

**CALIFORNIA COASTAL COMMISSION**

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

Filed: 10/17/00  
49th Day: 12/5/00  
180th Day: 4/15/01  
Staff: AAV  
Staff Report: 10/26/00  
Hearing Date: 11/14-17/00  
Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-00-139

**APPLICANT:** Malibu Cove Colony Property Owners Association

**AGENT:** Lynn Heacox

**PROJECT LOCATION:** 27132 Malibu Cove Colony Drive, Malibu, Los Angeles County.

**PROJECT DESCRIPTION:** Replace existing 54 sq. ft. gatehouse with a 152 sq. ft. gatehouse with bathroom, install new private sewage disposal system, retaining wall, and grade approximately 56 cu. yds. (cut) to be exported off site.

**Building coverage existing:** 54 sq. ft.  
**Building coverage proposed:** 152 sq. ft.  
**Paved coverage:** N/A  
**Landscaped/unimproved:** N/A

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department Approval-In-Concept 6/7/00; City of Malibu Department of Environmental Health In-Concept Approval for sewage disposal system 5/17/00.

**SUBSTANTIVE FILE DOCUMENTS:** City of Malibu Geology Referral Sheet 5/11/00, Coastal Development Permit 4-90-951 (Joy Phillips).

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the proposed project with 2 **Special Conditions** regarding 1) Public Access Signage and 2) Disposal of Grading Material.

## **I. STAFF RECOMMENDATION**

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 4-00-139 pursuant to the staff recommendation.*

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## **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. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **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.
5. **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. Public Access Signage**

Upon completion of construction the applicant shall install informative public access signage at a highly visible location on the project site which clearly indicates the location of the existing public vertical accessway west of the project site identified in the Staff Report by Exhibit 5. The public access signage shall clearly indicate that the existing public vertical accessway provides access to all publicly owned lands along Escondido Beach. Prior to issuance of the coastal development permit the applicant shall submit, for review and approval of the Executive Director, the content of the public access signage and the exact location in which the signage is to be installed.

#### **2. Disposal of grading Material**

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all debris/excavated material from the site. Should the dumpsite be located in the Coastal Zone, a Coastal Development Permit shall be required.

### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

#### **A. Project Description and Background**

The applicant is proposing the replacement of a previous permitted 52 sq. ft. gatehouse (CDP 4-90-951) with a 152 sq. ft., 10 ft. above grade, gatehouse with one bathroom and installation of a new private sewage disposal system to service the new structure (Exhibits 3,4). Construction of the new gatehouse will require approximately 56 cu. yds. of cut grading to be exported off-site to an appropriate disposal location and construction of a 3 ½ ft. high retaining wall (Exhibit 3).

The project site is located at the entrance and on the landward side of Malibu Cove Colony Drive, just south of Pacific Coast Highway in the City of Malibu (Exhibits 1,2). The project site is located within an easement on a private lot which is also developed with a single-family residence (Exhibit 3). The easement was granted to the Property Owners Association for the purpose of providing an area for the existing gatehouse. Malibu Cove Colony Drive is a privately maintained street that parallels the shoreline providing access for private property owners of beachfront homes within the Colony. Currently there is no public access provided along Malibu Cove Colony Drive to the beach however a public vertical access easement is established approximately 100 ft. west of the entrance to the Colony (Exhibit 5).

The proposed project has been reviewed and approved in-concept by the City of Malibu Planning Department and Environmental Health Specialist. Though the project site is not located on the beach Commission staff has investigated the potential for use of an alternative sewage disposal system for the proposed project due to the site's close proximity to the beach. In consultation with the City's Health Specialist and the project's consulting sewage disposal

specialist, staff has determined that there is no feasible method of alternative sewage disposal available for the proposed project due to the limited design capacity of the proposed system and the space constraints at the site. The proposed project has also been reviewed by the City's geologist who has determined that the project is geologically feasible. Due to the small scale and location of the project Commission staff has not completed a formal geology analysis for the proposed development.

The entrance of Malibu Cove Colony is setback from Pacific Coast Highway and the proposed gatehouse will be located inland of existing beachfront lots developed with large single-family homes. Therefore, the proposed project will not be significantly visible from Pacific Coast Highway and will not result in an adverse impact to scenic coastal views. Additionally, the proposed project involves replacement of a previously approved structure in an area heavily disturbed with existing development. The proposed project is not located in a sensitive habitat area and will not result in the loss of natural vegetation. Therefore, the proposed project will not have an adverse impact on environmentally sensitive resources.

