


CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

MALIBU, CA 93001

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Staff: S. Hudson 
Staff Report: 7/22/99
Hearing Date: August 13, 1999
Commission Action:

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.:** 4-99-104**APPLICANTS:** Los Angeles County Department of Beaches and Harbors**PROJECT LOCATION:** Three vacant parcels located along Latigo Shore Drive and Seagull Way, Malibu; Los Angeles County (APNs: 4460-019-902, 903, & 024)**PROJECT DESCRIPTION:** Construct improvements and reconfigure an existing unimproved 8 ft. wide trail to provide for public access to the beach. The proposed project will include the installation of wooden bollards, public access signs, and 82 cu. yds. of grading (22 cu. yds. of cut and 60 cu. yds. of fill).**LOCAL APPROVALS RECEIVED:** N/A**SUBSTANTIVE FILE DOCUMENTS:** Geotechnical Report by Los Angeles County Department of Public Works dated February 18, 1998.**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the proposed project with four (4) special conditions regarding revegetation and erosion control plans, construction responsibilities and debris removal, required approvals, and assumption of risk. The applicant is proposing to construct improvements and reconfigure an existing informal unimproved beach access trail in order to allow for formal public use of the beach accessway. The existing trail is primarily located on two separate parcels of land owned by Los Angeles County; however, a short segment of the existing trail is also located on a third parcel that is privately owned. The project will include the removal of the portion of the trail located on private property and the provision of a new graded access trail down the steep bluff face to the beach. The project site is located within a portion of a large active landslide.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

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

II. Standard Conditions

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

III. Special Conditions

1. Revegetation and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit revegetation and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The revegetation and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Revegetation Plan

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days after the completion of construction. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B. Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag

barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C. Monitoring

Five years from the completion of construction activity, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the revegetation plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the revegetation plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental revegetation plan for the review and approval of the Executive Director. The revised revegetation plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

2. Construction Responsibilities and Debris Removal

The applicant shall, by accepting this permit, agree that: a) no stockpiling of dirt shall occur on the beach; b) all grading shall be properly covered, sand-bagged, and ditched to prevent runoff and siltation; and, c) measures to control erosion must be implemented at the end of each day's work. In addition, no machinery will be allowed in the intertidal zone at any time. The permittee shall remove from the beach and seawall area any and all debris that result from the construction period.

3. Required Approvals

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director a Streambed Alteration Agreement or other evidence of approval from the California Department of Fish & Game for the proposed project or evidence that such approval is not required.

4. Assumption of Risk, Waiver of Liability and Indemnity Agreement

Prior to issuance of the coastal development permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, which states that the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, flooding, erosion, and wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct improvements and reconfigure an existing unimproved 8 ft. wide beach access trail to provide for public access to the beach. The proposed project will include the installation of wooden bollards, public access signs, and 82 cu. yds. of grading (22 cu. yds. of cut and 60 cu. yds. of fill). The subject site is located between Pacific Coast Highway and the ocean on three separate vacant shoreline/bluff parcels approximately two acres in combined size (Exhibit 1). Slopes on site descend from Pacific Coast Highway to the beach in a north-south direction. The beach on the project site is backed by an approximately 15 ft. high, near vertical, wave-cut bluff. The project site is underlain primarily by artificial fill and located within a portion of a large active landslide. No streams or environmentally sensitive habitat areas are located on the project site. The staging area for all construction activity will be located landward of the top of the bluff on the County owned parcels.

An existing paved access road (Seagull Way) crosses the northern portion of the site in an east-west direction and an unpaved access road (Latigo Shore Drive) crosses the

central portion of the site in an east-west direction (Exhibit 2). An existing unimproved beach access trail is located on the project site between Latigo Shore Drive and the beach. The existing trail is informal in nature and has been formed over time by the continued use of the site by members of the public to access the beach. The proposed project will serve to provide a formal trail on the project site for public beach access.

