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**CALIFORNIA COASTAL COMMISSION**

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



**RECORD PACKET COPY**

**STAFF REPORT: REVOCATION REQUEST**

APPLICATION NO.: R-4-97-071

Filed: 1/10/00

49th Day: N/A

180th Day: N/A

Staff: A. Verbanac

Staff Report: 2/22/00

Hearing Date: 3/14-17/00

**APPLICANT:** Paul and Judy Schaeffer

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

**PROJECT DESCRIPTION:** Demolition of an existing 1,390 sq. ft. single family residence; construction of a two-story 3,725 sq. ft. single family residence with 373 sq. ft. garage, a 580 sq. ft. basement/storage area; construction of a 50 ft. long wooden bulkhead with 41 ft. and 36 ft. long return walls, installation of a septic system and leach field; and, an offer to dedicate a lateral access easement over the southern portion of the lot as measured ten feet seaward from the dripline of the proposed deck area.

**PERSON REQUESTING REVOCATION:** Daniel D. Hillman, 23732 Malibu Road, Malibu, Los Angeles County.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permit 4-97-071

**PROCEDURAL NOTE:** The California Code of Regulations, Title 14 Division 5.5, Section 13105 states that the grounds for the revocation of a coastal development permit are as follows:

Grounds for revocation of a permit shall be:

- a) *Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have*

**caused the Commission to require additional or different conditions on a permit or deny an application;**

- b) **Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application. 14 Cal. Code of Regulations Section 13105.**

**APPLICANT'S CONTENTION:**

The request for revocation contends that grounds for revocation in Section 13105(a) exist because the applicant submitted inaccurate, erroneous or incomplete information to the Commission in the coastal development permit application. The contentions as to incorrect information include the following:

- 1) The applicant submitted inaccurate, erroneous or incomplete information on project plans for the proposed project in relation to building and deck stringlines for the proposed single family residence. (See Exhibit 1.)

The request for revocation does not assert that grounds for revocation in Section 13105(b) exist.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission deny the request for revocation on the basis that no grounds exist for revocation under Section 13105(a).

**MOTION : *I move that the Commission grant revocation of Coastal Development Permit No: 4-97-071.***

**STAFF RECOMMENDATION:**

The staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the request for revocation and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

## RESOLUTION TO DENY REVOCATION:

The Commission hereby denies the request for revocation of the Commission's decision on Coastal Development Permit No. 4-97-071 on the grounds that there is no:

- (a) ***Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application.***

## II. Findings and Declarations

The Commission hereby finds and declares as follows

### A. Project Description and Background

On February 2, 1998 the Commission approved, with conditions, Coastal Development Permit 4-97-071 (Schaeffer) for the demolition of an existing 1,390 sq. ft. single family residence and construction of a two-story 3,725 sq. ft. single family residence with a 373 sq. ft. garage, a 580 sq. ft. basement/storage area, construction of a 50 ft. long wooden bulkhead with 41 ft. and 36 ft. long return walls, and installation of a septic system and leach field. The Coastal Development Permit also included an offer to dedicate a lateral public access easement over the southern portion of the lot as measured ten feet seaward from the dripline of the proposed deck area. Subsequent to Commission approval of Coastal Development Permit 4-97-071, the subject property was sold and the permit assigned to the new owner. Final issuance of the coastal permit is dependent on completion of compliance, by the new owner, with all special conditions required by the Commission for permit approval.

The subject site is located on a 6,895 sq. ft. beachfront parcel on Amarillo Beach off of Malibu Road. A majority of the beachfront parcels along Amarillo Beach are developed with single family homes. The property adjacent to and east of the subject site is developed with an existing single family residence while the adjacent property to the west is vacant. The parcel west of the vacant lot, two parcels up coast from the project site, is also developed with a single family home.

### B. Grounds for Revocation

#### **Section 13105(a)**

Pursuant to 14 California Code of Regulations (C.C.R.) Section 13108, the Commission has the discretion to grant or deny a request to revoke a coastal development permit if it finds that any of the grounds, as specified in 14 C.C.R. Section 13105 exist. 14 C.C.R.

