STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

RECORD PACKET COPY

Staff:	JP-SF
Staff Report:	May 24, 2000
Hearing Date:	June 13, 2000

RECOMMENDED FINDINGS FOR CEASE AND DESIST ORDER

Tu 15

CEASE AND DESIST ORDER:	CCC-00-CD-03
RELATED VIOLATION FILE:	V-4-98-008
PROPERTY LOCATION:	25306 Malibu Road, Malibu, CA 90265, Los Angeles County, APN 4459-016-013 **(Exhibit 1)**
DESCRIPTION OF PROPERTY	The property is a 50 x 159-foot residential lot on the seaward side of Malibu Road.
PROPERTY OWNERS:	Sam and Nina Birenbaum
VIOLATION DESCRIPTION:	1) Construction of a rock revetment; 2) maintenance of and additions to the rock revetment; 3) grading 1,800 cu. yds. of material (mainly sand some of which was imported) to create a patio area on the beach; 4) grading beach sand to create a sand berm; 5) construction of a patio enclosure; 6) replacement of a septic tank; 7) placement of a trailer on the beach for residential purposes; and 8) construction of two 22-foot high wood retaining walls located on either side of the trailer. **(Exhibit 2)**
SUBSTANTIVE FILE DOCUMENTS:	Emergency Permit No. 5-83-162G **(Exhibit 3)**
CEQA STATUS:	Exempt (CEQA Guidelines (CG) §§ 15061 (b)(1) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308 and 15321)

I. SUMMARY

The subject violation consists of: 1) failure to apply for a coastal development permit (CDP) within 90 days of issuance of Emergency Permit No. 5-83-162G in 1983, for a rock revetment, or to remove it as required by 5-83-162G; and 2) failure to apply for a coastal development permit (CDP) for other development activities at the subject site consisting of: 1) construction of a rock revetment; 2) maintenance of and additions to the rock revetment; 3) grading 1,800 cu. yds. of material (mainly sand some of which was imported) to create a patio area on the beach; 4) grading beach sand to create a sand berm; 5) construction of a patio enclosure; 6) replacement of a septic tank; 7) placement of a trailer on the beach for residential purposes; and 8) construction of two 22-foot high wood retaining walls located on either side of the trailer. **(Exhibit 2)**

On February 24, 1998 Coastal Commission staff first became aware of a possible violation of the Coastal Act at the subject site. On March 5, 1998 Commission staff sent the Birenbaums' the first of nine letters requesting that they apply for an after-the-fact CDP for all of the cited unpermitted development. On January 24, 2000 the Birenbaums submitted a CDP application (4-00-023) with the Commission for a rock and sand revetment and replacement of two wooden fences. **(Exhibit 4)**

On February 17, 2000, the Commission's Statewide Enforcement Unit sent the Birenbaums a Notice of Intent (NOI) to commence Cease and Desist proceedings. **(Exhibit 6)**

Also on February 17, South Central Coast Commission staff sent the Birenbaums a filing status letter identifying 16 pieces of information that are needed to make application 4-00-023 complete. **(Exhibit 5)** The letter established a deadline of April 21, 2000 for submittal of the necessary material. As of the date of this report the Birenbaums have not submitted any of the necessary items in order to complete their CDP application.

As a result of the Birenbaums' failure both to 1) obtain a permit for all unpermitted development on their property and 2) comply with the Commission's filing requirements, Commission staff is recommending that, pursuant to Coastal Act section 30810, the Commission issue a Cease and Desist Order to resolve the subject violation.

The proposed Commission cease and desist order would require the Birenbaums to: 1) refrain from engaging in any further development activities on their property without a CDP; and 2) submit within 60 days of the issuance of this order, a complete CDP application to the Coastal Commission's South Central District Office requesting a permit to either retain the existing unpermitted development, or to remove existing development and restore the site to its pre-violation condition.[1]

[1] The order staff is proposing gives the Birenbaums 60 days to file a complete application for a CDP so that, prior to such filing, they will have adequate time to obtain any necessary City and/or County approvals.

II. HEARING PROCEDURES

The procedures for a hearing on a proposed Cease and Desist Order are outlined in section 13185 of the California Code of Regulations (CCR), Title 14, Division 5.5, Chapter 5, and Subchapter 8. The Cease and Desist hearing procedure is similar in most respects to the procedures that the Commission utilizes for permit and LCP matters.

For a Cease and Desist hearing the Chair shall announce the matter and request that all parties or their representatives identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, at any time before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any other speaker. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons, after which staff shall respond to the testimony and to any new evidence introduced.

The Commission should receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in CCR section 13186, incorporating by reference section 13065. After the Chair closes the hearing, the Commission may ask questions as part of its deliberations on the matter, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist order, either in the form recommended by staff, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, as the case may be, will result in issuance of the order.

III. MOTION

Staff recommends adoption of the following motion:

> ***I move that the Commission issue Cease and Desist Order No. CCC-00-CD-03 as proposed by staff.***

Staff recommends a **Yes** vote. An affirmative vote by the majority of the Commissioners present will result in the issuance of the order set forth in Section **V** of this report.

IV. PROPOSED FINDINGS

Staff recommends the Commission adopt the following findings of fact in support of its action:

A. Background and Administrative Resolution Attempts

In 1981 the Birenbaums purchased the subject property at 25306 Malibu Road, Malibu, CA 90265, Los Angeles County. **(Exhibit 7)** According to the Birenbaums, on March 2, 1983, winter storms "completely destroyed" their home. **(Exhibits 8, 9)** After the storms the Birenbaums applied for and received (on March 15, 1983) Emergency CDP 5-83-162G for the construction of a rock revetment, and a Coastal Development Permit Exemption to replace the home they lost in the storms. **(Exhibit 3 & 10)** Condition 4 of Emergency Permit 5-83-162G states that "within 90 days [of the permit being issued], the permittee shall apply for a regular Coastal Permit to have the emergency work considered permanent. If a regular permit is not received, the emergency work shall be removed in its entirety within 150 days of the above date unless waived by the director."

The Coastal Development Permit Exemption issued to the Birenbaums in 1983 quoted section 30610(g) of the Coastal Act, which states in part: "The replacement structure shall conform to applicable zoning requirements,... and not exceed the floor area, height or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location as the affected property of the destroyed structure."

On February 24, 1998 Commission staff became aware that Sam Birenbaum had failed either to apply for a CDP to make the rock revetment permanent or to remove the revetment after 150 days as required by Emergency Permit No. 5-83-162G. **(Exhibit 3)** Additionally staff found the Birenbaums had installed a septic tank system without a CDP. On March 5, 1998 South Central District Office Commission staff sent Sam Birenbaum the first of five letters informing him that he was in violation of the Coastal Act and needed to apply for a CDP for the unpermitted development.

