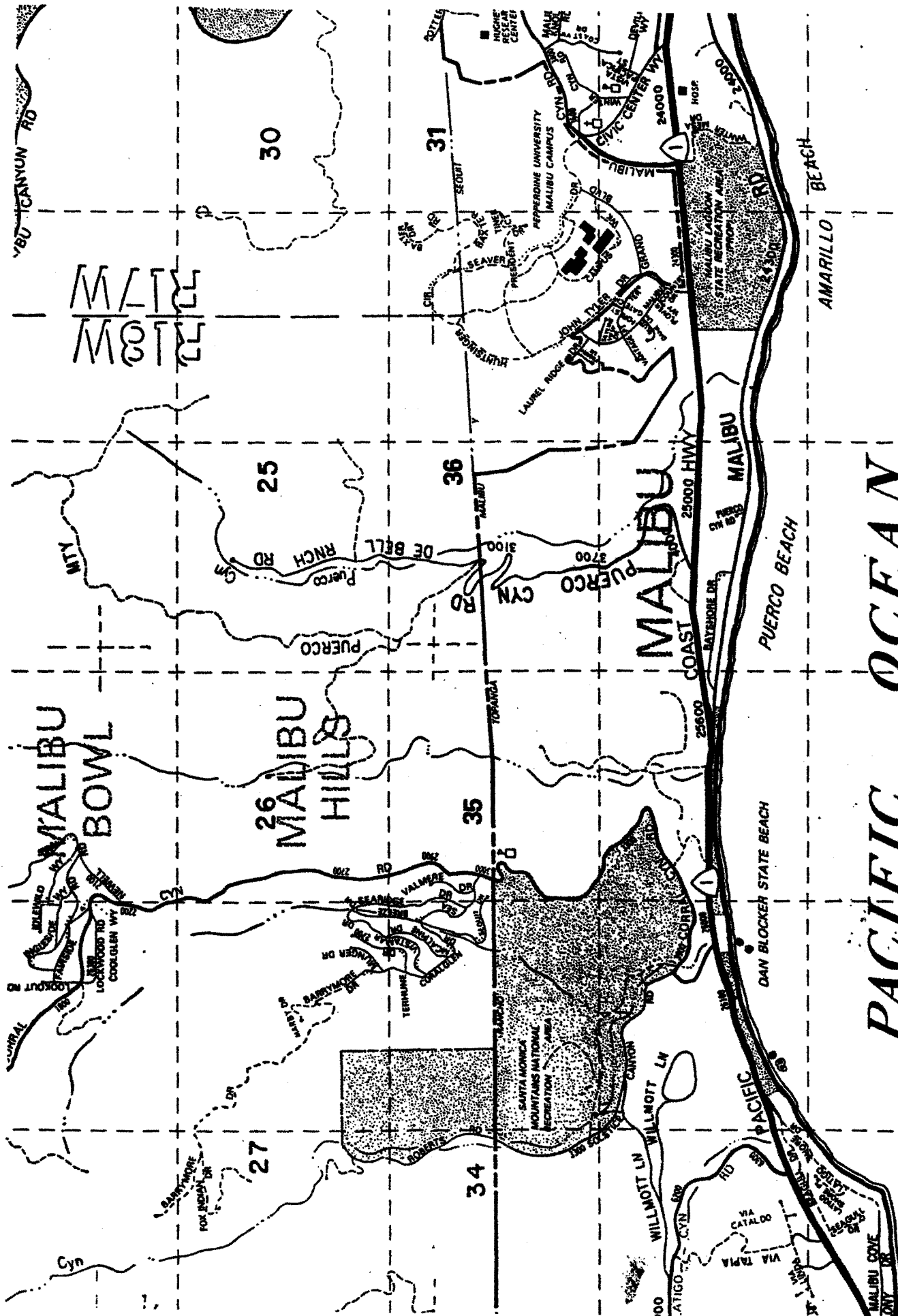


Exhibit 1
CDP 5-88-794-A2 (Kelly)
Vicinity Map

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
243 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

RECEIVED
JUL 3 1990
CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT



Page 1 of
Date: June 13, 1990
Permit No. 5-88-794

COASTAL DEVELOPMENT PERMIT

On December 13, 1988, the California Coastal Commission granted to

Jeanette Goldbaum

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

Subdivision of 35,130 sq. ft. lot into three parcels and construction of three single family houses.