Section 13105 states, in part, that the grounds for revoking the permit shall be as follows: (1) that the permit application intentionally included inaccurate, erroneous or incomplete information where accurate and complete information would have caused the Commission to act differently; and (2) that there was a failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently.

The South Central Coast District office has received a written request for revocation of the subject Coastal Development Permit from Daniel D. Hillman, the resident of the adjacent property east of the project site. The request for revocation is based on the grounds that the applicant submitted inaccurate, erroneous or incomplete information on the project plans approved by the Commission, which would affect the accuracy of the building and deck stringline established for the proposed new residence.

The revocation request does not suggest that the subject permit should be revoked on grounds that there was a failure to comply with the notice provisions of Section 13054. Therefore, the revocation request for the subject permit will only be discussed in relation to grounds of Section 13105(a). Grounds for revocation in 13105(a) contain three essential elements or tests which the Commission must consider:

- a. Did the application include inaccurate, erroneous or incomplete information relative to the coastal development permit?
- b. If the application included inaccurate, erroneous or incomplete information, was the inclusion intentional (emphasis added)?
- c. If the answer to a and b is yes, would accurate and complete information have caused the Commission to require additional or different conditions or deny the application?

The request for revocation states that information illustrated on project plans submitted for the proposed project contained inaccurate and misleading information which resulted in an inaccurate determination for the building and deck stringlines for the subject site. The revocation request asserts that existing development, particularly existing decks, on properties adjacent to the subject site was not accurately illustrated or not included in project plans submitted with the coastal permit application. The revocation request further contends that the inaccurate illustration of adjacent property decks results in an improperly established deck stringline. No specific assertions of inaccurate project plans regarding the building stringline for the subject site have been made. In order to qualify for grounds of revocation the revocation request must factually demonstrate the above.

Commission staff has reviewed the application file, project plans, and Staff Report for the subject permit to determine if inaccurate, erroneous or incomplete information was submitted with the Coastal Development Permit application. Review of the plans submitted for the proposed project indicates that the entire deck of the adjacent property

to the east is accurately illustrated on all project plans. Furthermore, as was discussed in Findings of the Staff Report drafted for the subject permit (Exhibit 4), Commission staff recognized that the deck configuration for the adjacent residence east of the project site is unique in that the deck contains a 3 ft. walkway which is closest to the project site. Staff therefore had accurate information about the structures, including the walkway, and the Commission was provided accurate information regarding this issue. However, staff determined that in order to be consistent with past Commission action for implementation of the stringline policy, the deck stringline would be appropriately drawn from the nearest corner of the adjacent deck and not the adjacent walkway. Therefore, the Commission notes that the information submitted with the application regarding the existing deck of the adjacent property east of the project site contains all information necessary and required by Commission staff to determine an accurate deck stringline drawn from that adjacent property.

The request for revocation also asserts that project plans for the subject permit do not include a small side deck which exists on the residence located across the vacant lot west of the project site (Exhibit 3). Staff's review of the project plans submitted for the subject permit concludes that this side deck is not illustrated in the project plans, but also notes that the side deck is not the nearest adjacent deck from which a deck stringline would be established. Determination of an accurate deck stringline requires only that the nearest decks of adjacent properties be properly depicted on project plans. Staff's analysis of the plans submitted for the proposed project concludes that the nearest deck of the adjacent property to the west of the project site is accurately illustrated on all project plans. As such, the side deck referenced by the applicant for revocation is not relevant for determining the deck stringline for the project site and, therefore, not including an illustration of the side deck on project plans would not constitute a submittal of inaccurate, erroneous or incomplete information by the applicant. With regard to the building stringline drawn for the subject site, the revocation request has provided no information specific to inaccuracies of project plans which would affect the established building stringline and staff's review of information submitted on project plans with respect to the building stringline concludes that the information is accurate and complete.

Therefore, the Commission finds that inaccurate, erroneous, or incomplete information was not included in the Coastal Development Permit application with respect to those issues raised by the revocation request for the established building and deck stringlines of the subject site.