The existing beach access trail is primarily located on the two lots owned by Los Angeles County; however, the seaward terminus of the existing trail (approximately 20 linear ft. of trail) extends onto a third privately owned parcel located immediately east of the two parcels owned by the County. The existing trail currently terminates at the top of the bluff on the privately owned parcel and trail users must traverse a dangerous near vertical 15 ft. drop-off to reach the beach area. The purpose of the proposed project is to provide safe public access to the beach. The project will include the removal of the portion of the trail located on private property and the provision of a new graded access trail down the steep bluff face to the beach.

B. Hazards

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, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

The proposed development is located along the Malibu coastline, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides along the Malibu coast of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The Los Angeles County Department of Beaches and Harbors is proposing to construct improvements and reconfigure an existing 8 ft. wide trail to provide for public access to the beach. The proposed project will include the installation of wooden bollards, public access signs, and 82 cu. yds. of grading (22 cu. yds. of cut and 60 cu. yds. of fill). The existing unimproved informal trail, although primarily located on County-owned property, extends onto a privately owned lot located to the east of the County-owned parcels. The beach on the project site is backed by an approximately 15 ft. high, near vertical, wave-cut bluff. The existing trail currently terminates at the top of the bluff on the privately owned parcel and trail users must traverse a dangerous near vertical 15 ft.

drop-off to reach the beach area. The applicant is proposing to construct improvements and reconfigure the existing informal unimproved beach access trail in order to allow for formal public use of the beach access way. The proposed project will include the removal of the portion of the trail located on private property and the construction of a new graded access trail down the steep bluff face to the beach on the County owned parcel. Removal of the existing portion of the trail located on private property will involve remedial grading (approximately 30 cu. yds. of fill) to restore the project site to its pre-development condition. Construction of the new trail segment to allow for access from the bluff top to the beach will involve approximately 22 cu. yds. of cut grading. In addition, improvements to other portions of the existing trail will involve approximately 30 cu. yds. of fill grading to provide for an adequate trail surface and to ensure public safety.

The project site is underlain primarily by artificial fill and located within a portion of a large active landslide. The proposed improvements will not include the construction of an engineered stairway or other permanent improvements. The County has indicated that the construction of large engineered structures on the subject site would not serve to improve the safety of the beach access trail due to the unstable geologic nature of the site and the presence of an active landslide. The Geotechnical Report by Los Angeles County Department of Public Works dated February 18, 1998, states:

The site is situated on an active landslide. Reactivation of the landslide should be anticipated. All improvements to the site should be considered expendable. Maintenance, repair, or replacement of the improvements may be required following any future movement of the landslide. The proposed improvements will not adversely affect the stability of the site.

The Commission notes that the proposed improvements (grading and installation of wooden bollards and signs) will serve to improve the current unsafe condition of the existing trail. However, the Commission also notes that the proposed grading will also result in potential adverse effects to the geologic stability of the subject site from surficial erosion. The Commission finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to revegetate all disturbed and graded areas of the site with native plants, compatible with the surrounding environment. Therefore, Special Condition One (1) has been required to ensure that all proposed disturbed areas and graded areas (including that portion of the project site where the existing trail will be removed and remedial grading conducted to restore the site to its pre-development condition) are stabilized and vegetated.

The applicant has indicated that the staging area for all construction activity will be located landward of the top of the bluff on the County owned parcels and that no temporarily stockpiled materials will be subject to wave action. However, the Commission notes that, in addition to potential erosion of temporarily stockpiled fill material from wave action or weather, the proposed grading activity (placement of new fill and the excavation of terrace deposits and artificial fill) would also result in potential

adverse effects to the marine environment and increased turbidity through erosion and resultant siltation of coastal waters. To ensure that effects to the marine environment are minimized from the proposed development, Special Condition Two (2) requires the applicant to agree that: (a) no stockpiling of dirt shall occur on the beach, (b) all grading shall be properly covered, sand-bagged, and ditched to prevent runoff and siltation; and, (c) measures to control erosion must be implemented at the end of each day's work. The applicant is also responsible to ensure that no machinery will be allowed in the intertidal zone at any time and that all debris resulting from the construction period is removed from the beach and seawall area.