Between March 1998 and July, 1999 Commission staff investigated Birenbaums' case and found the Birenbaums' had failed to replace the home they lost in accordance with the Coastal Development Permit Exemption they received in 1983. Commission staff found that since March 16, 1983 the Birenbaums constructed a variety of structures on their property without benefit of a CDP or local government regulatory approval. This development includes: 1) construction of a rock revetment; 2) maintenance of and additions to the rock revetment; 3) grading 1,800 cu. yds. of material (mainly sand some of which was imported) to create a patio area on the beach; 4) grading beach sand to create a sand berm; 5) construction of a patio enclosure; 6) replacement of a septic tank; 7) placement of a trailer on the beach for residential purposes; and 8) construction of two 22-foot high wood retaining walls located on either side of the trailer. **(Exhibit 2)**

Since August 1999, Commission staff has contacted Sam Birenbaum four times notifying him that unless he files a complete CDP application to either retain or remove the cited unpermitted development on his property the Executive Director would request the Commission to issue a

cease and desist order requiring the Birenbaums to apply for the necessary coastal development permit. **(Exhibit 6)**

On January 24, 2000 the Birenbaums filed an incomplete CDP application (4-00-023) with the Commission for only a portion of the cited unpermitted development on their property: a rock and sand revetment and replacement of two wooden fences. **(Exhibit 4)** On February 17, 2000 Commission staff sent the Birenbaums a letter notifying them that for a variety of reasons their CDP application was incomplete and that they had until April 21, 2000 to submit the following documents to make their CDP application package complete: **(Exhibit 5)**

Table 1. Information Necessary to Complete CDP Application 4-00-023

▪ A check for $300;	▪ City Health Department review of septic system;
▪ A current City or Country "approved" geologic review sheet;	▪ "Approval in concept" form completed by the City planning department or other responsible department;
▪ Copies of required local approvals of the project;	▪ A copy of the assessor's parcel map;
▪ 2-sets of project drawings;	▪ 2-sets of detailed grading and drainage plans;
▪ A reduced set of legible drawings to 8½ x 11";	▪ A determination by the State Lands Commission determining the location of the most landward property line;
▪ A stringline map showing the existing, adjacent structures;	▪ Project plans with cross section view of protective devices;
▪ A geotechnical report and wave uprush study for shoreline protective devices;	▪ Verification of permits and, or approvals from State Lands Commission, and L. A. County Parks for sand removal;
▪ 2- copies of a comprehensive, current, site specific geology and soils report;	▪ Amended project description to include: unpermitted residential unit, two wood wall fences, large boulders, upgraded septic tank system, imported sand from LA County beach, brick patio, and fenced cover.

As of the date of this report, the Birenbaums have failed to complete CDP application 4-00-023.

Since the Birenbaums have failed to apply for a permit for all unpermitted development on their property , Commission staff recommends the issuance of the cease and desists order set forth in section V of this staff report to resolve this Coastal Act violation.

B. Resource Impacts

The Birenbaums' development activities include the construction of a rock revetment; grading beach sand on numerous occasions, construction of a patio enclosure, replacement of a septic tank, placement of a trailer for residential use on the beach, and construction of two 22-foot high wood retaining walls. All of these activities have all been conducted without local approvals or without a CDP and without benefit of the Coastal Commission review of potential impacts the cited development would have on coastal resources. The Birenbaums' development activities raise issues under Coastal Act sections 30210, 30212, 30231, 30235, 30251, and 30253. These sections state:

> *30210. 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.*
>
> *30212. (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) adequate access exists nearby. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.*
>
> *30231. 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, and minimizing alteration of natural streams.*
>
> *30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.*
>
> *30251. 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.*

30253. 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 Birenbaums' construction of a rock revetment, the grading of beach sand, and the construction of two large retaining walls to contain altered beach sand have changed the characteristics of the beach in front of their property and may have limited lateral public access along the beach at their property. The cited residential trailer in which the Birenbaums are living may not be structurally sound and may pose a threat to human life during a natural disaster such as an earthquake. The replacement and subsequent maintenance of their septic tank system without regulatory review and approval has had the continuing potential to create a public health problem both on the beach and in waters adjacent to the septic tank's leachfield. Finally the Birenbaums have not demonstrated a need for the rock revetment or that the rock revetment is the least damaging alternative.

C. Staff Allegations

The staff alleges the following:

1. Sam and Nina Birenbaum are the owners of the property located at 25306 Malibu Road, Malibu, CA 90265, Los Angeles County APN 4459-016-013.

2. On March 15, 1983 the Coastal Commission issued to Sam Birenbaum emergency CDP 5-83-162G for a rock revetment **(Exhibit 3)**. Condition 4 of the permit requires the permittee to either file for a CDP within 90 days of the issuance of the emergency permit to make the revetment permanent, or to remove the development within 150 days of the issuance of the permit. Birenbaum has failed to comply with these requirements of the referenced emergency permit.

3. Since 1983, the Birenbaums have undertaken at the property development, as defined by Coastal Act section 30106, which includes 1) construction of a rock revetment; 2) maintenance of and additions to the rock revetment; 3) grading 1,800 cu. yds. of material (mainly sand some of which was imported) to create a patio area on the beach; 4) grading beach sand to create a sand berm; 5) construction of a patio enclosure; 6) replacement of a septic tank; 7) placement of a trailer on the beach for residential purposes; and 8) construction of two 22-foot high wood retaining walls located on either side of the trailer.; all without receiving a CDP from the Coastal Commission. **(Exhibit 2)**

4. The Birenbaums' development activities constitute an ongoing violation of the permit requirement contained in section 30600 of the Coastal Act.

5. On January 24, 2000 Birenbaum submitted an incomplete CDP application for a portion of the unpermitted development on their property; a rock and sand revetment and replacement of two wooden fences. **(Exhibit 4)**

6. On February 17, 2000 Commission staff sent the Birenbaums a Notice of Intent to commence Cease and Desist proceedings letter. **(Exhibit 6)**

7. As of the date of this staff report the Birenbaums have failed to apply for necessary coastal development permits for their cited development.

D. Alleged Violators Defense and Commission Response

Any information, statement, etc. that you want to offer or make in your defense:

The Birenbaums' Defense:

Application for Coastal Development Permit was submitted and the applicants will supplement that application in order to complete the process pursuant to the February 17, 2000 directions by staff member James Johnson. ***(Exhibit 11)***

Commission's response:

Paragraph eight of the Commissions Notice of Intent (NOI) letter to commence Cease and Desist proceedings, under the heading "Options for Resolving this Violation," states:

> You [the alleged violator] can prevent this hearing from taking place by filing a ***complete*** CDP application for all the cited unpermitted development activity with our South Central [Coast Office] (Ventura Office), prior to the scheduled date of cease and desist order action, requesting a permit to either retain the existing unpermitted development, or to remove existing development and restore the site to its pre-violation condition. [emphasis added]

On January 24, 2000 the Birenbaums submitted a CDP application (4-00-023) to the Coastal Commission. **(Exhibit 4)** Coastal Program Analyst James Johnson (Johnson) reviewed the Birenbaums' CDP application and on February 17, 2000, sent the Birenbaums an incomplete filing letter requesting 16 pieces of additional information that the Commission needed before the Commission could deem the application complete and review it for consistency with Chapter 3 polices of the Coastal Act. **(Exhibit 5)** In his letter Johnson gave the Birenbaums until April 21, 2000 to submit the additional information to the Commission. As of the date of this report, the Birenbaums have not submitted any of the documents Johnson requested nor have they contacted Johnson or any other Commission staff member with regard to completing their CDP application. Thus, the Commission is forced to conclude that the Birenbaums are not serious in

their efforts to file a complete CDP application and finds it necessary to issue this cease and desist order to resolve the subject Coastal Act violation.