## **B. Public Access**

Coastal Act Section 30210 states that:

*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.*

Coastal Act Section 30211 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.*

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, where:

- (1) it is inconsistent 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 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 accessway.*

Coastal Act Sections 30210, 30211, and 30212 mandate that maximum public access and recreational opportunities be provided to allow use of dry sand and rocky coastal beaches and that development not interfere with the public's right to access the sea, consistent with the need to protect public safety, private property and natural resources. All projects requiring a coastal

development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act.

The applicant is proposing to replace a previously approved 54 sq. ft. gatehouse with a new 152 sq. ft. gatehouse. The existing gatehouse was previously approved by the Commission in 1992 under Coastal Development Permit 5-90-951 (Phillips). The proposed gatehouse will be located in the same general location as the existing gatehouse at the entrance of Malibu Cove Colony Drive. Malibu Cove Colony Drive is a privately maintained street that parallels the shoreline providing access for private property owners to beachfront homes within the Colony. Currently there is no public access provided along Malibu Cove Colony Drive to the beach however a public vertical access easement is established approximately 100 ft. west of the entrance to the Colony (Exhibit 5). Staff has researched coastal permits issued for development of the beachfront lots located within the Colony and has found that there are several lateral access dedications along the beachfront properties as well as one vertical access dedication (CDP P-77-574) near the street terminus east of the proposed gatehouse (Exhibit 5). The Commission notes that because Malibu Cove Colony Drive is a private road with no means of public access along the street, there is no accessible way for the public to reach the dedicated vertical access easement within the Colony. The Commission also notes, however, that there is an open and readily accessible public vertical accessway located approximately 100 ft. west of the site, and that this accessway does provide adequate public access to the beach and the dedicated lateral accessways of beachfront properties along Malibu Cove Colony Drive. Finally, the Commission notes that because there is no current public access established along Malibu Cove Colony Drive, and adequate public access to the beach exists nearby, the proposed gatehouse will not create a new direct adverse impact on public access to and along the beach. As such, the Commission finds that the proposed project will not have a significant direct impact on the public's ability to access publicly owned tidelands or those lateral access easements acquired through offers to dedicate along Escondido Beach, and therefore finds that the proposed project will not directly interfere with public access to or along the coast.

However, the Commission notes that construction of gatehouses, guardhouses and other such structures which serve to privatize and limit public access in areas near and along the beach may deter members of the public from utilizing public tidelands or other public lands acquired through offers to dedicate in those areas. Gatehouses, guard houses and similar structures serving to privatize coastal beaches and create physical barriers to public access within coastal areas may create a perception that even publicly owned tidelands and lateral access easements acquired through offers to dedicate along the beach are private. The Commission finds that construction of the proposed enlarged gatehouse may cause members of the public seeking access to Escondido Beach, of which several lateral accessways have been dedicated for public use, to assume that all portions of the beach are private and not available for public recreational use. Therefore, **Special Condition 1** of the subject permit states that the applicant shall post a sign at a highly visible location at the entrance of Malibu Cove Colony Drive which specifically directs members of the public to the existing vertical accessway located just west of the project site. The public access signage shall clearly indicate that the existing public vertical accessway provides access to all publicly owned lands along Escondido Beach. In order to insure that the content of the public access signage is appropriate to meet the intent of the condition, and that the signage is installed in a location readily visible by the public, Special Condition 1 also requires the applicant to submit the content of the public access signage and the exact location in which the signage is to be installed to the Executive Director for review and approval prior to issuance of the coastal development permit.

The Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211 and 30212 of the Coastal Act.

### C. Water Quality

The Commission recognizes that new development in Malibu has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation and introduction of effluent from septic systems.

Section 30231 of the Coastal Act states that:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

As described above, the proposed project includes the replacement of an existing 54 sq. ft. gatehouse with a 152 sq. ft. gatehouse which will include construction of a new bathroom, installation of a private sewage disposal system, and grading of approximately 56 cu. yds. The proposed gatehouse will be located in the same general location of the existing gatehouse and the project site is a previously disturbed area containing little vegetation. The proposed project will not result in the loss of native vegetation and will result in a minimal increase in impervious surface of 98 sq. ft. Therefore, new development at the site will not result in a significant increase in erosion and run-off with the potential to adversely impact coastal water quality. The proposed project will require approximately 56 cu. yds. of cut grading to enlarge the gatehouse. The Commission notes that stockpiles of dirt are subject to increased erosion and, if retained onsite, may result in excess sedimentation into coastal waters adversely impacting water quality. Therefore, **Special Condition 2** requires the applicant to export all excess grading material from the project site to an appropriate site for disposal and provide evidence to the Executive Director of the location of the disposal site prior to issuance of a coastal development permit.