As discussed in detail above, the Commission notes that the proposed improvements will serve to improve the current unsafe condition of the existing trail and that, as conditioned, the proposed project will not result in adverse effects to the geologic stability of the site. However, the Commission also notes that the proposed development is located in an area of the Coastal Zone subject to wildfire, erosion, landslide, and flooding hazards. The Coastal Act recognizes that certain development, such as the proposed project, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

As such, the Commission finds that due to the unforeseen possibility of landslide, flooding, erosion, and wildfire, the applicant shall assume these risks as a condition of approval. Therefore, Special Condition Four (4) requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

C. Public Access and Visual Resources

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act has several policies which address the issues of public access and recreation within coastal areas.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

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

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

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30220 of the Coastal Act states:

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

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 subordinated to the character of its setting.

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. Likewise, 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. Section 30220 of the Coastal Act requires coastal areas suited for coastal recreational activities, that cannot be provided at inland water areas, be

protected. Likewise Section 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails and public beach areas, shall be protected, encouraged, and where feasible provided. Further, Section 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The applicant is proposing to improve and reconfigure the existing unimproved informal beach access trail located on the project site. Although the existing beach access trail is primarily located on the two lots owned by Los Angeles County, the seaward terminus of the existing trail (approximately 20 linear ft. of trail) extends onto a third privately owned parcel located immediately east of the two parcels owned by the County. The beach on the project site is backed by an approximately 15 ft. high, near vertical, wave-cut bluff. The existing trail currently terminates at the top of the bluff on the privately owned parcel and trail users must traverse a dangerous near vertical 15 ft. drop-off to reach the beach area. In order to provide for adequate public access to the beach, the County is proposing to remove that portion of the trail located on private property and to construct a new graded access trail down the steep bluff face to the beach on the County owned parcel.

As mentioned above, the proposed project site extends over three separate parcels. Two of the parcels located on the subject site are owned by the applicant (Los Angeles County), the third parcel is privately owned. The County is proposing to remove that portion of the trail that is currently located on the privately owned parcel and restore the site to its pre-development condition. Section 13053.5 of the California Code of Regulations requires the applicant to submit evidence of legal interest for the property upon which development is proposed prior to the issuance of a coastal permit. Therefore, Special Condition Three (3) has been required to ensure that the applicant has received permission to proceed with the proposed project from the owner of the privately owned parcel, or evidence that such permission is not required, prior to the issuance of the coastal permit consistent with Section 13053.5 of the California Code of Regulations.

The purpose of the proposed project is to provide safe public access to the beach. The Commission notes that the proposed project will serve to maximize public access and recreational opportunities within coastal areas and that the project, as proposed, is consistent with the public access and recreation sections of the Coastal Act. However, the Commission also notes that the proposed project will result in potential adverse effects to the visual resources on the project site from increased erosion resulting from the proposed grading. The Commission finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Thus, Special Condition One (1) has been required to ensure that all proposed disturbed areas are stabilized and vegetated.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, 30212, 30212.5, 30213, 30220, and 30251 of the Coastal Act.

D. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development as conditioned will not prejudice the City of Malibu's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

