

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
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Filed: 11/06/99  
49th Day: 12/25/99  
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Staff: A. Verbanac  
Staff Report: 2/22/00  
Hearing Date: 3/14-17/00  
Commission Action:



## STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-99-227

**APPLICANT:** Elliot Megdal

**AGENT:** Goldman/Firth Architects

**PROJECT LOCATION:** 24612 Malibu Road, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** After-the-fact permit approval for a lateral deck extension across the beachfront side of an existing 1,390 sq. ft. single family residence and addition of an 8ft. x 38ft. in front, and 8ft. x 10ft. at sides, wood lattice attached below the deck.

Lot area:	6,895 sq. ft.
Building coverage:	1,390 sq. ft.
Pavement coverage:	320 sq. ft.
Parking spaces:	2

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department Approval In Concept 6/04/99.

**SUBSTANTIVE FILE DOCUMENTS:** Notice of Intent To Issue Permit 4-97-071 (Schaeffer) and Coastal Development Permit Waiver 4-99-033-W (Chiate).

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the after-the-fact permit, with no Special Conditions, for a lateral deck extension across the beachfront side of an existing 1,390 sq. ft. single family residence and addition of a wood lattice attached below the deck. The proposed project has not resulted in seaward development beyond the most seaward extent of the existing deck and both the extended portion of the deck and wood lattice are located behind the established stringline for the subject site.

## **I. STAFF RECOMMENDATION**

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. 4-99-227 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 proposed 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 proposed 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. 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. Findings and Declarations**

The Commission hereby finds and declares:

#### **A. Project description and Background**

The applicant is requesting after-the-fact approval for extending an existing deck laterally across the beachfront side of an existing 1,390 sq. ft. single family residence and for the addition of a wood lattice structure attached below the deck. Review of aerial photographs of the subject property indicates that the deck at the subject site has been extended laterally across the beachfront side of the residence to infill the south-east corner of the deck which was previously open to the beach below (Exhibit 3). Prior to the deck extension, the deck was designed to "step-back" at the south-east corner of the residence. The portion of the deck which has been extended is a minor addition of approximately 96 sq. ft., resulting in only a lateral extension of the deck, which does not result in development that extends beyond existing development nor the stringline established by the Coastal Commission for the subject site, [Exhibits 5,6 (reference CDP 4-97-071 for established stringline)].

The wood lattice structure is a recent addition that extends 38ft. across the front and 10ft. on each side of the residence. The lattice hangs approximately 8ft. directly below the deck and does not extend beyond the footprint of existing development (Exhibits 3,4). Addition of the wood lattice occurred prior to the applicant's submittal on August 17, 1999 for an exemption determination request (4-99-106-X) from coastal development permit requirements to paint the new addition white. Upon receiving the exemption determination request, Commission staff informed the applicant that the addition of the wood lattice itself was unpermitted development on beachfront property and requested that the applicant apply for an after-the-fact permit to legalize the unpermitted addition and obtain further approval to paint the structure. In response to opposition received by staff for the proposed project which stated that the deck itself was an unpermitted structure and that the lattice addition obstructed views along the

beach, staff further researched development at the subject property and concluded that only the laterally extended, south-east corner of the deck occurred without the benefit of a Coastal Development Permit. In response to staff's request, the applicant is applying for a Coastal Development Permit for the extended portion of the deck and addition of the wood lattice to the residence.

In February of 1998, Coastal Development Permit # 4-97-071 was granted to Paul and Judy Schaeffer for development consisting of demolishing the existing residence and constructing a new two story, 3,725 sq. ft. single family residence at the subject property. After approval of CDP #4-97-071, the property was sold and the Coastal Development Permit assigned to the new owner Elliot Megdal. The new owner constructed the wood lattice below the deck of the residence with the intent of covering the underside of the existing house until construction could begin under the approved permit.

The subject site is located on beachfront property at 24612 Malibu Road, in the City of Malibu. Coastal Commission Regulations require that all development on oceanfront property obtain a Coastal Development Permit, or a waiver from the requirement of a coastal permit should it be determined, by the Executive Director, that the project will have no significant adverse impacts on public access, visual, or coastal resources.