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

The development is within the coastal zone in Los Angeles County at 26520-26524 Pacific Coast Highway, Malibu CA APN 4460-19-26.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: Pamela D

Title: Staff Analyst

ACKNOWLEDGMENT

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

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

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

Date

6-28-90

Jeanette Goldbaum
Signature of Permittee

Exhibit 3
CDP 5-88-794-A2 (Kelly)
CDP 5-88-794 (Goldbaum)

COASTAL DEVELOPMENT PERMIT

Page 2 of 6
Permit No. 5-88-794

STANDARD CONDITIONS:

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

SPECIAL CONDITIONS:

1. Assumption of Risk.

Prior to transmittal of the 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 shoreline erosion, flooding, and bluff erosion, and the applicant assumes the liability from such hazards; (b) that the applicant unconditionally waives any claim of liability on the part of 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 and encumbrances which the Executive Director determines may affect the interest being conveyed.

2. Lateral Access

Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property.

The easement shall extend the entire width of the property from the mean high tide line to the line approximating the toe of the bluff, shown as elevation 16 on the maps provided by the applicant. (Exhibit 3)

The easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. Vertical Access

Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public access for pass and repass from Pacific Coast Highway to the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property.

The easement be described in metes and bounds and shall extend from the Pacific Coast Highway to the ordinary high tide of the Pacific Ocean, generally within the geologic setback along the western property line. The easement shall not be less than 10 feet in width, and shall be sited and designed to accommodate reasonable and safe pedestrian access from the highway to the area along the beach dedicated in condition 2.

A more detailed description may either follow the stairway proposed in Exhibit 3, or otherwise follow a potential switch-back within the general area identified as geologic setback in Exhibit 3 if the stairway cannot be feasibly constructed. The exact configuration of the easement shall be determined by the Executive Director. The easement shall enable a private or public agency accepting maintenance and liability to enter, improve and maintain the access in order to provide pedestrian access to the shoreline.

The easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

In addition to all other recording, there shall be an explanatory note on the final parcel map.

If and when a vertical public access way has been constructed within 500 feet of the applicant's property and such accessway has been opened for public use and either a private association acceptable to the Executive Director or a public agency has accepted the responsibility for operation and maintenance of the accessway, the applicant may request an amendment to this permit to remove the recorded easement. Such amendment must be approved by the California Coastal Commission prior to the removal or revision of the recorded easement.

4) State Lands

Prior to the transmittal of a permit the applicants shall obtain a written determination from the State Lands Commission that:

(a) No State lands and/or lands subject to the public trust are involved in the development, or

(b) State lands and/or lands subject to the public trust are involved in the development and all permits that are required by the State Lands Commission have been obtained, or

(c) State lands and/or lands subject to the public trust may be involved in the development, but pending a final determination, an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

5) Storm Design.

Prior to the transmittal of the Coastal Development Permit, the applicants shall submit certification by a registered civil engineer that the proposed structure is designed to withstand storms comparable to the winter storms of 1982-83.

6) Construction Methods and Materials.

Prior to transmittal of the permit the applicant shall provide subject to the review and approval of the Executive Director 1) revised grading plans with plan notes and 2) an agreement with the Executive Director both of which provide a) that no stockpiling of dirt shall occur on the beach, seaward of elevation 20, b) that all grading shall be properly covered, sand bagged and ditched to prevent runoff and siltation, c) that earth-moving operations shall be prohibited between November 1 and March 31, d) that measures to control erosion must be implemented at the end of each day's work, and e) evidence that plans for this erosion prevention conform to applicable County ordinances, f) entry for excavation shall be from Pacific Coast Highway and Latigo Shores Drive and shall not be from the beach.

Pursuant to this agreement, during construction, disturbance to sand and intertidal areas shall be minimized. Beach sand excavated shall be re-deposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or construction material. No road or ramp shall be constructed to the beach. The applicant shall prevent siltation or discharge of silt, chemicals or waste concrete on the beach.

7) Future improvements

Prior to transmittal of the permit the applicant shall provide a deed restriction for recording in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-88-794 is for the approved development only, and that any future additions or improvements to the property will require a new Coastal Development Permit from the Coastal Commission or its successor agency. The document should note that no permanent improvements with the exception of one public path or stairway noted on the present plans shall be constructed within the geologic set back area or under the floors or seaward of the existing structures. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. It shall remain in effect for the life of the development approved in this permit.

8) No beach level development

Prior to issuance the applicant the applicant shall agree that this approval is based upon his assertions that no beach development, including leachfields or seawalls will be necessary to protect the development. Prior to issuance of the permit the applicant shall present final working drawings for an approved approved by Los Angeles County Health department for a septic system that 1) requires no seawall, 2) involves no waivers of the Los Angeles County Plumbing code, 3) is not located on the beach (below elevation 16 as shown on Exhibit 3)

9) Revised plans

Prior to transmittal of the permit the applicant shall submit revised plans that limit the development to three levels. For purposes of this condition a mezzanine and a basement are each levels.