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

SMH-VNT

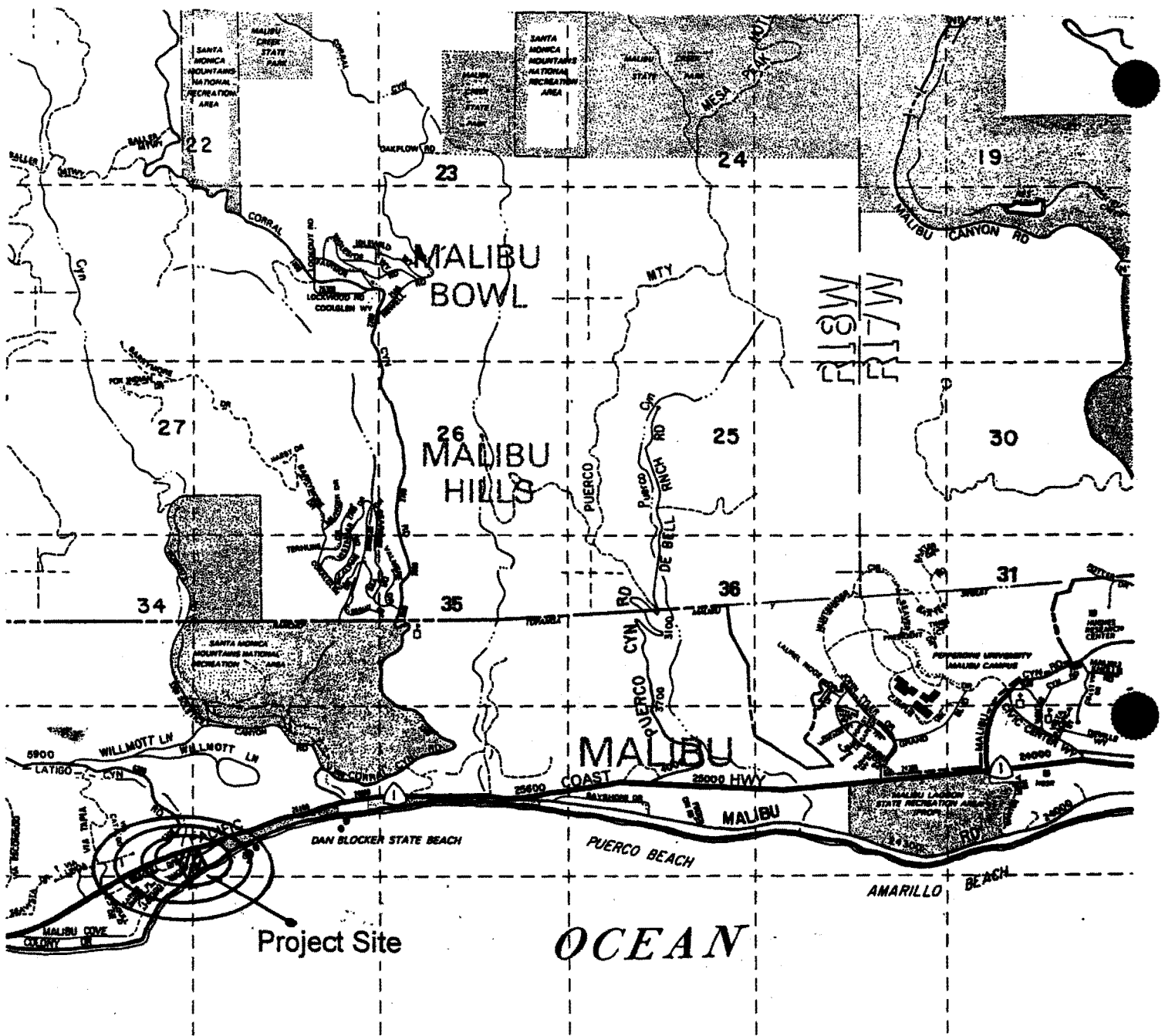


EXHIBIT 1

CDP 4-99-104 (LACDBH)

Location Map

SCALE IN 1/16 OF AN INCH

4460

19
SHEET 1

SCALE 1" = 100 & 200'

Project Site

BK.
4459

6420 B220404.07

OCEAN

PACIFIC COAST
HWY.