V. CEASE AND DESIST ORDER

Staff recommends that the Commission issue the following Cease and Desist Order:

Pursuant to its authority under Public Resource Code section 30810, the California Coastal Commission hereby orders Sam and Nina Birenbaum and any person acting in concert with any of the foregoing to cease and desist from 1) engaging in any future development activity at the subject property without a coastal development permit, and 2) from maintaining on the property any existing unpermitted development. Accordingly, all persons subject to this order shall fully comply with paragraphs A and B:

A. Within 60 days of the date of this order, or within such additional time as the Executive Director may grant for good cause, submit to the Coastal Commission's South Central District Office, a complete coastal development permit application requesting to either 1) retain the unpermitted development specified below, or 2) remove said development and restore the property to its pre-violation condition.

B. In a manner which complies fully with the terms and conditions of any coastal development permit that the Commission may grant under option 2 of the preceding paragraph, carry out the removal of any unpermitted development and restore the site to pre-violation status within 180 days of the issuance of the permit, or within such additional time as the Executive Director may for good cause grant.

Persons Subject to the Order

Sam and Nina Birenbaum

Identification of the Property

The property that is subject to this cease and desist order is described as follows:

25306 Malibu Road, Malibu, CA 90265, Los Angeles County APN 4459-016-013.

Description of Unpermitted Development

This development consists of the construction of: construction of a rock revetment; additional maintenance to the rock revetment; grading 1,800 cu. yds. of material (mainly sand some of which was imported) to create a patio area on the beach; grading beach sand to create a sand revetment; construction of a patio enclosure; replacement of a septic tank; placement of a trailer on the beach; and construction of two 22-foot high wood retaining walls. **(Exhibit 2)**

Terms of the Order

The effective date of this order is June ___, 2000. This order shall remain in effect permanently unless and until modified or rescinded by the Commission.

Compliance Obligation

Strict compliance with this order by all parities subject thereto is required. Failure to comply strictly with any term or condition of this order including any deadline contained in this order or in the above required coastal development permit(s) as approved by the Commission will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS ($6,000) per day for each day in which such compliance failure persists. The Executive Director may extend deadlines for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.

Appeal

Pursuant to Public Resource Code §30803(b), any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

Exhibits

1. Location of the property.
2. Pictures of the alleged violation.
3. Emergency Permit 5-83-162G.
4. Coastal Development Permit application 4-00-023.
5. Incomplete CDP filing letter. February 17, 2000.
6. Notice of Intent Letter. February 17, 2000.
7. Picture of the property prior to 1983.
8. Letter from Sam Birenbaum to LA County Assessor's Office: destruction of home during storm on March 2, 1983. April 22, 1983.
9. Application for Reassessment of Property Damage or Destruction by Misfortune or Calamity. May 3, 1983.
10. Coastal Development Permit Exemption. March 15, 1983.
11. Sam Birenbaum's Statement of Defense letter. March 10, 2000.

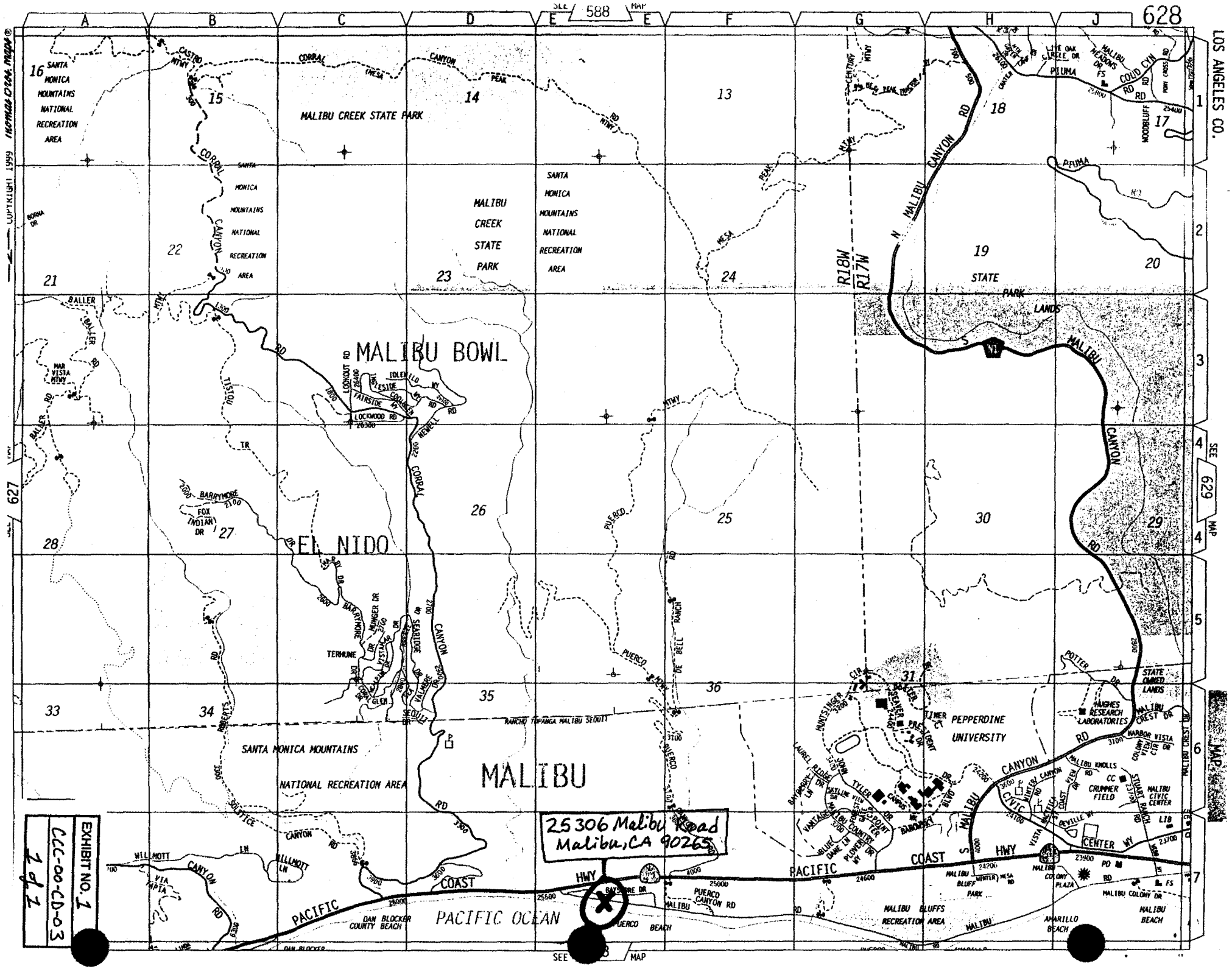


EXHIBIT NO. 1
CCC-00-CD-03
1 of 1

Unpermitted Development at 25306 Malibu Road, Malibu, CA 90265

Construction and Maintenance of the a Rock Revetment

Placement of a Trailer on the Beach for Residential Use, Construction of a Patio Enclosure, and Grading 1,800 cubic yards to Create a Patio Area on the Beach