10. Cumulative Impact Mitigation Condition

Prior to issuance of this permit, the applicant shall provide evidence to the Executive Director that development rights for residential use have been extinguished on one building site in the Santa Monica Mountains Coastal zone for each new building site created by the permit. The method used to extinguish the development rights shall be either

a) one of the five lot retirement or lot purchase programs contained in the Malibu Santa Monica Mountains Land Use Plan (p. 10, 272 2-6),

b) a TDC-type transaction, consistent with past Commission actions such as 5-84-789 (Miller),

c) or participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

The building site on which residential uses are extinguished must either be a legal lot in a small lot subdivision or a potential building site located in a Significant Watershed. Unsubdivided land within Significant Watersheds may be used to generate building sites in numbers based on densities consistent with the proposed densities of the Land Use Plan; sites that are unable to meet the County's health and safety standards shall not be counted.

Attachment X

To: Permit Applicants
From: California Coastal Commission
Subject: Standard Conditions

The following standard conditions are imposed on all permits issued by the California Coastal Commission.

I. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the 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.

2. Coastal Commission Determination of Substantial Issue and Commission Action on Certification on Malibu Land Use Plan (March 24, 1983).

3. Malibu/Santa Monica Mountains Preliminary Area Plan (August 4, 1980, Dept. of Regional Planning).

4. Coastal Development Permits this and adjacent parcels 5 87-706 (Iachman), 5-85 299, 5 85 299A; 5 85 299A2, 5 85 299A3, 5 85 546 (Young and Golling), 5 82 580 (Blumberg), 5 82 638 Pepperdine), P 78 2312 (Pepperdine), P 77 985 (Pepperdine), 5 86 855 (Iachman), 5 84 137 (Stout), 5 84 732 (Stout), 5 85 459; 5 84 754 (Ackerberg), 5 83-136 (Geffen), 5 83-242 (Singleton), 5 83 871 (Diamond).

5. Reach subdivisions P 81 7642 (Evans), 5 81 6 (Landy), 5 81 7 (Trancas Development) Appeal 55 79 (Feldman), 5 82 659 (Leanse), 79-5163 (Armstrong), 5 83-712 G (Malibu Point Homeowners), P 878 (Blumberg) 5 82-370 (Siegal), 5 85 758 (Norred), Prop 20 P 8961 (Kraft), 5 85-101 (Measer), 5 85 635 (Broad Reach Partners), 5 85 309 (Jackson), 05-88-170 (Black Tor), 5 87-706 (Iachman)

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development 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 in 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. (see attachment X)

III. Special Conditions.

1. Assumption of Risk.

Prior to transmittal of the 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 shoreline erosion, flooding, and bluff erosion, and the applicant assumes the liability from such hazards; (b) that the applicant unconditionally

waives any claim of liability on the part of 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 and encumbrances which the Executive Director determines may affect the interest being conveyed.

2. Lateral Access

Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property.

The easement shall extend the entire width of the property from the mean high tide line to the line approximating the toe of the bluff, shown as elevation 16 on the maps provided by the applicant. (Exhibit 3)

The easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. Vertical Access

Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public access for pass and repass from Pacific Coast Highway to the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property.

The easement be described in metes and bounds and shall extend from the

Pacific Coast Highway to the ordinary high tide of the Pacific Ocean, generally within the geologic setback along the western property line. The easement shall not be less than 10 feet in width, and shall be sited and designed to accommodate reasonable and safe pedestrian access from the highway to the area along the beach dedicated in condition 2. A more detailed description may either follow the stairway proposed in exhibit 3, or otherwise follow a potential switch back within the general area identified as geologic setback in Exhibit 3 if the stairway cannot be feasibly constructed. The exact configuration of the easement shall be determined by the Executive Director. The easement shall enable a private or public agency accepting maintenance and liability to enter, improve and maintain the access in order to provide pedestrian access to the shoreline.

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If and when a vertical public access way has been constructed within 500 feet of the applicant's property and such accessway has been opened for public use and either a private association acceptable to the Executive Director or a public agency has accepted the responsibility for operation and maintenance of the accessway, the applicant may request an amendment to this permit to remove the recorded easement. Such amendment must be approved by the California Coastal Commission prior to the removal or revision of the recorded easement.