The Executive Director has waived permit requirements for similar lattice work on beachfront development because the lattice did not adversely impact coastal resources or public access, (reference 4-99-003-W). Furthermore, properties located in the area of the subject site have similar lattice structures constructed beneath the deck on the beachfront side of the residence. Similarly, the extension of the deck at the subject site would not normally be considered development which may potentially adversely impact coastal resources or public access due to the fact that the addition is minor and does not extend beyond existing development onsite or the established stringline. However, the proposed project was constructed prior to obtaining a Coastal Development Permit or Waiver, and has also been opposed by a neighboring property owner. As previously mentioned, opposition to the project contends that the deck is an unpermitted structure and that the wood lattice obstructs views along the beach.

**B. Seaward Encroachment, Public Access, Visual Resources, and Hazards**

The Coastal Act contains several policies that address the issues of public access and recreation, visual resources, and hazards in relation to development on a beach or between the nearest public roadway and the shoreline.

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 for 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.*

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.*

Finally, Section 30253 of the Coastal Act states in pertinent 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.*

### **Seaward Encroachment of Development**

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access, protect public views, and minimize wave hazards as required by Coastal Act Sections 30210, 30211, 30251, and 30253, the Commission has, in past permit actions, developed the "stringline" analysis to control seaward development. As applied to beachfront development, the stringline analysis limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks.

The Commission has applied this policy to numerous past permits involving development 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 and deck stringlines is an effective means of controlling seaward encroachment to ensure maximum public access as required by Sections 30210 and 30211, to protect public views and the scenic quality of the shoreline as required by Section 30251, and to minimize hazards associated with beachfront development as required by Section 30253 of the Coastal Act.

The proposed project does not require a stringline analysis due to the fact that the extended deck and wood lattice addition are clearly constructed behind the stringline for the subject site and the additions do not extend beyond the existing footprint of development. Therefore, the Commission finds that the proposed project does not result in development that extends seaward of existing development and that the project will not adversely impact public access, visual, or coastal resources as addressed below.

### **Public Access and Shoreline Development**

The Commission has established a policy that all beachfront projects requiring a coastal development permit be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. In past permit actions, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The major access issue in such permits is the occupation of sand area by a structure in contradiction of Coastal Act policies 30210, 30211, and 30212.

Past Commission review of shoreline residential projects in Malibu has shown that individual and cumulative adverse impacts on public access include: encroachment on lands subject to the public trust, thus physically excluding the public; interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and

other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use public tideland areas.

As described, the project involves a lateral deck extension and addition of a wood lattice directly below the deck of an existing residence on beachfront property. The extended deck and lattice structure do not extend beyond the existing development, and therefore, do not result in development that encroaches upon the sandy beach. Therefore, the proposed project does not result in seaward development and does not affect public access to any existing vertical or lateral public access easements or rights. The Commission therefore finds that the project, as proposed, will not have any individual or cumulative adverse impacts on public access and recreation and is consistent with sections 30210, 30211, and 30212 of the Coastal Act.

### Visual Resources

Section 30251 of the Coastal Act requires public views to and along the ocean and scenic coastal areas to be considered and protected when siting new development. Commission staff has received opposition to the proposed project which asserts that addition of the lattice structure below the deck of the residence has resulted in obstructing views along the beach. However, as described above, no seaward encroachment has occurred as a result of the proposed project and the addition of the wood lattice structure has been constructed entirely beneath the residence and within the existing footprint of development at the project site. Furthermore, the addition is consistent with the character of development of the surrounding area as other homes along this stretch of beach have constructed lattice work below the deck and along the beachfront side of the residence. The issue relating to visual impacts raised by the opposition of the project is therefore determined to be a private view issue between neighboring property owners, and as such, is not an issue addressed by Coastal Act policies. Therefore, the Commission finds that the project, as proposed, has no significant impact on public views to or along the beach and is consistent with Section 30251 of the Coastal Act.