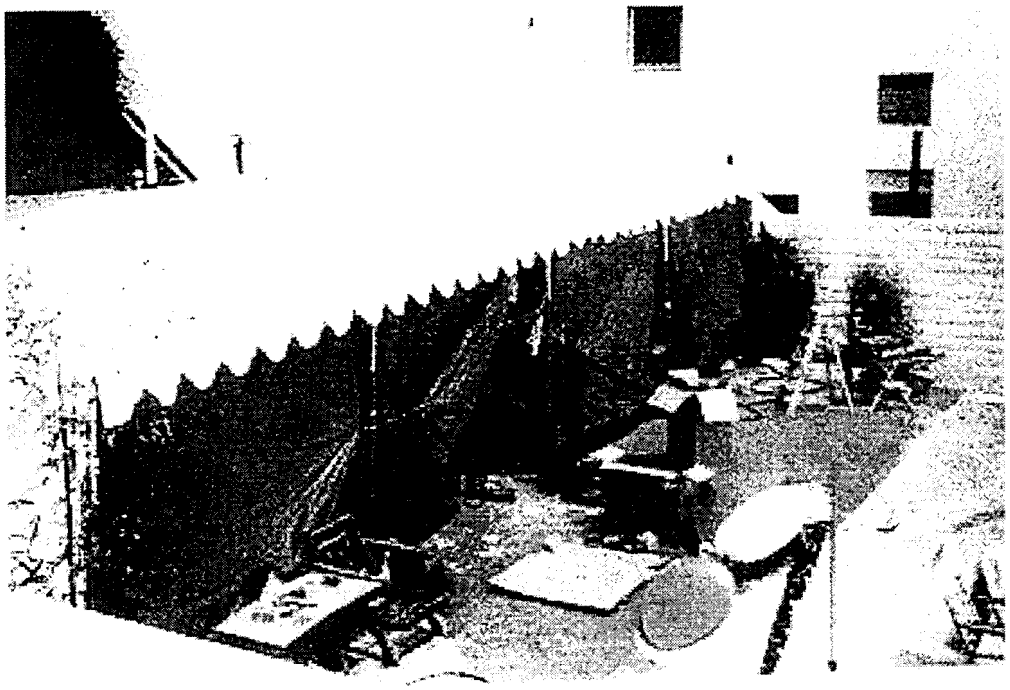
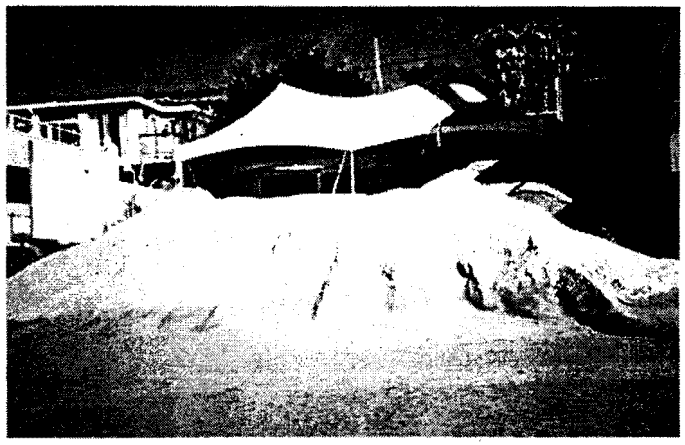


EXHIBIT NO. 2
CCC-00-CD-03
1 of 2

Unpermitted Development at 25306 Malibu Road, Malibu, CA 90265

Grading Beach Sand to Create a Sand Revetment Berm and Construction of Two 22 foot high Wood Retaining Walls



Replacement of a Septic Tank

EXHIBIT NO. 2
CCC-00-CD-03
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return

State of California, George Deukmejian, Governor

California Coastal Commission
South Coast District
245 West Broadway, Suite 380
P.O. Box 1450
Long Beach, California 90801-1450
(213) 590-5071

RECEIVED MAR 25 1983 CALIFORNIA COASTAL COMM. SCRC

EMERGENCY PERMIT

Mr. Sam Birenbaum
(name)

March 15, 1983
(date)

25306 Malibu Road
(street name & no.)

Malibu, CA 90265
(city, state, zip)

5-83-162G
Emergency Permit #

25306 Malibu Road, Malibu, CA 90265
Location of Emergency Work (456-5533)

ADD ROCK REVETMENT FOR PROTECTION AND CONTAINMENT OF LEACHFIELD AND BALANCE OF STRUCTURE

work requested

Dear Applicant:

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurence in the form of STORM WAVE DAMAGE requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. The Executive Director hereby finds that:

(a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
(b) Public comment on the proposed emergency action has been reviewed if time allows; and
(c) The work proposed would be consistent with the requirements of the California Coastal Act of 1976.

EXHIBIT NO. 3
CCC-00-CD-03
1 of 3

The work is hereby approved, subject to the following conditions:

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.

2. Only that work specifically requested as described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.

3. The work authorized by this permit must be completed within 30 days of the above date.

4. Within ~~60~~ 90 days of the above date, the permittee shall apply for a regular Coastal Permit to have the emergency work be considered permanent. If a regular permit is not received, the emergency work shall be removed in its entirety within 150 days of the above date unless waived by the Director.

5. For Emergency Shoreline Protection Projects:
If rock is used in the emergency work, only clean, large rock shall be used. No fill materials or construction spoils shall be used. The rock installation ~~shall be~~ properly engineered to provide adequate protection and to minimize the possibility of rock becoming dislodged and deposited on the beach.

6. In excercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that results from the project.

7. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.

8. OTHER: _____

Condition #4 indicates that the emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work be a permanent development, a Coastal Permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate sandy beach) and/or a requirement that a deed restriction be placed on the property in recognition of the hazard from storm waves.

If you have any questions about the provisions of this authorization, please call.

Nancy A. Lucast
District Director

EXHIBIT NO.
CCC-00-CD-03
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2. Only that work specifically requested as described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.

3. The work authorized by this permit must be completed within 30 days of the above date.

4. Within 90 ~~60~~ days of the above date, the permittee shall apply for a regular Coastal Permit to have the emergency work be considered permanent. If a regular permit is not received, the emergency work shall be removed in its entirety within 150 days of the above date unless waived by the Director.

5. For Emergency Shoreline Protection Projects:
If rock is used in the emergency work, only clean, large rock shall be used. No fill materials or construction spoils shall be used. The rock installation ~~shall be~~ properly engineered to provide adequate protection and to minimize the possibility of rock becoming dislodged and deposited on the beach.

6. In excercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that results from the project.

7. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.

8. OTHER: _____

_____

_____

_____

_____

_____

Condition #4 indicates that the emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work be a permanent development, a Coastal Permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate sandy beach) and/or a requirement that a deed restriction be placed on the property in recognition of the hazard from storm waves.

If you have any questions about the provisions of this authorization, please call.

Nancy A. Lucast
District Director

EXHIBIT NO. 3
CCC-00-CD-03
2 of 3

.ıornia, George Deukmejir Governor

.nia Coastal Commission
.th Coast District
.45 West Broadway, Suite 380
P.O. Box 1450
Long Beach, California 90801-1450
(213) 590-5071

EMERGENCY PERMIT

ACCEPTANCE FORM

Emergency Permit No. 5-83-162G

Instructions: After reading the attached Emergency Permit, please sign this form and return within 15 working days.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them. I understand that the emergency work is temporary and a regular Coastal Permit is necessary to make it a permanent installation.

Date: 3-23-83

Signature of property owner or authorized representative.

Name SAM BIRENBAUM

Address 25306 MALIBU ROAD, MALIBU, CALIF. 90265

EXHIBIT NO. 3
CCC-00-CD-03
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CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., 2ND FLOOR
VENTURA, CA 93001
(805) 641-0142

APPLICATION FOR COASTAL DEVELOPMENT PERMIT

RECEIVED JAN 26 REC'D CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

SECTION I. APPLICANT

1. Name, mailing address, and telephone number of all applicants.

Sam and Nidia Birenbaum
25306 Malibu Road
Malibu, CA 90265
Telephone: (310) 456-5533
(Area code/daytime phone number)

Note: All applicants for the development must complete Appendix A, the declaration of campaign contributions.