The second element of Section 13150 (a) consists of determining whether the inclusion of inaccurate, erroneous or incomplete information was intentional. As indicated above, there is no evidence that information submitted for the subject permit is inaccurate, erroneous, or incomplete. Even assuming for the purpose of this analysis that there was inaccurate information, there is no evidence that its submission was intentional. As such, the Commission notes that no new information has been provided as part of the revocation request which illustrates that the applicant intentionally provided information that is inaccurate, erroneous, or incomplete. Therefore, the Commission finds that there

was no intentional inclusion of inaccurate, erroneous or incomplete information with the application submittal for the subject Coastal Development Permit.

The final element of Section 13105 (a) for the Commission to consider is whether accurate and/or complete information would have resulted in the requirement of additional or different conditions or the denial of the application. As indicated above, there is no evidence that information submitted for the subject permit is inaccurate, erroneous, or incomplete. Assuming that the applicant intentionally submitted inaccurate, erroneous or incomplete information, there is no evidence that it would have resulted in the requirement of additional or different conditions of the permit or denial of the application by the Commission.

For the reasons set forth above, the Commission finds that the grounds for revocation contained in Section 13105(a) are not satisfied, and as mentioned, the request for revocation does not assert that grounds for revocation of the subject permit exist in Section 13105(b). Therefore, the Commission finds that the revocation request should be denied.

DANIEL D. HILLMAN, M.D.

RECEIVED  
JAN 11 11 11 AM '00  
CALIFORNIA COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

DIPLOMATE AMERICAN BOARD OF ORTHOPEDIC SURGERY  
FELLOW AMERICAN ACADEMY OF ORTHOPEDIC SURGEONS

California Coastal Commission  
South Central Coast Area  
89 South California Street, Suite 200  
Ventura, CA 93001

Hand delivered  
January 10, 2000

Re: Application 4-99-227

Applicant: Elliot Megdal

Project Location: 24612 Malibu Road, Malibu (L.A. County) (APN(s) 4458-012-019

Dear Commissioners:

On October 18, 1999, the City of Malibu Planners and the Planning Commission turned down plot plan review 96-101 and variance number 99-021 because the plans submitted by architect Ron Goldman were inaccurate and misleading, and the stringlines that were drawn were inaccurate for both deck and house. As a result, The City of Malibu Planning Commission stated that Mr. Megdal now must provide the Commission with certified plans. (See attached City of Malibu Planning Commission Minutes of October 18, 1999).

The submission of inaccurate plans by architect Ron Goldman invalidates the submitted plot plan and drawn stringlines, and has made it impossible for the City of Malibu's Planning staff to render a recommendation; that is why the Planning Commission supported the staff decision and is requiring a certified plot plan. These same inaccurate plans were submitted by architect Ron Goldman in obtaining California Coastal Commission Development Permit #4-97-071/February 1998 for his clients Paul and Judy Schaeffer, the previous owners of that house.

The "After-the-fact" permit for the wood lattice is another example of not complying with the rules and regulations. The existing deck at 24612 is a non-permitted, non-conforming deck that extends beyond the deck stringline. The Superior Court of the State of California and City of Malibu have determined the deck stringline for this property. The lattice is poorly constructed and is already starting to fall apart, which represents a safety hazard; it will not survive a wave uprush. The lattice is also not in keeping with the neighborhood standards. This lattice does obstruct public and private views, and the undersurface of the existing house is already covered by another (blue) lattice.

Based upon the forgoing, I am strongly opposed to approving the "after-the-fact" permit approval for permit number 4-99-227 and request denial. I am also requesting that the California Coastal Commission Development permit #4-97-071 granted February 1998 be rescinded and revoked because it was obtained by submitting inaccurate and misleading plans of architect Ron Goldman.

Sincerely,

  
Daniel D. Hillman, MD

DDH/co enc. 3 pages

EXHIBIT 1  
R-4-97-071  
REVOCATION  
REQUEST

Commissioner Kabrin stated she recalled the Commission had approved something smaller than 500 square feet. Planning Director Ewing stated he was not sure if the Commission had discretion to do it if it complied with Code. He stated it would come back to the Commission with an analysis of what was done last time.

The motion carried unanimously.