### Hazards

Section 30253 of the Coastal Act requires that new development shall minimize risks to life and property and assure stability of the site and surrounding area. The project site is located on a beachfront lot in the City of Malibu. The Malibu Coast has historically been subject to substantial damage as the result of storm and flood occurrences, geologic failures, and firestorms. In particular, the subject site is susceptible to flooding and/or wave damage from storm waves, storm surge, and high tide conditions.

Ample evidence exists to suggest that all beachfront development in the Malibu area is subject to a high degree of risk due to storm waves, storm surge, and high tide conditions. The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet,

which were combined with storm waves of up to 15 feet. These storms caused over \$12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast.

The project involves a lateral extension of an existing deck and addition of a wood lattice structure below the deck of the residence, which do not result in seaward expansion of development. The wood lattice was constructed to hang approximately 10 ft. above the sandy beach directly below the deck of the residence. Because the extended portion of the deck and lattice structure hang well above the beach and do not extend seaward of existing development the structures will not be subject to a significant increase of natural hazards associated with beachfront projects, such as storm waves, storm surges, and high tides. Therefore, the Commission finds that the project, as proposed, is consistent with Section 30253 of the Coastal Act.

### **C. Violation**

The deck extension and addition of the wood lattice to the existing single family residence have taken place prior to submission of this permit application. Any additional work or improvements to the wood lattice, including painting the structure, shall not occur until the applicant has received an approved Coastal Development Permit for the structure.

The Commission finds that the applicant has taken the necessary steps to bring the unpermitted development into compliance through the subject application, and that the project will have no significant adverse impacts on public access, public views, or coastal resources and is consistent with all applicable Chapter 3 policies of the Coastal Act.

Although construction has taken place prior to submission of this permit application consideration of the application by the Commission has been based solely upon Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal Development Permit.

### **D. LOCAL COASTAL PROGRAM**

Section 30604 of the Coastal Act states:



- 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).**

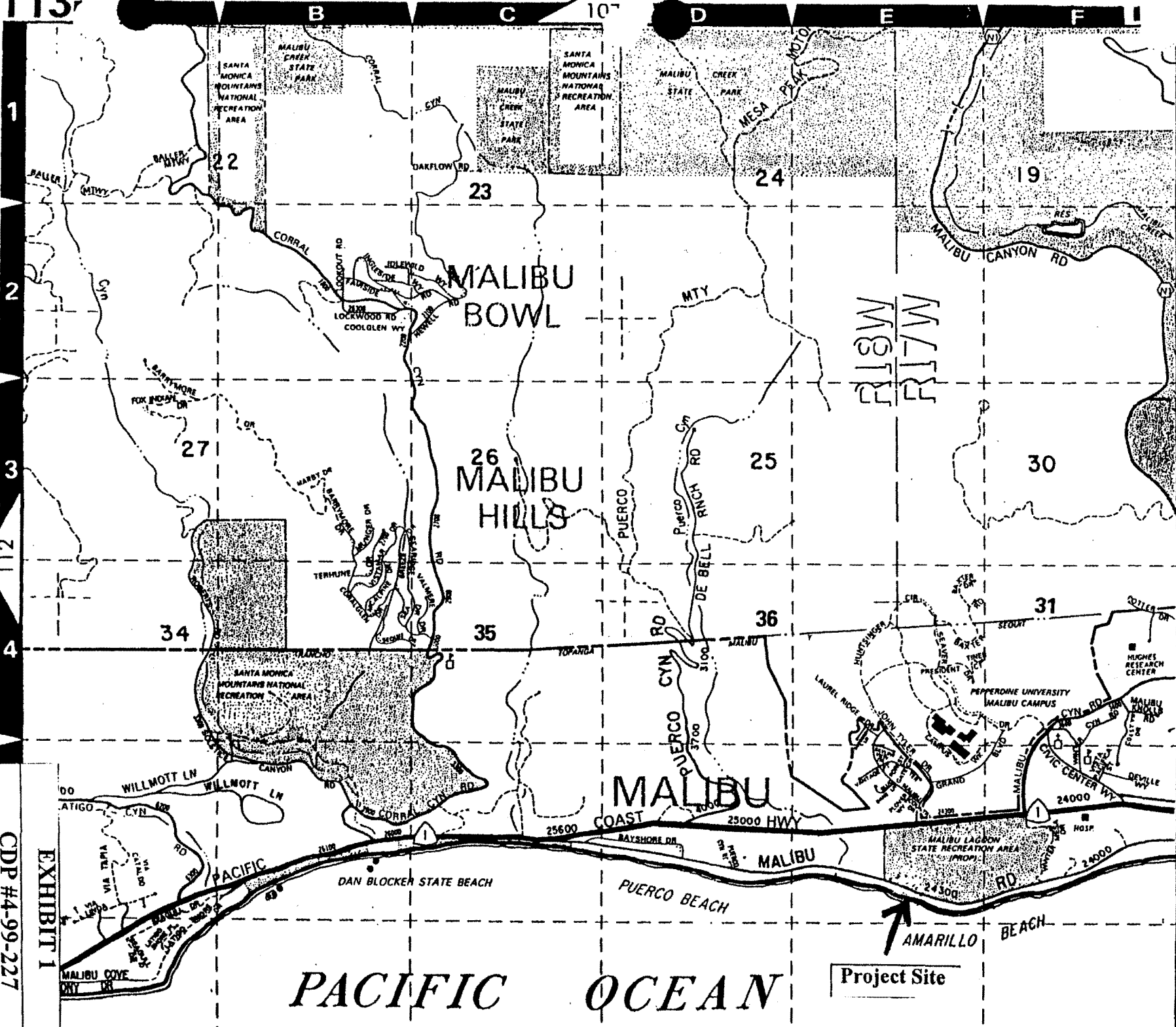
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections 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 project 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).