2. Name, mailing address and telephone number of applicant's representatives, if any. Please include all representatives who will communicate on behalf of the applicant or the applicant's business partners, for compensation, with the Commission or the staff. (It is the applicant's responsibility to update this list, as appropriate, including after the application is accepted for filing. Failure to provide this information prior to communication with the Commission or staff may result in denial of the permit or criminal penalties.)

SAM BIRENBAUM
(same as above)
(Area code/daytime phone number)

SECTION II. PROPOSED DEVELOPMENT

Please answer all questions. Where questions do not apply to your project (for instance, project height for a land division), indicate **Not Applicable** or **N.A.**.

1. **Project Location.** Include street address, city, and/or county. If there is no street address, include other description such as nearest cross streets.

25306 Malibu Road
number *street*
Malibu Los Angeles
city *county*

Assessor's Parcel Number(s) (obtainable from tax bill or County Assessor): 4459-016-013

FOR OFFICE USE ONLY		
4-00-023	RECEIVED	
	FILED	
	FEE	
APPLICATION NUMBER	DATE PAID	

EXHIBIT NO. 4
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CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., 2ND FLOOR
VENTURA, CA 93001
(805) 641-0142

PERMIT APPLICATION INSTRUCTIONS

A completed application includes the APPLICATION FOR COASTAL DEVELOPMENT PERMIT, the appendices to the application, and **Required Attachments.**

- Please answer all questions. If a question is not applicable to your project, indicate "N.A."
- Refer to pages 6 – 7 of the APPLICATION for a list of **Required Attachments.**
- Incomplete applications will not be accepted for filing.
- All exhibits must be legible.

The following checklist is provided for the convenience of applicants in gathering necessary application materials; it is not a complete statement of filing requirements.

	Page	Item
_____ Proof of applicant's interest in the property.	6	1
_____ Assessor's parcel map(s) showing the proposed development site and all adjacent properties within 100 feet of the property boundary.	7	2
_____ **Stamped** envelopes *(no postage meter please)* addressed to neighboring property owners and occupants and other interested parties *and* a list of the same.	7	4, 5
_____ Vicinity map.	7	6
_____ Two sets of project plan(s) and site plan(s).	7	7
_____ Copy of any environmental documents (DRAFT AND FINAL EIRs, EISs, NEGATIVE DECLARATION) if prepared for the project and any comments and responses.	7	9
_____ Verification of all other permits, permissions or approvals applied for or granted by public agencies.	7	10
_____ Copy of geology or soils report (if necessary).	7	11
_____ Local approval of the project.	Appendix B	
_____ Has the Notice of Pending Permit been posted in a conspicuous place?	Appendix D	
_____ Filing fee.	Appendix E	

_____ Have you and the agent (if appropriate) signed the application at the appropriate lines on pages 8, 9, and 12?

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6. Gross floor area excluding parking (sq.ft.) _____

Gross floor area including covered parking and accessory buildings (sq.ft.) _____

7. Lot area (within property lines) (sq.ft. or acre) 7500 sq. ft.

Lot coverage	Existing (sq.ft. or acre)	New proposed (sq.ft. or acre)	Total (sq.ft. or acre)
Building	~ 800 □'	—	800 □'
Paved area	~ 800 □'	—	800 □'
Landscaped area	~ 400 □'	—	400 □'
Unimproved area	~ 5,500 □'		5,500 □'
Grand Total (should equal lot area as shown in #7 above)			7,500

8. Is any grading proposed? ..... ☐ Yes ☒ No

If yes, complete the following.			
a) Amount of cut	cu. yds.	d) Maximum height of cut slope	ft.
b) Amount of fill	cu. yds.	e) Maximum height of fill slope	ft.
c) Amount of **import** or **export** (circle which)	cu. yds.	f) Location of borrow or disposal site	

Grading and drainage plans must be included with this application. In certain areas, an engineering geology report must also be included. See Section IV, paragraph 11 for the specifics of these requirements.

Please list any geologic or other technical reports of which you are aware that apply to this property _____

9. Parking:

Number of parking spaces (indicate whether standard or compact)		
Existing spaces	Proposed new spaces	Net number of spaces on completion of project
4	0	4

Is any existing parking being removed? ..... ☐ Yes ☒ No

If yes, how many spaces? _____ size _____

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2. Describe the proposed development in detail. Include secondary improvements such as grading, septic tanks, water wells, roads, driveways, outbuildings, fences, etc. (Attach additional sheets as necessary.)

Addition of several large boulders during February, 1998, ocean storm as an emergency protective measure well behind string line, covering them with sand from our yard (by bull-dozer for 3 hours) leaving no visible changes to natural topography, replacement of two wooden sideyard fences (pre-existing since 1980).

a. If multi-family residential, state:

Number of units			Number of bedrooms per unit (both existing and proposed)	Type of ownership proposed
Existing units	Proposed new units	Net number of units on completion of project		☐ rental ☐ condominium ☐ stock cooperative ☐ time share ☐ other_____

b. If land division or lot line adjustment, indicate:

Number of lots			Size of lots to be created (indicate net or gross acreage)	
Existing lots	Proposed new lots	Net number of lots on completion of project	Existing	Proposed

3. Estimated cost of development (not including cost of land) $ 4,500.

4. Project height: Maximum height of structure (ft.)
- above existing (natural) grade ..... 6'
- above finished grade .....
- as measured from centerline of frontage road ..... -10'

5. Total number of floors in structure, including subterranean floors, lofts, and mezzanines NA

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Is tandem parking existing and/or proposed? NA ☐ Yes ☐ No

If yes, how many tandem sets? _____ size _____

10. Are utility extensions for the following needed to serve the project? (Please check yes or no)

a) water	*b) gas*	*c) sewer*	*d) electric*	*e) telephone*
☐ Yes	☐ Yes	☐ Yes	☐ Yes	☐ Yes
☒ No	☒ No	☒ No	☒ No	☒ No

Will electric or telephone extensions be above-ground? ☐ Yes ☐ No

11. Does project include removal of trees or other vegetation? ☐ Yes ☒ No

If yes, indicate number, type and size of trees _____

or type and area of other vegetation _____

SECTION III. ADDITIONAL INFORMATION

The relationship of the development to the applicable items below must be explained fully. Attach additional sheets if necessary.

1. Present use of property.

a. Are there existing structures on the property? ☒ Yes ☐ No

If yes, describe

Single family residence with covered brick patio

b. Will any existing structures be demolished? ☐ Yes ☒ No

Will any existing structures be removed? ☐ Yes ☒ No

If yes to either question, describe the type of development to be demolished or removed, including the relocation site, if applicable.

2. Is the proposed development to be governed by any Development Agreement? ☐ Yes ☒ No

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3. Has any application for development on this site including any subdivision been submitted previously to the California Coastal Zone Conservation Commission or the Coastal Commission? ..... ☒ Yes ☐ No

If yes, state previous application number(s) 5-83-162G

4. Is the development between the first public road and the sea (including lagoons, bays, and other bodies of water connected to the sea) ..... ☒ Yes ☐ No

If yes, is public access to the shoreline and along the coast currently available on the site or near the site? ..... ☒ Yes ☐ No

If yes, indicate the location and nature of the access, including the distance from the project site, if applicable.