Finally, the proposed development includes installation of a new private sewage disposal system with a 750 gallon septic tank and leach trench. The City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

### D. Local Coastal Program

Section 30604 of the Coastal Act states that:

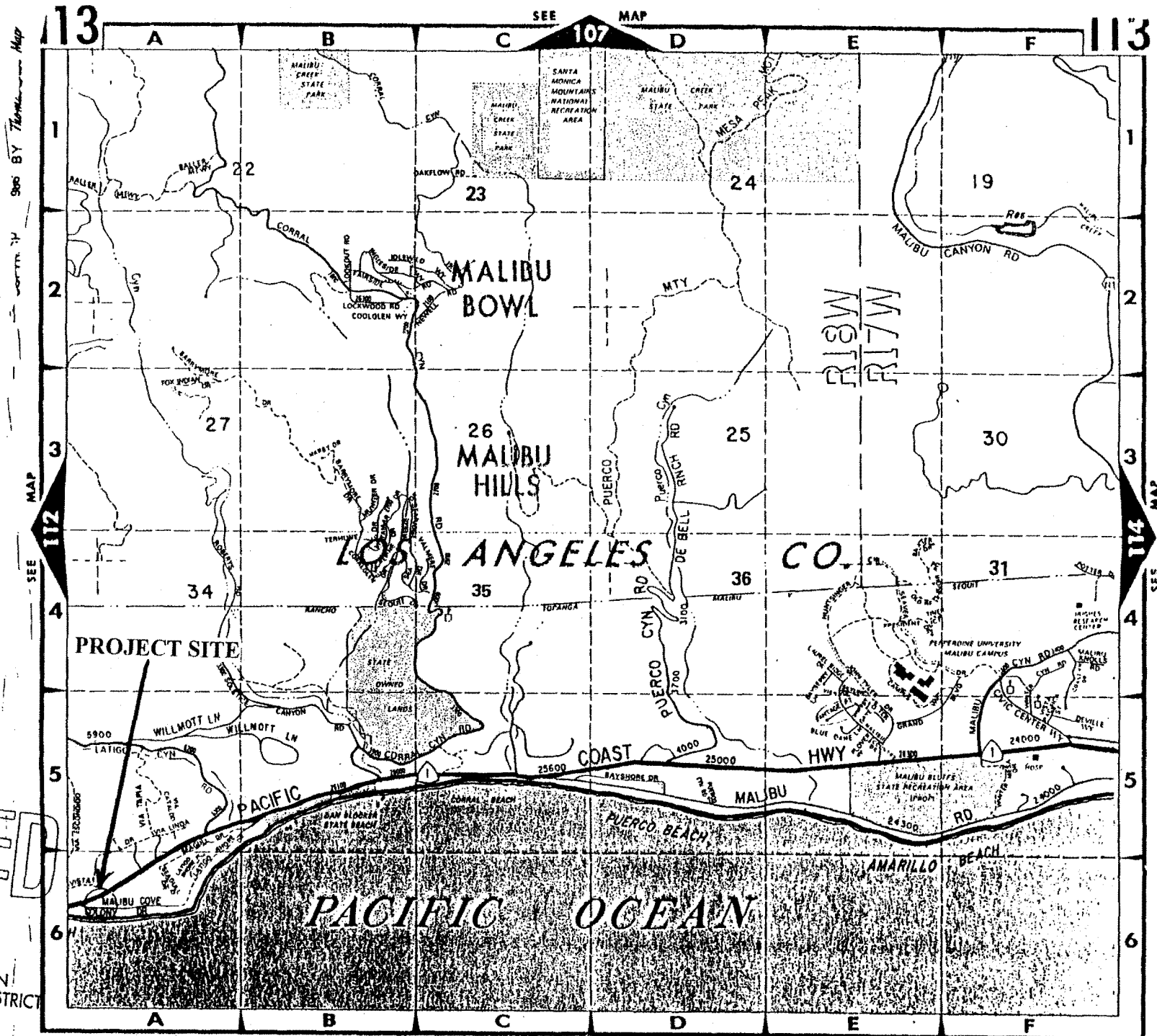
*a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the 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's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

#### **E. CEQA**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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.