#### **D. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a 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 Environmentally 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.

- (1) 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.





LOS ANGELES CO.

DETAIL

SEE MAP 112

SEE MAP 114

CDP #4-99-227

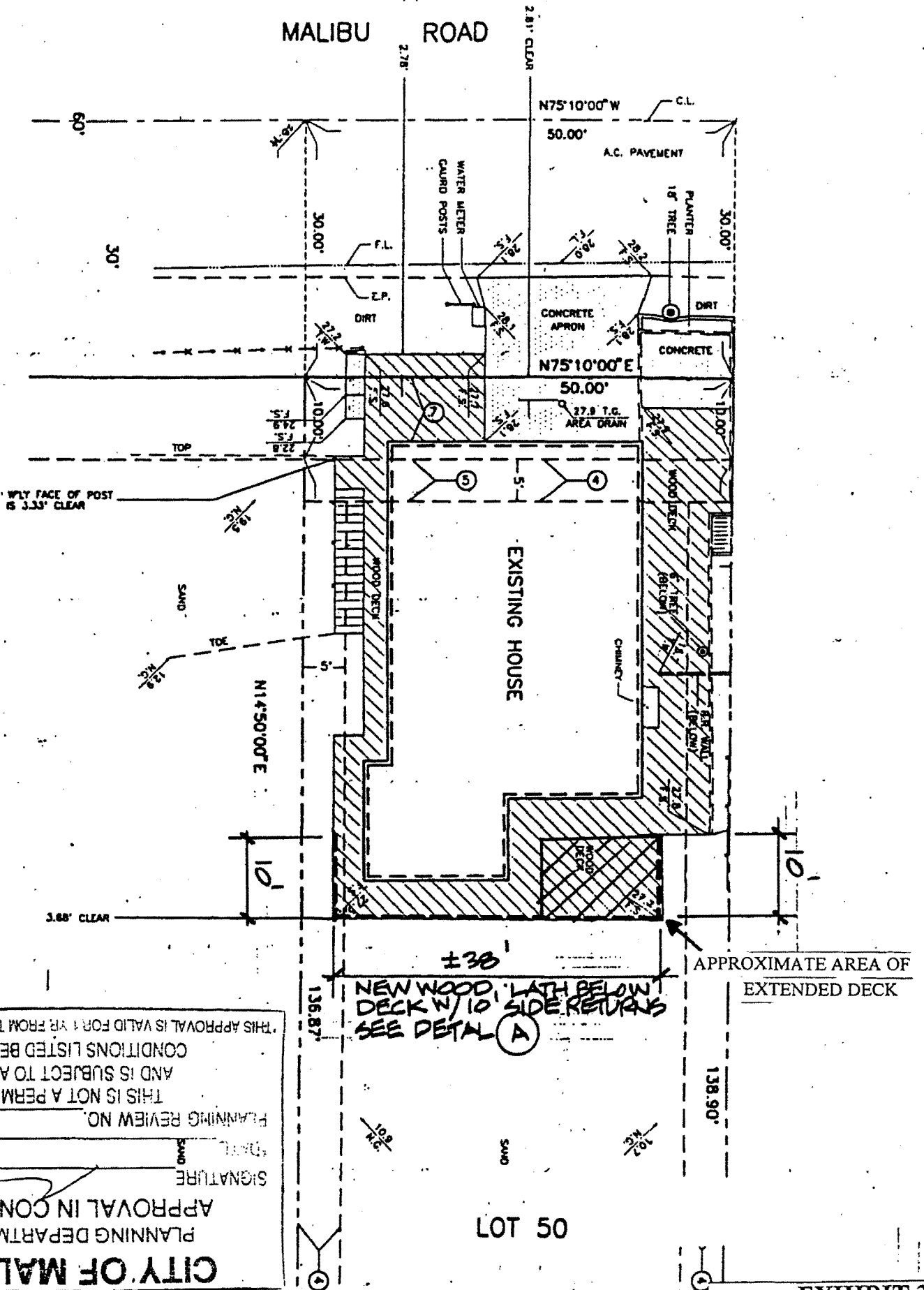
EXHIBIT I

PACIFIC OCEAN

Project Site



MALIBU ROAD



THIS APPROVAL IS VALID FOR 1 YEAR FROM THE DATE STAMPE  
 CONDITIONS LISTED BELOW  
 AND IS SUBJECT TO ANY  
 THIS IS NOT A PERMIT  
 PLANNING REVIEW NO. \_\_\_\_\_  
 SIGNATURE \_\_\_\_\_  
 PLANNING DEPARTMENT  
 APPROVAL IN CONCEPT