4) State Lands

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(b) State lands and/or lands subject to the public trust are involved in the development and all permits that are required by the State Lands Commission have been obtained, or

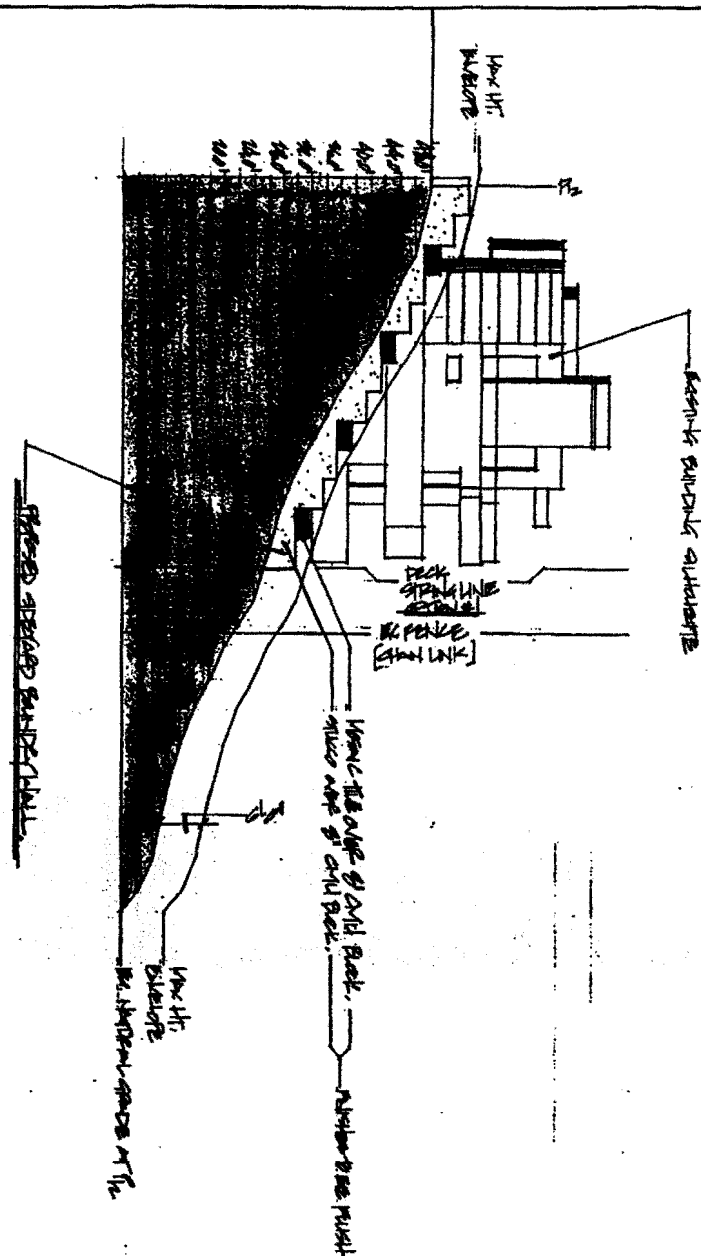
(c) State lands and/or lands subject to the public trust may be involved in the development, but pending a final determination, an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.



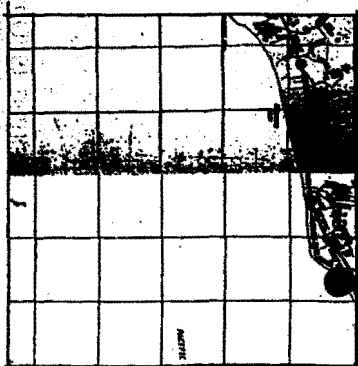
Exhibit 4
CDP 5-88-794-A2 (Kelly)
Site Plan