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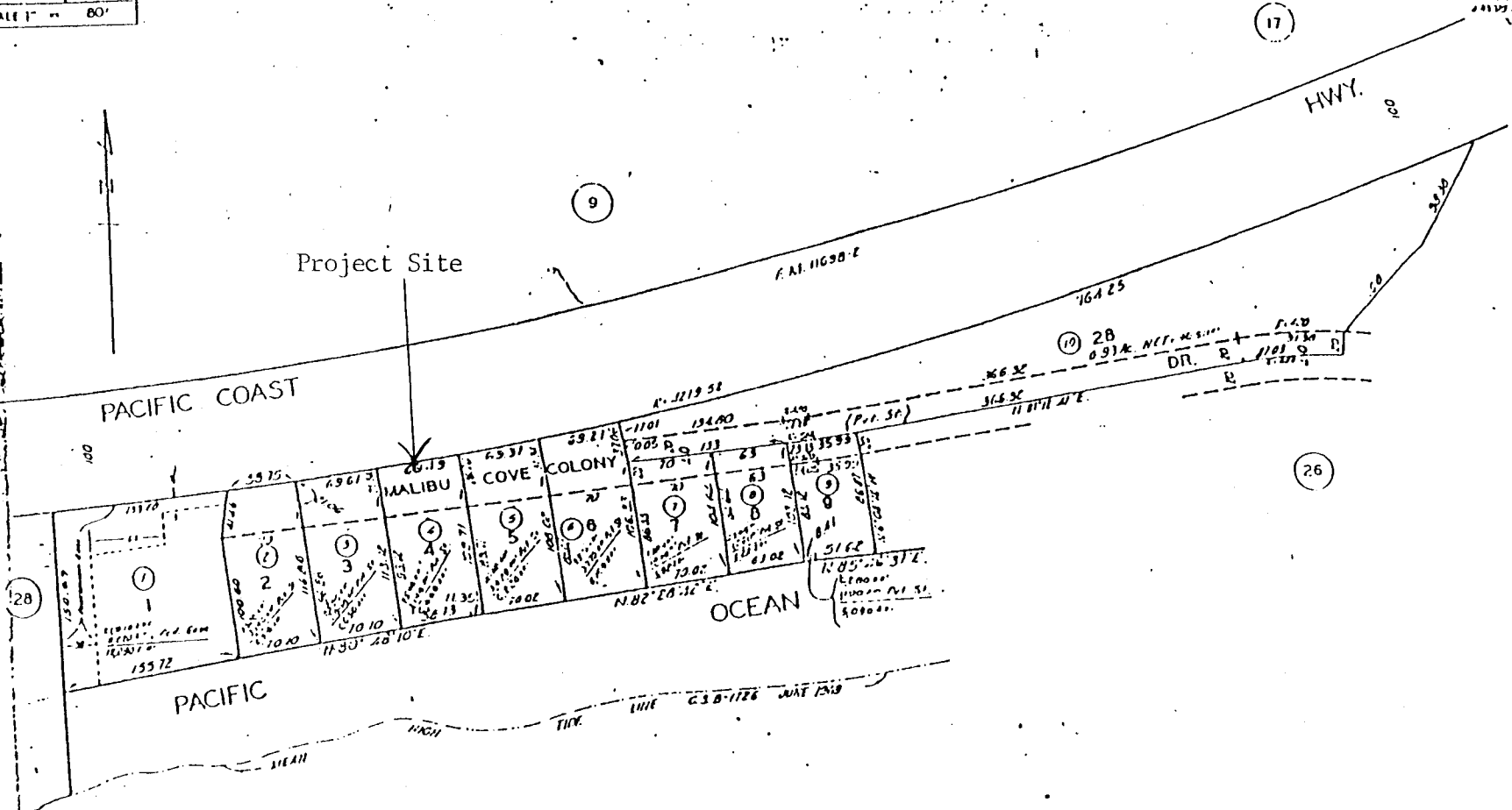
EXHIBIT 1  
CDP #4-00-139  
Location Map

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JUN 20 2000  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT



4460 27  
SCALE 1" = 80'