±38'  
 NEW WOOD DECK W/ 10' SIDE RETURNS  
 SEE DETAIL A

APPROXIMATE AREA OF  
 EXTENDED DECK

EXHIBIT 3  
 CDP # 4-99-227  
 SITE PLAN

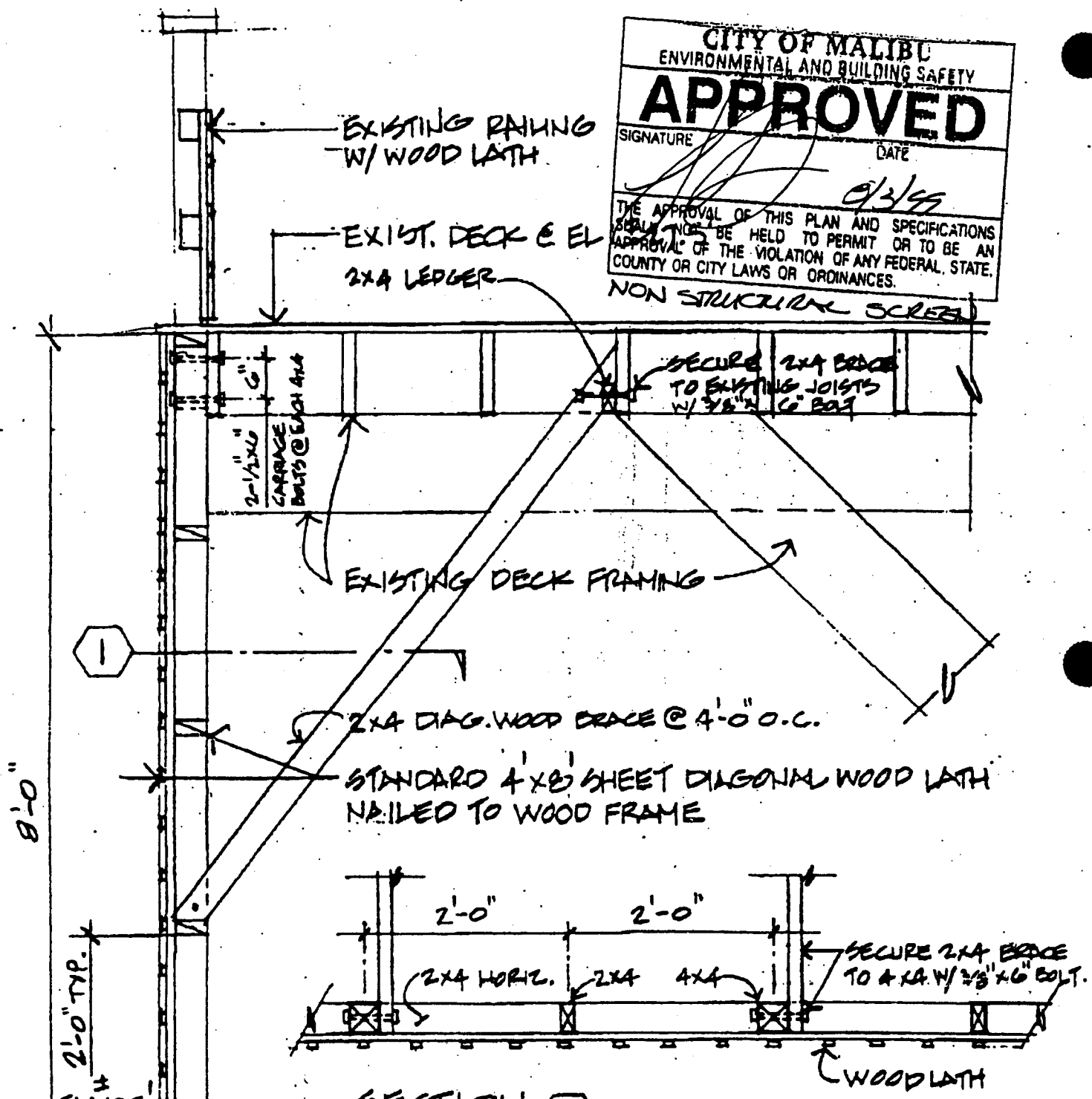
**CITY OF MALIBU**  
 ENVIRONMENTAL AND BUILDING SAFETY

**APPROVED**

SIGNATURE \_\_\_\_\_ DATE 9/3/99

THE APPROVAL OF THIS PLAN AND SPECIFICATIONS SHALL NOT BE HELD TO PERMIT OR TO BE AN APPROVAL OF THE VIOLATION OF ANY FEDERAL, STATE, COUNTY OR CITY LAWS OR ORDINANCES.

NON STRUCTURAL SCREEN



**CITY OF MALIBU**

PLANNING DEPARTMENT  
 APPROVAL IN CONCEPT

SIGNATURE \_\_\_\_\_

DATE 10/4/99

PLANNING REVIEW NO. \_\_\_\_\_

THIS IS NOT A PERMIT  
 AND IS SUBJECT TO ANY  
 CONDITIONS LISTED BELOW

THIS APPROVAL IS VALID FOR ONE YEAR FROM THE DATE STAMPED.