**DISCUSSION**

**ITEM 14. Discussion of Revisions to Interim Zoning Ordinance**

**CONSENT**

**ITEM 7. Approval of Minutes**

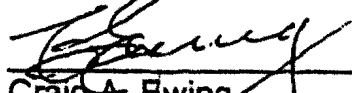
- a. September 8, 1999
- b. September 22, 1999

**MOTION** Commissioner Kearsley moved and Commissioner Ruggles seconded a motion to continue Items 7 and 14 to November 1, 1999. The motion carried unanimously.

**ADJOURNMENT**

**MOTION** Commissioner Kearsley moved and Commissioner Ruggles seconded a motion to adjourn to their next regularly scheduled meeting in Hughes Auditorium. The motion carried unanimously. The time was 10:29 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Craig A. Ewing  
Planning Commission Secretary



and Variance request. He congratulated staff for determining the inaccuracies. He questioned whether all significant correspondence was included. Associate Planner Purvis stated all correspondence submitted was included in the project file. Mr. Hillman requested the Commission continue the matter.

Commissioner Kearsley indicated he had visited the site.

Commissioner Ruggles stated she visited the site and spoke with the appellant.

Commissioner Kabrin stated she visited the site and spoke with the appellant.

Chair Stern stated he visited the site and spoke with the appellant.

**MOTION**

Commissioner Kearsley moved and Commissioner Kabrin seconded a motion to continue the item to a date uncertain.

Commissioner Ruggles asked if specific instructions were necessary along with the continuance. Planning Director Ewing stated, unless the Commission had specific instructions, a plot plan review and variance on the project would be brought back to the Commission. He reminded the Commission that a plot plan review was only coming to the Commission due to its association with the variance. He stated the Commission may not have any discretion on any part of the project if it complies, except for that part subject to the variance.

Commissioner Kabrin questioned the issue of the basement that the Commission had conditioned to not be habitable space. Planning Director Ewing stated the Council settled the issue when they took up the project. He stated the Council did not exert discretion on the basement, rather it applied the Code. He stated the Code stated the basement was not a story. He stated he would bring back the Council resolution that settled the matter.

Commissioner Ruggles stated the Commission had conditioned the basement and made it a storage room at the back, which the Council did not change. She stated the Council only overturned the Planning Commission's decision on the stringline. Planning Director Ewing stated he would bring back an analysis of the Council's action.

The question was called and the motion carried 3-1, Commissioner Kearsley dissenting.

**RECESS** Chair Stern called a recess at 9:47 p.m. The meeting reconvened at 10:03 p.m. with all Commissioners present, except Commissioner Lipnick.

**ITEM 12.** **VARIANCE NUMBER 99-021 RELATED TO PREVIOUSLY APPROVED PLOT PLAN REVIEW NUMBER 96-101 LOCATED AT 24612 MALIBU ROAD (MR. ELLIOT MEGDAL).** - Variance request to adjust the required rear property deck stringline setback. A request to use the deck corner nearest the ocean on the property east and adjacent to the subject property to construct a first floor deck.  
Staff reference: Drew Purvis

Associate Planner Purvis presented the staff report. He indicated that, at the time of preparation of the staff report, staff was recommending denial but it had been determined that the survey submitted was inaccurate. He stated, therefore, staff was recommending opening the hearing, taking public testimony and directing the applicant to come back with a revised proposal based on an accurate survey.

Commissioner Ruggles stated the stringline survey and plot plan were not accurate. Associate Planner Purvis stated the Commission could direct the applicant to bring back previous approvals for the original proposal. Planning Director Ewing stated the Court dealt with the definition of deck, not the issue of a variance. He requested continuance to allow the applicant to resubmit an application with accurate information. Commissioner Ruggles asked if a certified survey could be conducted. Associate Planner Purvis stated the applicant would be required to provide a survey by a licensed surveyor.