MARGINAL MAP
SCALE 1"=100'

CONDOMINIUM,
TRACT NO. 44383 M.B. 1130 - 17 - 18
LAND OF MATTHEW KELLER IN THE RANCHO
TOPANGA MALIBU SEQUIT R.F. 534
CONDOMINIUM
TRACT NO 37848 M.B. 1046 - 65 - 58

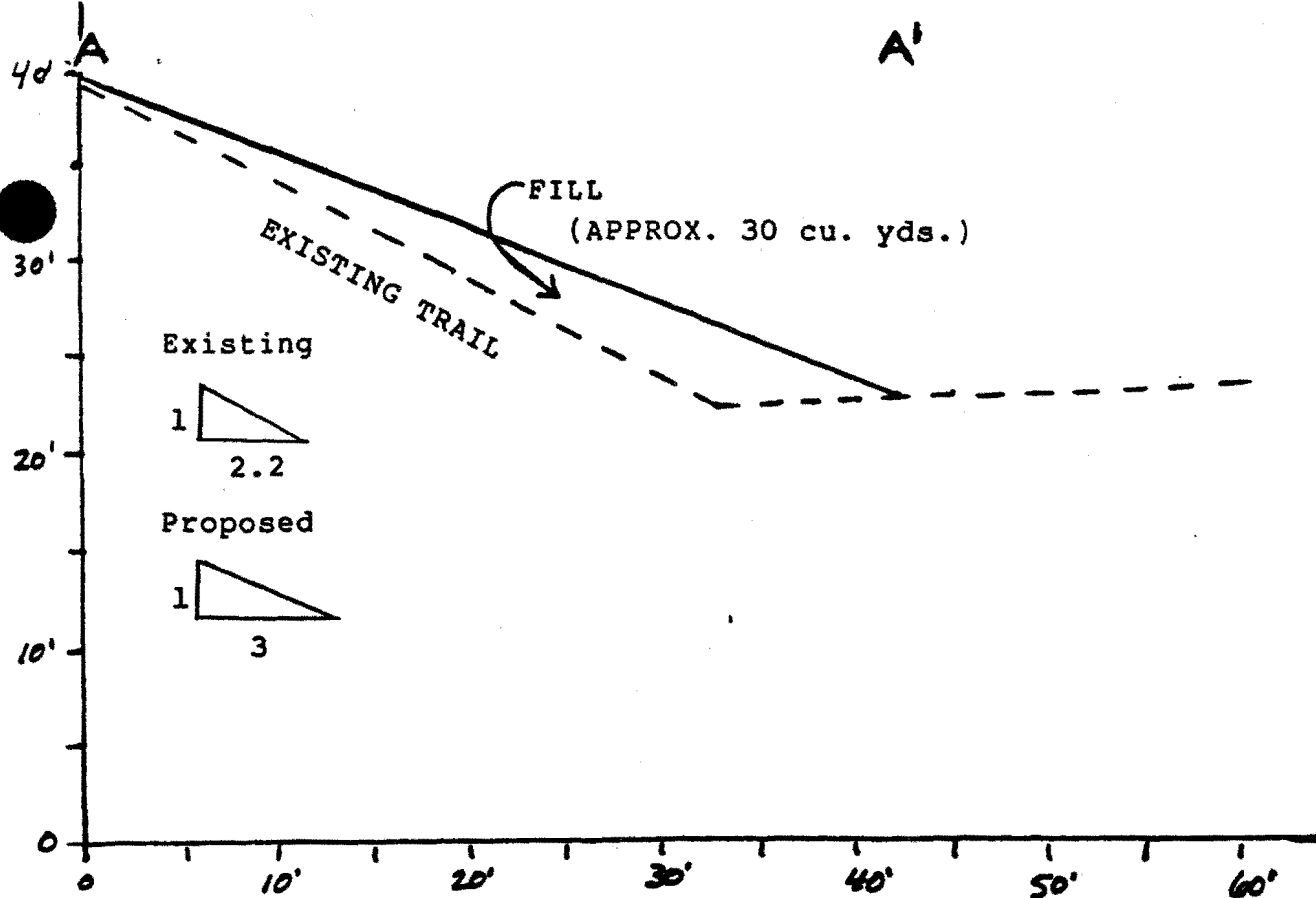
PARCEL MAP P. M. 237-74-75

Por. Lots 162, P.M. 237-74, 75 are
subject to Geological Hazard.