EXHIBIT 2  
CDP # 4-00-139  
Parcel Map



CODE  
0635

TRACT NO. 22886

MB. 004-20-22

FOR PREP. ASMT. SEE:  
4460 - 27

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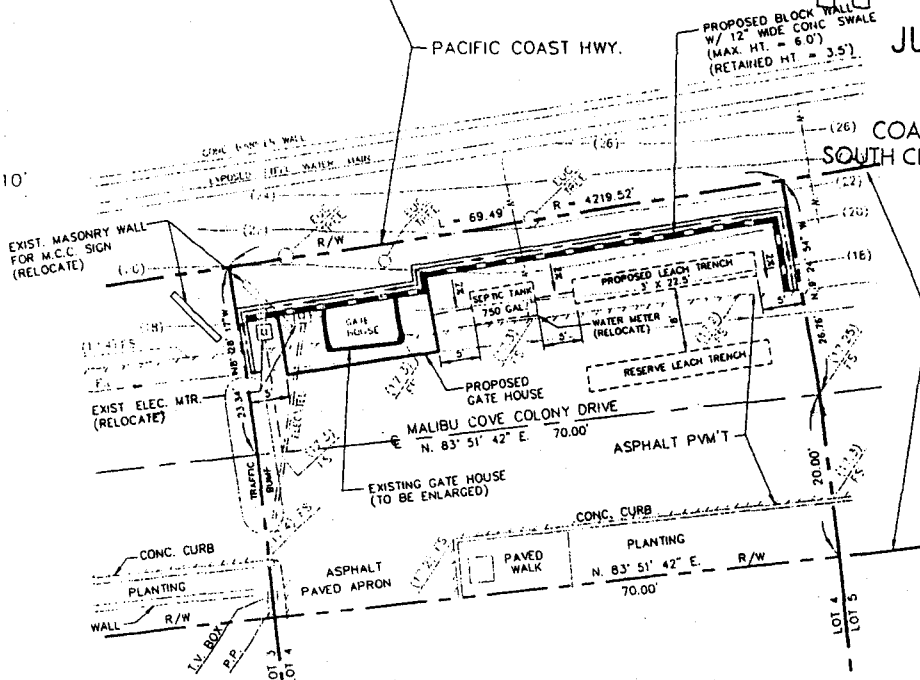
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SOUTH CENTRAL COAST DISTRICT

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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

SCALE 1" = 10'



MALIBU COVE COLONY DRIVE  
SHOWN AS LOTGO SHORE DRIVE.  
PRIVATE IN TR. NO. 22886, M.B.  
604, PGS. 20-22 INC.

LOT 4, TR. 22886  
M.B. 604, 20-22

EXISTING ONE STORY S.F.D.  
27132 MALIBU COVE COLONY DR.

## LEGEND

---	EXISTING CONTOUR
( 17.2 )	EXISTING ELEVATIONS
[ 20 ]	PROPOSED CONTOURS
17.2	PROPOSED ELEVATIONS
E.G.	EXISTING GRADE
F.G.	FINISH GRADE
F.S.	FINISHED SURFACE
F.L.	FLOW LINE
H.P.	HIGH POINT
P.P.	POWER POLE
T.W.	TOP OF WALL
F.F.	FINISHED FLOOR
T.G.	TOP OF GATE
[---]	RETAINING WALL

## SITE PLAN

SCALE: 1" = 10'

GRADING QUANTITIES	
CUT	FILL
30 C.Y.	---



PPR 00-080

THE LAND & WATER COMPANY (714) 965-1622		THE LAND & WATER COMPANY	
BEDROCK ENGINEERING (714) 375-0877		PROPOSED GATE HOUSE ADDITION MALIBU COVE COLONY H.O.A. 27132 MALIBU COVE COLONY DRIVE	
DESIGNED: M.T.W.	SCALE: 1" = 10'	MALIBU CALIFORNIA	
DRAWN: M.T.W.	DATE: 5/4/00	DWG. NO. 00-387-1	
CHECKED: M.T.W.	JOB NO. 00-387	REV. 0	
PREPARED UNDER THE DIRECTION OF: MARK T. WILSON P.E. 47989		DATE	

EXHIBIT 3

CDP # 4-00-139

Site Plan

RECEIVED

JUN 20 2000

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

REVISIONS	BY	DATE	DESCRIPTION
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DOUGLAS STANTON GREENE  
architecture  
design