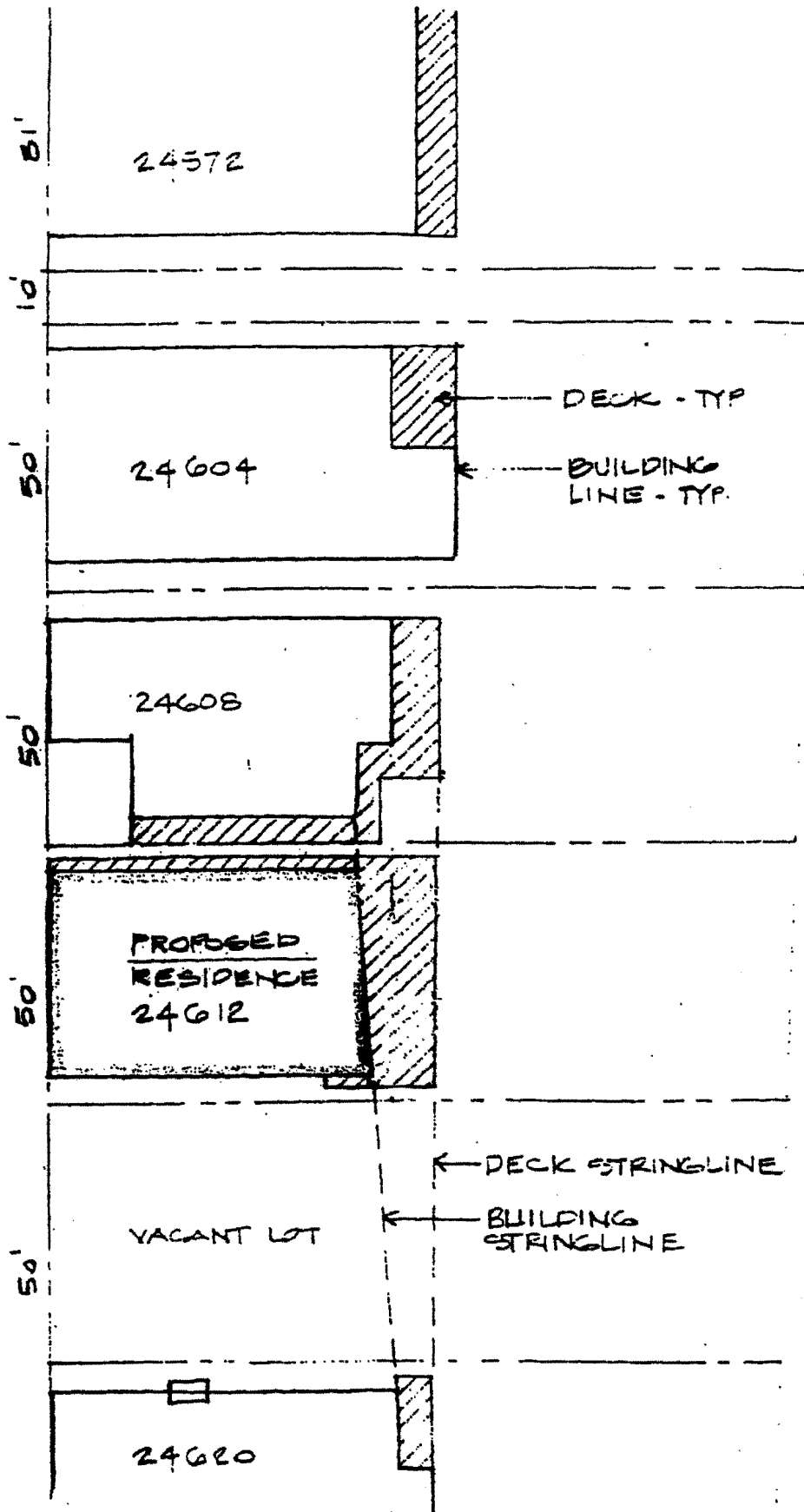
Commissioner Kearsley suggested continuing the item to follow the discussion of a zone text amendment for the stringline rule.

Ron Goldman requested a continuance to clarify information.

David Heckerman, neighbor to the west, stated he had provided information indicating the information was incorrect. He stated both the deck and dwelling stringline were incorrect.