SHEET INDEX

**A-1 GENERAL INFORMATION / SITE SECTION -
ELEVATION
A-2 SITE PLAN**



LOCATION MAP

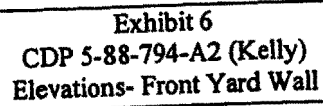


SCOPE OF WORK

1. INSTALL MAXIMUM 6'-0" SIDE YARD BOUNDARY FENCE ABOVE EXISTING GRADE.

ALPN - 4460-19-26

1000



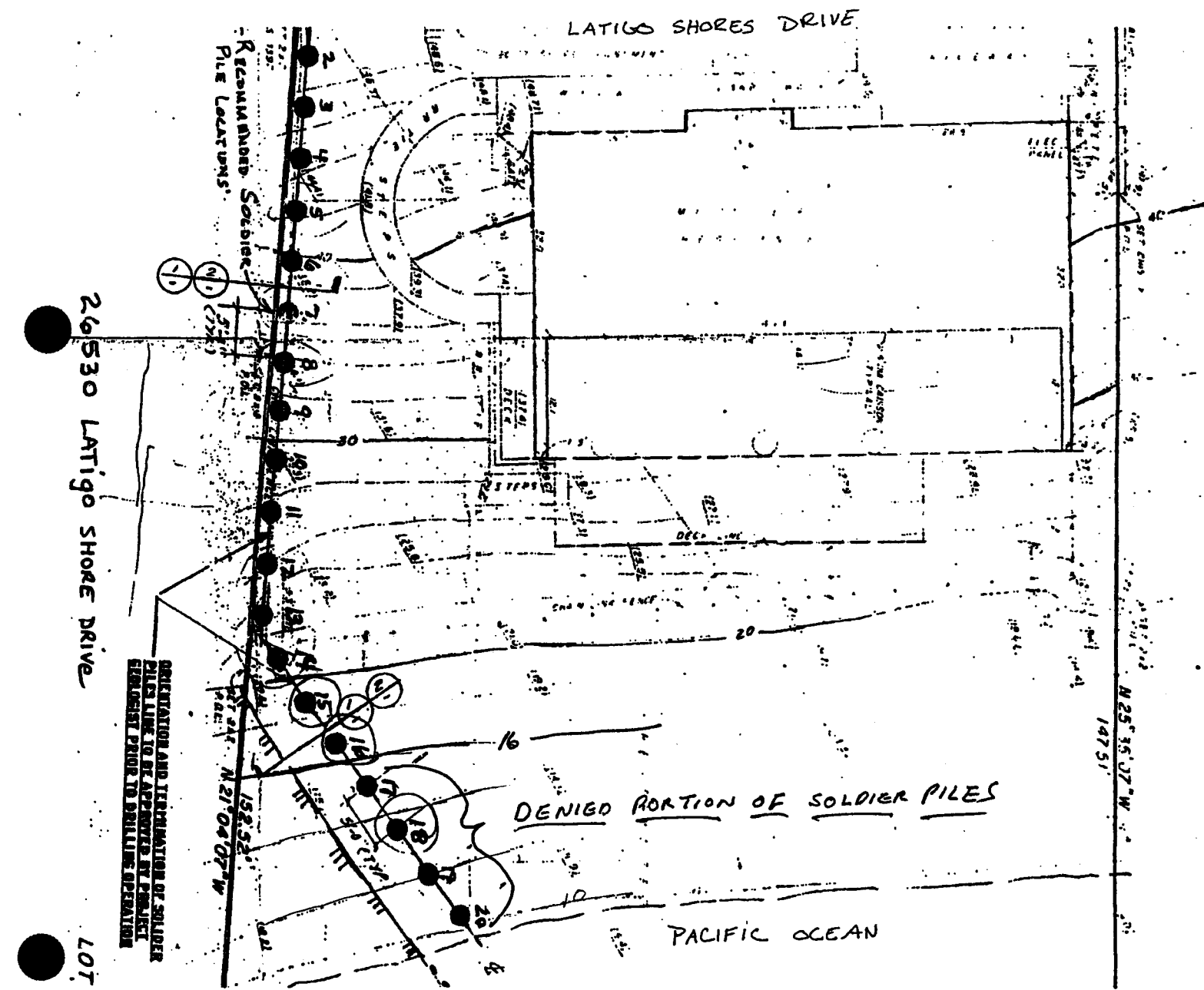
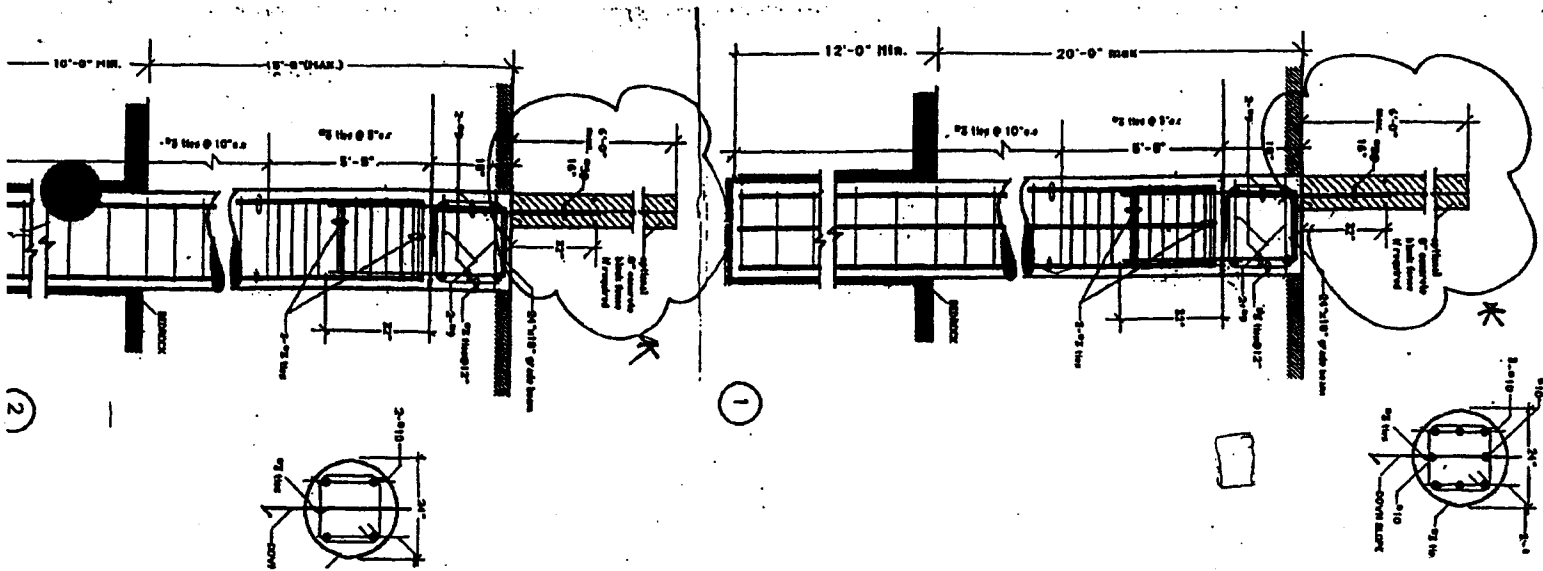
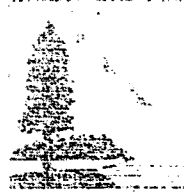