1/4 mile west and 1/4 mile east

5. Does the development involve diking, filling, draining, dredging or placing structures in open coastal waters, wetlands, estuaries, or lakes? (Please check **yes** or **no**)

a) diking	*b) filling*	*c) dredging*	*d) placement of structures*
☐ Yes	☐ Yes	☐ Yes	☐ Yes
☒ No	☒ No	☒ No	☒ No

Amount of material to be **dredged** or **filled** (indicate which) _____ cu. yds.

Location of dredged material disposal site _____

Has a U.S. Army Corps of Engineers' permit been applied for? ..... ☐ Yes ☐ No

6. Will the development extend onto or adjoin any beach, tidelands, submerged lands or public trust lands? ..... ☐ Yes ☒ No

For projects on State-owned lands, additional information may be required as set forth in Section IV, paragraph 10.

7. Will the development protect existing lower-cost visitor and recreational facilities? ..... ☐ Yes ☒ No

Will the development provide public or private recreational opportunities? ..... ☐ Yes ☒ No

If yes, explain.

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Application No._____

APPLICATION FOR COASTAL DEVELOPMENT PERMIT

APPENDIX C

LIST OF PROPERTY OWNERS AND OCCUPANTS WITHIN 100 FEET AND THEIR ADDRESSES
(MAKE ADDITIONAL COPIES OF THIS SHEET AS NECESSARY)

Mr. Elliott Roberts 25312 Malibu Road Malibu, CA 90265	Mr. Robert Lichtenstein 25302 Malibu Road Malibu, CA 90265	
Mrs. Dean Smith 25316 Malibu Road Malibu, CA 90265	Owner/Occupant 25274 Malibu Road Malibu, CA 90265	

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APPLICATION FOR COASTAL DEVELOPMENT PERMIT

APPENDIX B

LOCAL AGENCY REVIEW FORM

SECTION A (TO BE COMPLETED BY APPLICANT)

Applicant: Sam and Nidia Birenbaum

Project Description: Replacement of wooden sideyard fences, emergency placement of several large boulders and covering those with sand

Location: 25306 Malibu Road
Malibu, CA 90265

Assessor's Parcel Number: 4459-016-013

SECTION B (TO BE COMPLETED BY LOCAL PLANNING OR BUILDING INSPECTION DEPARTMENT)

Zoning Designation _____ _____ du/ac

General or Community Plan Designation _____ _____ du/ac

Local Discretionary Approvals

- ☐ Proposed development meets all zoning requirements and needs no local permits other than building permits.
- ☐ Proposed development needs local discretionary approvals noted below.

Needed	*Received*	
☐	☐	Design/Architectural review
☐	☐	Variance for _____
☐	☐	Rezone from _____
☐	☐	Tentative Subdivision/Parcel Map No. _____
☐	☐	Grading/Land Development Permit No. _____
☐	☐	Planned Residential/Commercial Development Approval
☐	☐	Site Plan Review
☐	☐	Condominium Conversion Permit
☐	☐	Conditional, Special, or Major Use Permit No. _____
☐	☐	Other _____

CEQA Status

- ☐ Categorically Exempt *Class* _____ *Item* _____
- ☐ Negative Declaration Granted (Date) _____
- ☐ Environmental Impact Report Required, Final Report Certified (Date) _____
- ☐ Other _____

Prepared for the City/County of _____ by _____

Date _____ Title _____

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APPLICATION FOR COASTAL DEVELOPMENT PERMIT

APPENDIX A

DECLARATION OF CAMPAIGN CONTRIBUTIONS

Government Code Section 84308 prohibits any Commissioner from voting on a project if he or she has received campaign contributions in excess of $250 within the past year from project proponents or opponents, their agents, employees or family, or any person with a financial interest in the project.

In the event of such contributions, a Commissioner must disqualify himself or herself from voting on the project.

Each applicant must declare below whether any such contributions have been made to any of the listed **Commissioners** or **Alternates** (see last page).

CHECK ONE

[✓] The applicants, their agents, employees, family and/or any person with a financial interest in the project **have not contributed** over $250 to any Commissioner(s) or Alternate(s) within the past year.

[ ] The applicants, their agents, employees, family, and/or any person with a financial interest in the project **have contributed** over $250 to the Commissioner(s) or Alternate(s) listed below within the past year.

Commissioner or Alternate _____

Commissioner or Alternate _____

Commissioner or Alternate _____

Signature of Applicant or Authorized Agent _____ Date 1/4/00

Please print your name SAM BIRENBAUM

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land surveys, legal descriptions, subordination agreements, and other outside agreements will be required prior to issuance of the permit.

In addition, the Commission may adopt or amend regulations affecting the issuance of coastal development permits. If you would like notice of such proposals during the pendency of this application, if such proposals are reasonably related to this application, indicate that desire..... ☑ Yes ☐ No

SECTION VI. COMMUNICATION WITH COMMISSIONERS

Decisions of the Coastal Commission must be made on the basis of information available to all commissioners and the public. Therefore, permit applicants and interested parties and their representatives are advised not to discuss with commissioners any matters relating to a permit outside the public hearing. Such contacts may jeopardize the fairness of the hearing and result in invalidation of the Commission's decision by court. Any written material sent to a commissioner should also be sent to the commission office for inclusion in the public record and distribution to other Commissioners.

SECTION VII. CERTIFICATION

1. I hereby certify that I, or my authorized representative, have completed and posted or will post the **Notice of Pending Permit** card in a conspicuous place on the property within three days of submitting the application to the Commission office.

2. I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attached appendices and exhibits is complete and correct. I understand that the failure to provide any requested information or any misstatements submitted in support of the application shall be grounds for either refusing to accept this application, for denying the permit, for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the Commission.

3. I hereby authorize representatives of the California Coastal Commission to conduct site inspections on my property. Unless arranged otherwise, these site inspections shall take place between the hours of 8:00 A.M. and 5:00 P.M.

Signature of Authorized Agent(s) or if no agent, signature of Applicant

NOTE: IF SIGNED ABOVE BY AGENT, APPLICANT MUST SIGN BELOW.

SECTION VIII. AUTHORIZATION OF AGENT

I hereby authorize _____ to act as my representative and to bind me in all matters concerning this application.

Signature of Applicant(s)
(Only the applicant(s) may sign here to authorize an agent)

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2. Assessor's parcel map(s) showing the page number, the applicant's property, and all other properties within 100 feet (excluding roads) of the property lines of the project site. (Available from the County Assessor.)

3. Copies of required local approvals for the proposed project, including zoning variances, use permits, etc., as noted on Local Agency Review Form, Appendix B. Appendix B must be completed and signed by the local government in whose jurisdiction the project site is located.

4. Stamped envelopes addressed to each property owner and occupant of property situated within 100 feet of the property lines of the project site (excluding roads), along with a list containing the names, addresses and assessor's parcel numbers of same. The envelopes must be plain (i.e., no return address), and regular business size (9 1/2" x 4 1/8"). Include first class postage on each one. **Metered postage is not acceptable.** Use Appendix C, attached, for the listing of names and addresses. (Alternate notice provisions may be employed at the discretion of the District Director under extraordinary circumstances.)

5. Stamped, addressed envelopes (no metered postage, please) and a list of names and addresses of all other parties known to the applicant to be interested in the proposed development (such as persons expressing interest at a local government hearing, etc.).

6. A vicinity or location map (copy of Thomas Bros. or other road map or USGS quad map) with the project site clearly marked.