Daniel Hillman, neighbor to the east, indicated opposition to the Plot Plan

CL OF MALIBU ROAD



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

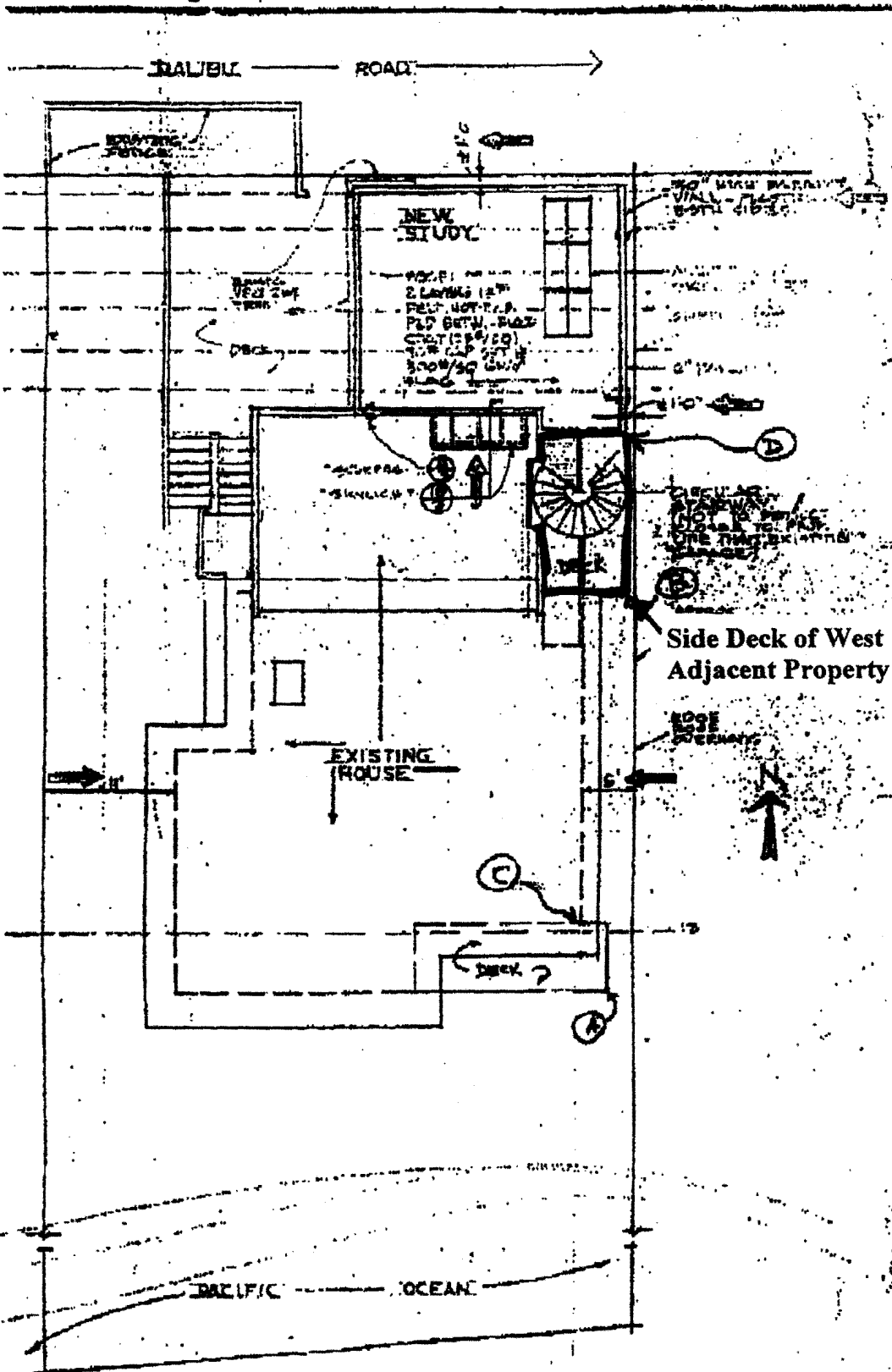
EXHIBIT 2

R-4-97-071

STRINGLINE

CDD # 4 97 071

EXHIBIT 1



EXISTING HOUSE PLAN 1/8" = 1'-0"

**DOUGLAS W. RUCKER**  
architect

1912 Pacific Coast Building, Suite 100, San Francisco, CA 94109  
415-774-1100

10N

revetment. Thus, the seawalls do not always tie into adjacent structures at every location on a developed beach.