Exhibit 7
CDP 5-88-794-A2 (Kelly)
Elevations- Caissons

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 1-800-735-2922
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 6, 1998

File Ref: SD 98-04-28.5

Darren Domingue, AIA
858 21st Street, Studio B
Santa Monica CA 90403

Dear Mr. Domingue:

**SUBJECT: Coastal Development Project Review for After-the-Fact
Amendment to Coastal Development Permit (CDP) 5-88-794**

This is in response to your request on behalf of your client, Bert Kelley, 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 client's project, as we understand them, are these:

Your client is requesting an after-the-fact amendment to the subject CDP to legalize the placement of below grade caissons, placement of a brick wall on top of the caissons and approving the current location of the residence at 26530 Latigo Shore Drive in Malibu, which was built ten feet further seaward than originally approved. CDP 5-88-794 was issued by the California Coastal Commission (CCC) on December 13, 1998, and authorized the subdivision of 35,130 square foot lot into three parcels and the construction of three single family residences. Your client's residence was the only residence constructed under that permit. The residence is located at the top of a steep bank, with the most seaward extent (the deck) cantilevered over the 24' elevation, as shown on the August 1997 plans you submitted. There are no structures on the beach. After the CDP was issued, the City of Malibu imposed a condition that required the placement of below grade caissons on the west side of the property as bluff stabilization from the adjacent property to the west. The most seaward extent of the caissons is shown on your plans as being located at the 10' elevation. Your client also constructed a brick wall on top of a portion of the caissons, which ends at the 24' elevation. The brick wall extends landward up to and across Latigo Shore Drive on property being purchased by your client.

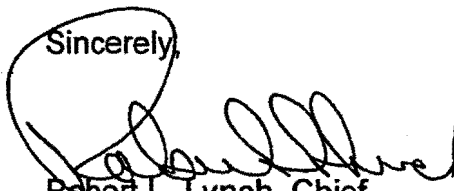
May 6, 1998

The property to the west is vacant. The immediate two lots to the east are vacant, although our files reflect that in early 1997, CSLC staff reviewed plans for construction of two residences on that property. East of those lots is a condominium development.

Based on the above, it does not appear that the project will occupy sovereign lands or intrude into 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,

A handwritten signature in black ink, appearing to read "Robert L. Lynch", written over a circular stamp or seal.