**SECTION 1**

**DETAIL A**

3/4" = 1'-0"

**EXHIBIT 4**

**CDP # 4-99-227**

**SECTION DETAIL**

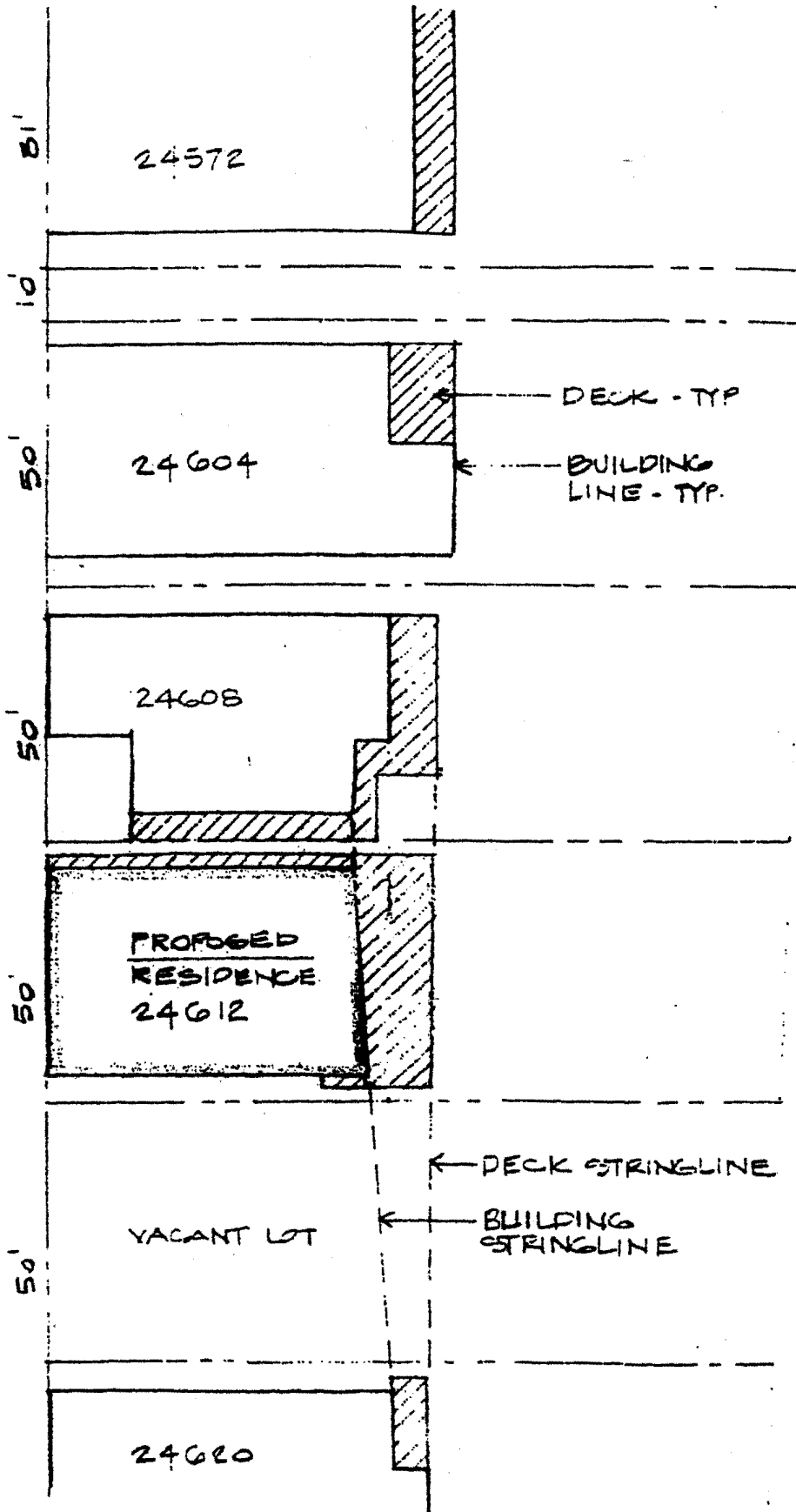
24612

\*wood lattice



☐ OF MALIBU ROAD

PACIFIC OCEAN



BUILDING STRINGLINE 1/32" = 1'-0"

EXHIBIT 6

CDP # 4-99-227

STRINGLINE