The Commission recognized that the infilling of residential development between existing structures would not result in significant adverse impacts to coastal resources within these existing developed shoreline areas. The Commission also acknowledged that the gaps these vacant parcels created between protective devices focused wave energy between these structures resulting in erosion of the vacant property between the structures and potentially endangering infrastructure along Pacific Coast Highway or adjacent frontage roads and endangering adjacent structures. Faced with the prospect of denying beach front residential development with protective devices due to inconsistency with section 30235 of the Coastal Act the Commission established the "infill" policy through permit actions on beach front development in Malibu. The Commission found that infilling these gaps would prevent this type of focused shoreline erosion and would not significantly further impact shoreline processes or adversely impact other coastal resources given the prevailing development pattern along these sections of the Malibu coast.

On Amarillo Beach there are approximately 180 homes along a 2.1 mile long stretch of sandy beach. The area of the proposed development can only be characterized as a developed beach. The proposed development of one single family residence with a wooden bulkhead, and septic system as presented by the facts in this application and as conditioned to be relocated here, is considered to be an infill development within an existing developed area.

**a. Seaward Encroachment**

In 1981 the Commission adopted the "District Interpretive Guidelines" for Malibu/Santa Monica Mountains area of the coastal zone. These guidelines established specific standards and criteria for shoreline development along the Malibu Coast. The guidelines included the "stringline" policy for the siting of infill development:

In a developed area where new construction is generally infilling and is otherwise consistent with Coastal Act policies, no part of a proposed new structure, including decks and bulkheads, should be built further onto a beach than a line drawn between the nearest adjacent corner of the adjacent structures. Enclosed living space in the new unit should not extend farther seaward than a second line drawn between the most seaward portions of the nearest corner of the enclosed living space of the adjacent structure.

<b>EXHIBIT 4</b>
<b>R-4-97-071</b>
<b>STRINGLINE FINDINGS</b>
<b>CDP # 4-97-071</b>

In 1986 the Commission certified the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan which also contains specific policies addressing infill shoreline development:

Policy 153 ...In a developed area where new construction is generally considered infilling and is otherwise consistent with LCP policies the proposed new structure may extend to the stringline of the existing structures on each side.

Policy 166 ...Revetments and seawalls shall be permitted when required to serve coastal dependent uses or to protect existing structures or new structures which constitute infill development.

The intent of the stringline policies was to limit infill development to only existing developed shoreline areas and limit the encroachment of new structures out onto the beach. In past permit actions in Malibu the Commission has typically limited infill development to the construction of one to two structures on one to two vacant parcels between existing structures.

In this case, staff has spent considerable time reviewing the deck stringline for consistency with the Coastal Act and the Commission's past action relating to implementing the stringline policy. As depicted on Exhibit 2, the adjacent owner to the east (downcoast) has a uniquely configured deck area where the section of deck that is closest to the subject project site consists of a 3 ft. wide walkway that abuts the main deck area. Therefore, it is appropriate to draw the deck stringline from the corner of the nearest adjacent deck corner as proposed by the applicant and not to the corner of the adjacent walkway.

Relative to the proposed seawall, special condition #5 has been drafted to require the applicant to relocate bulkhead the 7 ft. landward for all of the reasons discussed above. As stated previously, the adjacent property downcoast does not have a shoreline protective device protecting the leachfield and structure and the property upcoast is undeveloped. The Commission notes that should either adjacent property owner apply for a coastal development permit involving a seawall, such structures, if approved, should be sited to conform to a stringline as drawn from the corners of the seawall proposed under this application. Therefore, the Commission finds that the proposed development, relative to seaward encroachment, is consistent with the relevant sections of the Coastal Act.

## **6. Conclusion**

Coastal Act sections 30235, 30253 and 30250(a) set forth the Commission's mandate relative to permitting shoreline protective devices and beachfront development. In order for the Commission to permit the proposed project, which