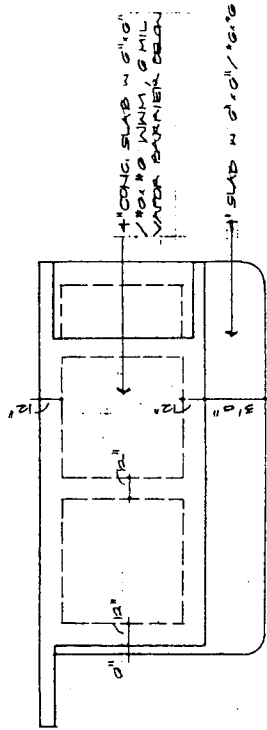
4035 Carwright Avenue Studio City, California 91604

renovation

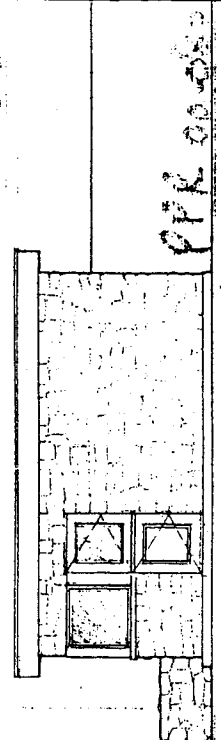
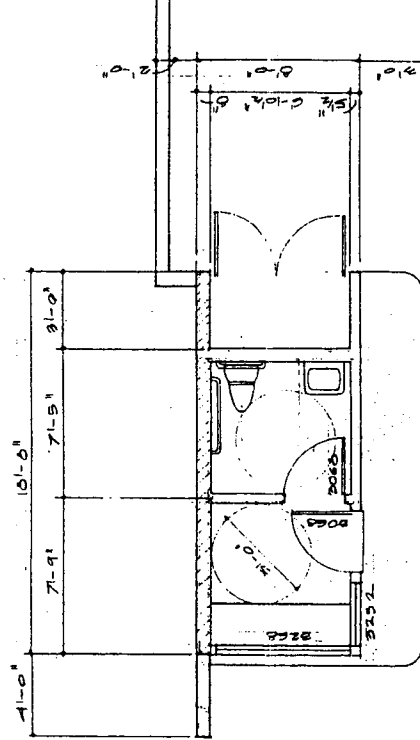
818 761 9931

27122 MALIBU  
COVE COLONY  
MALIBU, CALIF.

DATE	1 OCT 98
SCALE	1/4" = 1'-0"
DRAWN BY	DS
JOB NO	980000
SHEET	01 OF 04

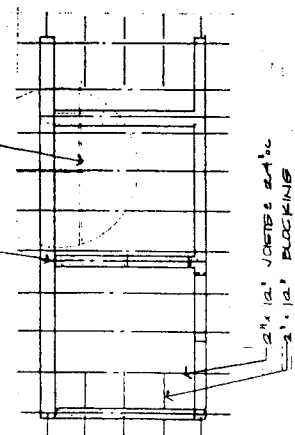


FOUNDATION PLAN

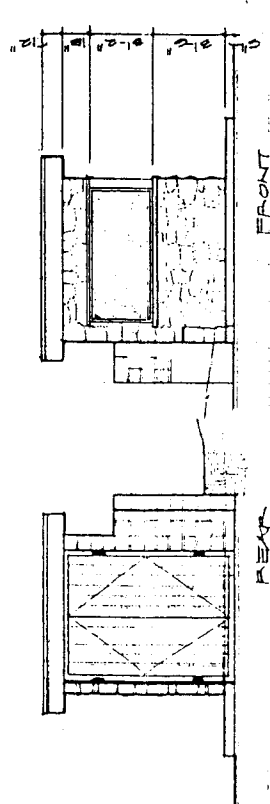


RIGHT SIDE

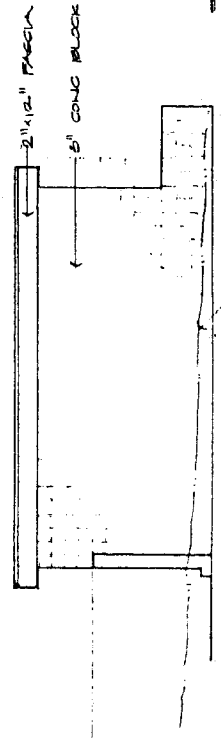
1/2" ANCHOR BOLTS @ 2'-0"  
1/2" BOLT @ 2'-0" P.T. END