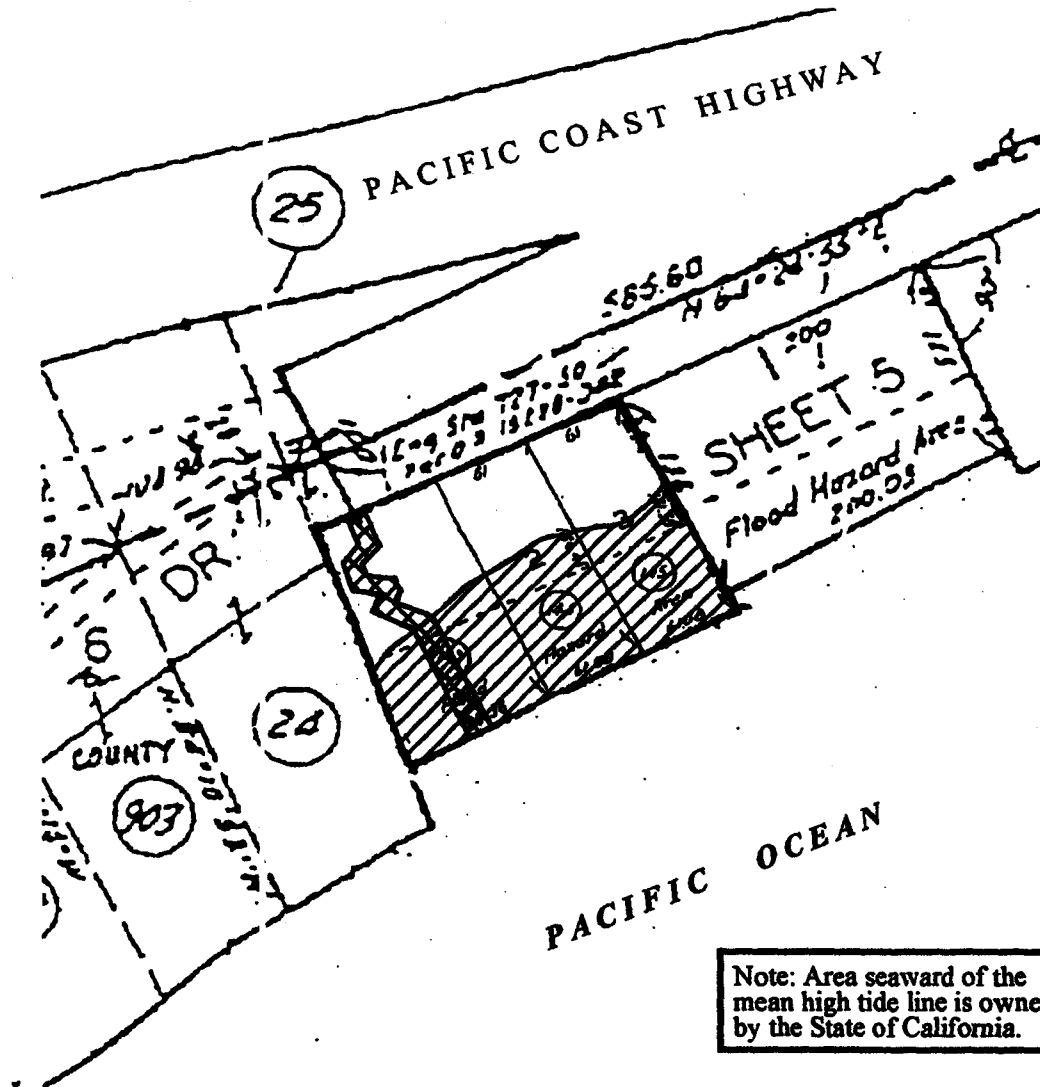
Robert L. Lynch, Chief
Division of Land Management




cc: Art Bashmakian, City of Malibu

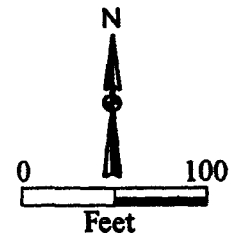
Offer To Dedicate Public Access

GOLDBAUM (CDP# 5-88-794)

Malibu, Los Angeles County



-  10 Foot Wide Vertical Access Easement (Extends from Northernly Property Line to Mean High Tide Line)
-  Lateral Access Easement (Extends from Mean High Tide Line To the Toe of the Bluff)
-  Property Boundary
L. A. County APN 4460-019-144