7. Copy(s) of project plans, drawn to scale, including site plans, floor plans, elevations, grading and drainage plans, landscape plans, and septic system plans. Trees to be removed must be marked on the site plan. In addition, a reduced site plan, 8 1/2" x 11" in size, must be submitted. Reduced copies of complete project plans will be required for large projects. NOTE: See Instruction page for number of sets of plans required.

8. Where septic systems are proposed, evidence of County approval or Regional Water Quality Control Board approval. Where water wells are proposed, evidence of County review and approval.

9. A copy of any Draft or Final Negative Declaration, Environmental Impact Report (EIR) or Environmental Impact Statement (EIS) prepared for the project. If available, comments of all reviewing agencies and responses to comments must be included.

10. Verification of all other permits, permissions or approvals applied for or granted by public agencies (e.g., Department of Fish and Game, State Lands Commission, U.S. Army Corps of Engineers, U.S. Coast Guard). For projects such as seawalls located on or near state tidelands or public trust lands, the Coastal Commission must have a written determination from the State Lands Commission whether the project would encroach onto such lands and, if so, whether the State Lands Commission has approved such encroachment. See memo to *"Applicants for shorefront development"* dated December 13, 1993.

11. For development on a bluff face, bluff top, or in any area of high geologic risk, a comprehensive, site-specific geology and soils report (including maps) prepared in accordance with the Coastal Commission's Interpretive Guidelines. Copies of the guidelines are available from the District Office.

SECTION V. NOTICE TO APPLICANTS

Under certain circumstances, additional material may be required prior to issuance of a coastal development permit. For example, where offers of access or open space dedication are required, preliminary title reports,

8. Will the proposed development convert land currently or previously used for agriculture to another use? ..... ☐ Yes ☒ No

If yes, how many acres will be converted? _____

9. Is the proposed development in or near:

a. Sensitive habitat areas (Biological survey may be required) ..... ☐ Yes ☒ No

b. Areas of state or federally listed rare, threatened, or endangered species ... ☐ Yes ☒ No

c. 100-year floodplain (Hydrologic mapping may be required) ..... ☐ Yes ☒ No

d. Park or recreation area ..... ☐ Yes ☒ No

10. Is the proposed development visible from:

a. State Highway 1 or other scenic route ..... ☐ Yes ☒ No

b. Park, beach, or recreation area ..... ☒ Yes ☐ No

c. Harbor area ..... ☐ Yes ☒ No

11. Does the site contain any: (If yes to any of the following, please explain on an attached sheet.)

a. Historic resources ..... ☐ Yes ☒ No

b. Archaeological resources ..... ☐ Yes ☒ No

c. Paleontological resources ..... ☐ Yes ☒ No

12. Where a stream or spring is to be diverted, provide the following information:

Estimated streamflow or spring yield (gpm) _____

If well is to be used, existing yield (gpm) _____

If water source is on adjacent property, attach Division of Water Rights approval and property owner's approval.

SECTION IV. REQUIRED ATTACHMENTS

The following items must be submitted with this form as part of the application.

1. Proof of the applicant's legal interest in the property. A copy of any of the following will be acceptable: current tax bill, recorded deed, lease, easement, or current policy of title insurance. Preliminary title reports will not be accepted for this purpose. Documentation reflecting intent to purchase such as a signed Offer to Purchase along with a receipt of deposit or signed final escrow document is also acceptable, but in such a case, issuance of the permit may be contingent on submission of evidence satisfactory to the Executive Director that the sale has been completed.

   The identity of all persons or entities which have an ownership interest in the property superior to that of the applicant must be provided.

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STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE W.

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

pg 1 of 2

MEMORANDUM

December 28, 1992

TO: Coastal Development Permit Applicants

FROM: Coastal Commission

SUBJECT: Notice Concerning Important New Disclosure Requirements

---

Starting on January 1, 1993, a California new law requires that all persons who apply to the Commission for a coastal development permit must provide to the Commission "the names and addresses of all persons who, for compensation, will be communicating with the Commission or Commission staff on their behalf." (Public Resources Code section 30319.) The law provides that failure to comply with the disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment. Additionally, a violation may lead to denial of the permit.

In order to implement this requirement, you are required to do three things. The first thing concerns question 2 on page 1 of the application, which requires that an applicant provide the "[n]ame, mailing address and telephone number of applicant's representative if any ..." When answering this question, an applicant should list all representatives who will communicate on his or her behalf, for compensation, with the Commission or the staff. This could include a wide variety of people such as lawyers, architects, biologists, engineers, etc.

Second, when submitting a completed application, an applicant should include a signed and dated copy of this notice.

Third, if an applicant determines after an application has been submitted that one or more people will be communicating on his or her behalf for compensation who were not listed on the completed application form, the applicant must provide a list in writing of those people and their addresses to the staff. The list must be received before the communication occurs.

By signing below, I indicate that I have read and understood this information.

1/4/00
DATE

SIGNATURE

2538L

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LIST OF PERSONS WHO WILL COMMUNICATE
ON BEHALF OF PERSONS WHOSE PERMITS HAVE BEEN
APPEALED TO THE COASTAL COMMISSION

Name of Person Whose Permit
Has Been Appealed _____

Project and Location _____

Commission Appeal No. _____

Persons Who Will Communicate
For Compensation With Commission
or Staff

NAMES	ADDRESSES

2538L

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CALIFORNIA COASTAL COMMISSION

So. Central Coast District

Permit Application Fee Receipt

Application No. 4-00-023

Date Received 1-26-00

PAYOR:

Sam Binenbaum Inc.
Name

22933 P.C.H. Hwy
Address

Malibu 90265 (310) 456-5533
City ZIP Telephone

APPLICANT (if other than Payor):

Sam & Nidia Binenbaum
Name

25306 Malibu Rd.
Address

Malibu 90265 (310) 456-5533
City ZIP Telephone

TYPE OF PERMIT:

- [x] Regular
- [ ] Administrative
- [ ] Emergency
- [ ] Amendment / Extension

FORM OF PAYMENT:

- [ ] Cash
- [x] Check # 4238
- [ ] Other _____

Permit fee $ 260.00

MD
Received by

1712

CCC-20 (10-88)

ORIGINAL—Payor DUP—Accounting TRIP—District

OSP 98 14033

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FOR COUNTY USE ONLY

P.2/2

FIRST AMERICAN TITLE COMPANY of Los Angeles

WHEN RECORDED MAIL TO

90 1049598

CONTINENTAL SAVINGS OF AMERICA
250 Montgomery Street, 3rd Floor
San Francisco, CA 94104
ATTN: LOAN SERVICE

LOAN NUMBER: 31506544
TAX SERVICE TYPE: B

RECORDED IN OFFICIAL RECORDS OF LOS ANGELES COUNTY, CA
JUN 13 1990 AT 8 A.M.
Recorder's Office

RECEIVED
JAN 26 REC'D
CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

[Space Above This Line For Recording Data]

DEED OF TRUST

THIS DEED OF TRUST ("Security Instrument") is made on JUNE 1, 19 90. The trustor is SAM E. MONDALUK, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY

("Borrower"). The trustee is FIRST AMERICAN TITLE INSURANCE COMPANY ("Trustee"). The beneficiary is CONTINENTAL SAVINGS OF AMERICA, which is organized and existing under the laws of the State of California, and whose address is 250 Montgomery St/3rd Fl, San Francisco, CA 94104 ("Lender"). Borrower owes Lender the principal sum of ONE HUNDRED THOUSAND AND NO/100 Dollars (U.S. $100,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on JUNE 1, 2020. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in LOS ANGELES County, California:

PARCEL 1:

Lot 31 of Tract 12907, as per map recorded in Book 263 Pages 39 and 40 of Maps, in the office of the county recorder of said county.