FRAMING PLAN



FRONT



LEFT SIDE

EXISTING GRADE

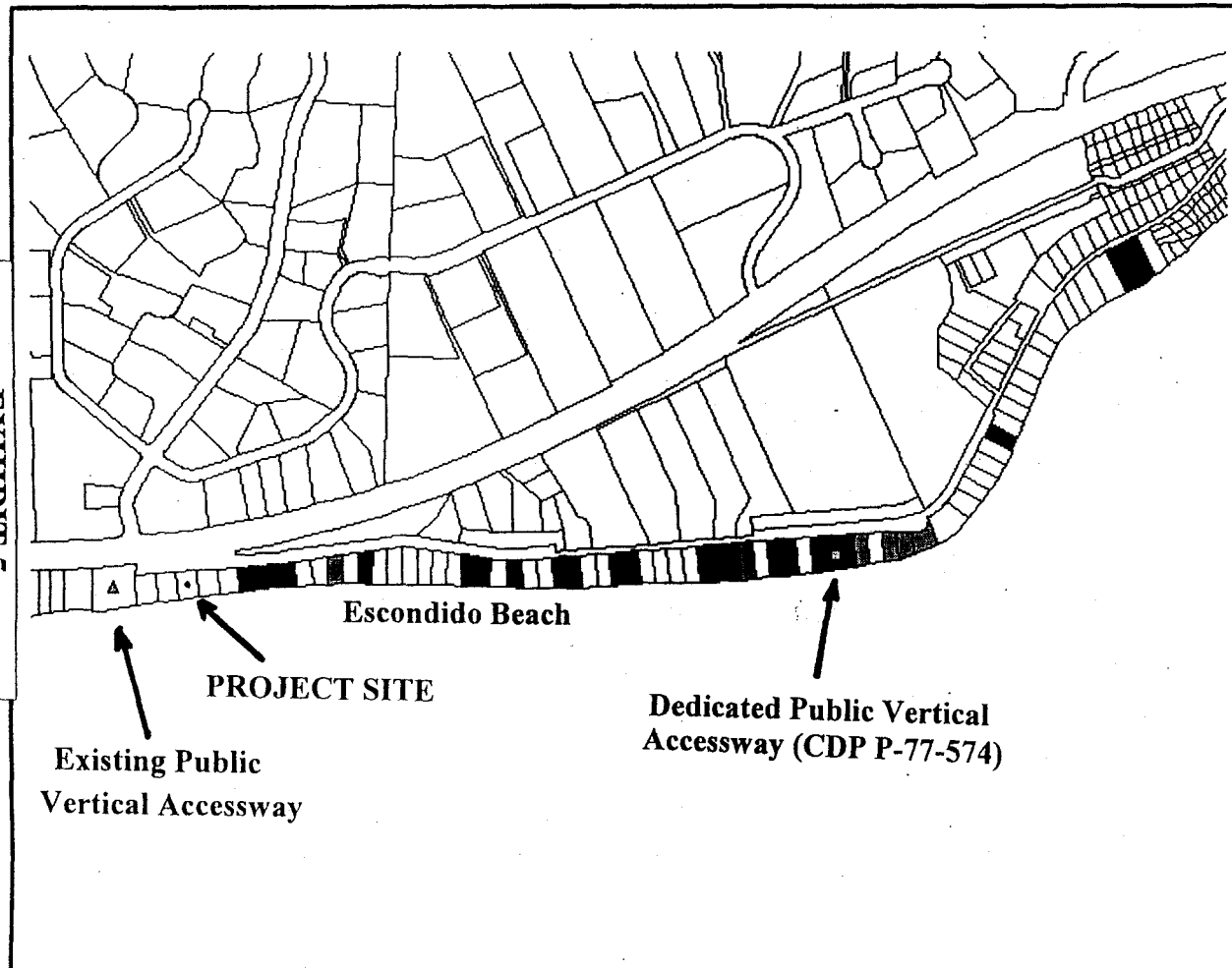
EXHIBIT 4  
CDP # 4-00-139

Elevations

ESRI ArcExplorer 1.1

## Public Accessways, Malibu Cove Colony Drive

- vertaccessopportunities
- ▲ vertaccessexisting
- laprcis
- latsopen
- latopps
- ~ czbdy



Escondido Beach

PROJECT SITE

Dedicated Public Vertical  
Accessway (CDP P-77-574)

Existing Public  
Vertical Accessway



Thursday, Oct 26 2000

Public Access Dedications

CDP # 4-00-139

EXHIBIT 5