Note: All Locations Approximate.
For Illustrative Purposes Only



California Coastal Commission
Coastal Access Program

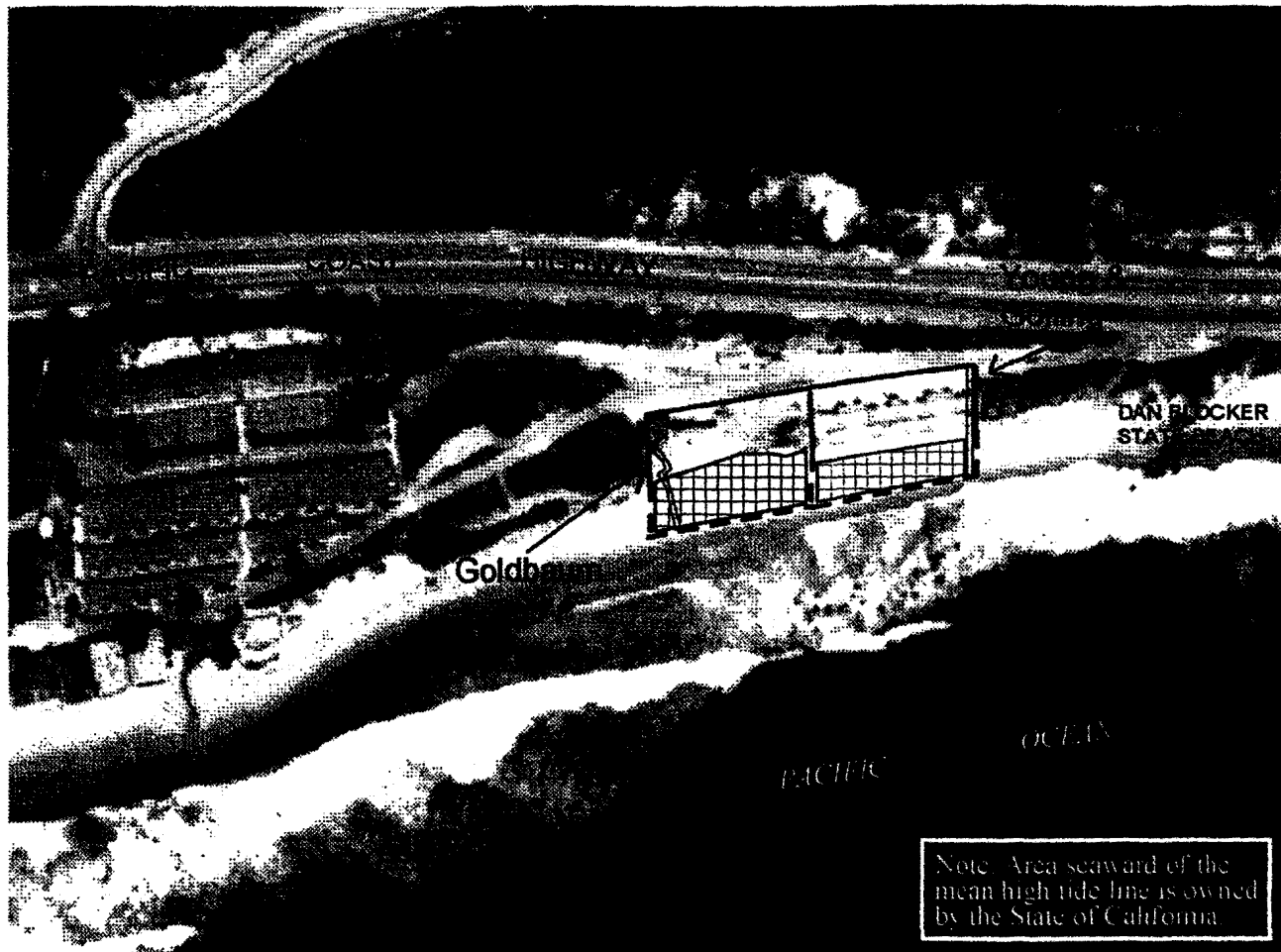
Source: California Coastal Commission Access Program
Base Map Source: L. A. County Assessor 1997



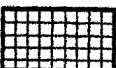


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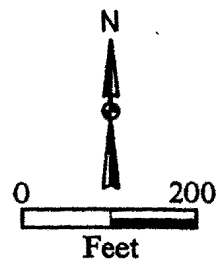
Offer to Dedicate Public Access

GOLDBAUM (CDP# 5-88-794) and
YOUNG AND GOLLING (CDP# 5-85-299)

Malibu, Los Angeles County



-  Goldbaum and Young and Golling 10 Foot Wide Vertical Access Easements (Extends from Northerly Property Line to Mean High Tide Line)
-  Young and Golling Lateral Access easement (Extends From Mean High Tide Line to the Seaward Edge of the Plate Line of the Structure)
L. A. County APN 4460-019-028
-  Goldbaum Lateral Access easement (Extends From Mean High Tide Line to the Toe of the Bluff)
L. A. County APN 4460-019-144
-  Property Boundary
-  Indicates Property Boundary is Ambulatory



*Note: All locations approximate.
For illustrative purposes only.*



California Coastal Commission
Coastal Access Program

Source: California Coastal Commission Access Program
Photo Source: CA Dept. of Boating and Waterways, 1993

Exhibit 10
CDP 5-88-794-A2 (Kelly)
Aerial View of Property Easements