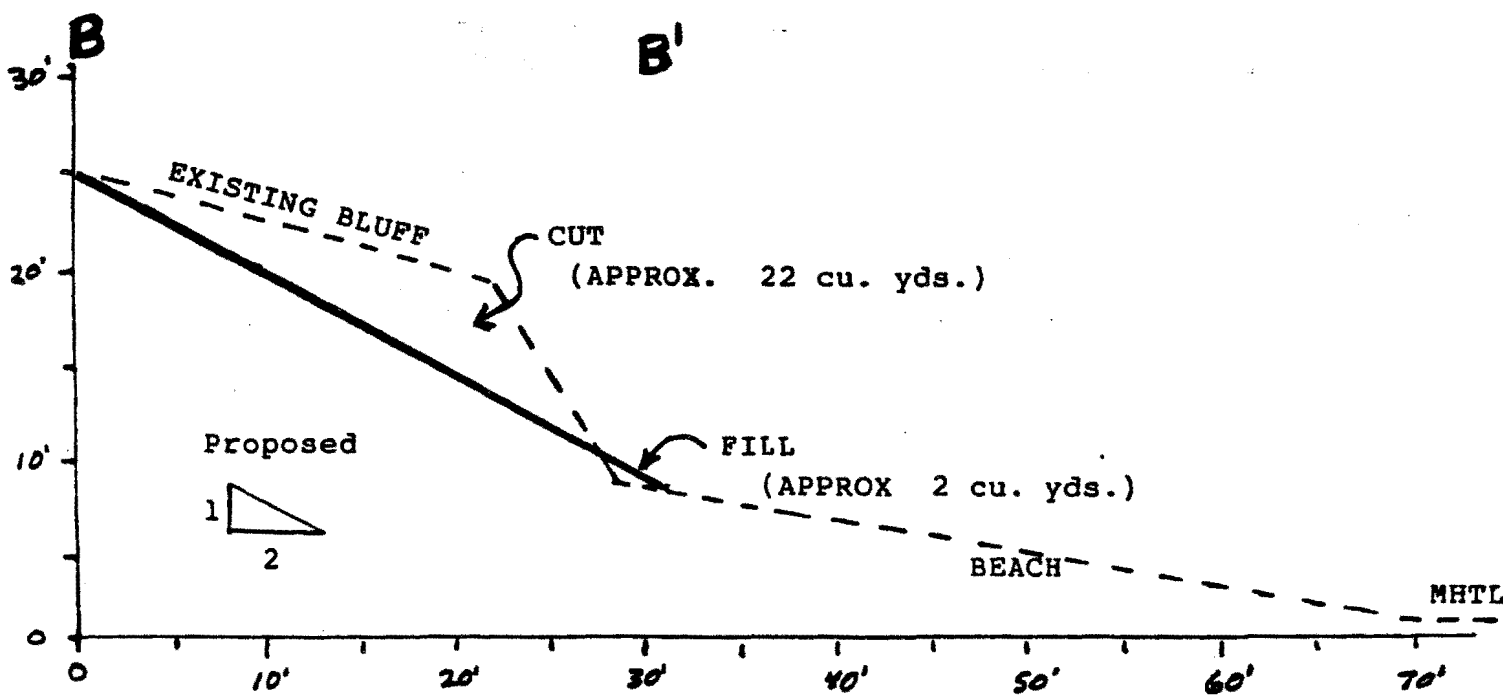
EXHIBIT 2

CDP 4-99-104 (LACDBH)

Parcel Map



A PATH SECTION
SCALE: 1"=10'



B PATH SECTION
SCALE: 1"=10'

EXHIBIT 4
CDP 4-99-104 (LACDBH)
Grading Plan Cross Sections