EXCEPT therefrom all minerals, oil, petroleum, asphaltum, gas, coal and other hydrocarbon substances in, on, within and under said lands and every part thereof, but without surface right of entry, as reserved by Marblehead Land Company, in deed recorded November 6, 1945 in Book 22400 Page 245, Official Records.

PARCEL 2:

That portion of Rancho Topanga Malibu Sequit, bounded on the North by the 40 foot strip of land relinquished to the County of Los Angeles, by Resolution of the California State Highway Commission, recorded March 15, 1949 in Book 37600 Page 251, Official Records, in the office of the county recorder of said county, bounded on the South by the Northerly line of Lot 31 of Tract 12907, as per map recorded in Book 263 Pages 39 and 40 of Maps Records, bounded on the East by the Northerly prolongation of the Easterly line of said Lot 31 and bounded on the West by the Northerly prolongation of the Westerly line of said Lot 31.

which has the address of 23306 MALIBU ROAD MALIBU
(Street) (City)
California 90265 ("Property Address")
(Zip Code)

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Doc 11

CALIFORNIA—Single Family—FNMA/FHLMC UNIFORM INSTRUMENT

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STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, Governor

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

2/17/00

Sam & Nida Birenbaum
25306 Malibu Road
Malibu, CA 90265

4-00-023
(File No.)

Sam & Nidia Birenbaum
(Applicant)

(Agent)

25306 Malibu Road, Malibu.
(Project Street and City)

Your coastal permit application has been reviewed and is incomplete. Before it can be accepted for filing, the information indicated below must be submitted.

✓ 1. Filing fee is $500. Payable by check or money order to the California Coastal Commission. Amount due $300.

__ 2. Proof of the applicant's legal interest in the property. (A copy of any of the following will be acceptable: current tax bill, recorded deed, signed Offer- to-Purchase along with a receipt of deposit, signed final escrow document, or current policy of title insurance. Preliminary title reports will not be accepted.)

__ 3. Assessor's parcel number as indicated on a property tax statement. The property legal description as contained in a Grant Deed is not the assessor's parcel number.

✓ 4. Assessor's parcel map(s) showing the applicant's property and all other properties within 100 feet (excluding roads) of the property lines of the project site. (Available from the County Assessor). Drawings or facsimiles are not acceptable.

__ 5. Stamped envelopes addressed to each property owner and occupant of property situated within 100 feet of the property lines of the project site (excluding roads), along with a list containing the names, addresses and assessor's parcel numbers of same. The envelopes must be plain (i.e., no return address), and regular business size (9 1/2 x 4 1/8"). Include a first class postage stamp on each one. Metered envelopes are not acceptable. Mailing list must be on the format shown on page C-1 of the application packet.

__ 6. Enclose appropriate map(s) indicating location of property in relation to the coastline. Thomas Brothers map, road map or area maps prepared by local governments may provide a suitable base map.

EXHIBIT NO. 5
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__7. Cost valuation by city/county or contractor for the development.

✓8. Copies of required local approvals for the proposed project, including zoning variances, use permits, etc. Include minutes of any public hearing.

✓9. Verification of all other permits, permissions or approvals applied for or granted by public agencies (e.g., ~~Dept. of Fish and Game,~~ State Lands Commission, U.S. ~~Army Corps of Engineers, U.S. Coast Guard).~~ L.A. County Parks for sand removal.

__10. Where septic systems are proposed, percolation test prepared by a qualified sanitarian or soils engineer.

✓11. ~~County or~~ City Health Department review of septic system.

__12. Where water wells are proposed, evidence of County or City review and approval.

✓13. 2 set(s) of project drawings including site plans, floor plans, and all elevations. Drawing must be to scale with dimensions shown. Trees to be removed must be marked on the site plan. All oak trees and riparian vegetation (canopy), streams and drainages, wetlands, easements, and public hiking and equestrian trails (including existing offers to dedicate trails) must be identified on the site plan. Plans must be approved by the planning department and stamped "Approval-in-Concept." We need ___more set(s).

✓14. 2 set(s) of detailed grading and drainage plans with cross-sections and quantitative breakdown of grading amounts (cubic yards of cut and fill). Plans must be to scale and prepared by a registered engineer.

✓15. Two copies of a comprehensive, current (not more than 1 year old), site-specific geology and soils report (including maps) prepared in accordance with the Guidelines for Engineering Geologic Reports, prepared by the State Board of Registration for Geologists & Geophysicists (11/93). Copies of the guidelines are available from the Coastal Commission District Office.

✓16. A current (not more than 1 year old) City or County "Approved" Geologic Review Sheet.

✓17. "Approval-in-Concept" form completed by the planning department or other responsible department.

__18. Current zoning for project site.

✓19. A reduced set of legible drawings to 8 1/2 x 11" in size. The reduced set shall include a site plan, grading plan, elevations and topography if required for submittal.

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__20. For projects which include demolition, two copies of a site plan and elevations or photographs of the structure to be demolished. Demolition must be included in the "Approval-in-Concept" project description.

__21. Remodel projects must include percent of walls to be demolished (interior and exterior), and indicate walls to be demolished and retained on-site plans.

__22. City or County Environmental Review Board Approval.

__23. A copy of any Final Negative Declaration, Draft of Final Environmental Impact Report (FIR) or Final Environmental Impact Statement (FEES) prepared, for the project. Comments of all reviewing agencies and responses to comments must be included.

__24. All projects in or adjacent to a Stream, Wetland , or possible Wetland - California Department of Fish and Game and U.S. Fish and Wildlife Service approvals.

__25. Fire Department approved fuel (vegetation) modification plans.

__26. Driveways, access roads, and turn-around areas - preliminary Fire Department Approval.

__27. Preliminary approval from the Regional Water Quality Control Board. Single family dwellings and additions to existing structures are excluded.

__28. An archaeological report developed by a qualified archaeologist regarding the presence and significance of archaeological and cultural resources.

THE APPLICATION FORM

__1. The application must be signed by the applicant (original signature) and the applicant's representative. if representative is authorized to represent applicant.

__2. If application is not signed by the applicant(s), a letter executed by the applicant(s) which authorizes the representative to act in his /her behalf and to bind the applicant(s) in all matters concerning his/her application or the authorization page of the application form must be completed by the applicant.

__3. Section _____page_____of the application must be completed.

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DEVELOPMENT ON A BEACH OR BLUFF

✓ 1. All projects on a beach require State Lands Commission determination of location of most landward property line. (State Lands Commission, 100 Howe Street, Suite 100, Sacramento, CA 95825-8202, phone (916) 574-1800. Please make reference to your Coastal Development Permit file number when contacting the State Lands Commission.

✓ 2. For projects on a coastal bluff or shoreline - a stringline map showing the existing, adjacent structures, decks and bulkheads in relation to the proposed development. The stringline is to be prepared in accordance with the Coastal Commission's Interpretive Guidelines.

✓ 3. For shoreline development and/or protective devices (seawalls, bulkheads, groins & rock blankets) - project plans with cross-sections prepared by a registered engineer. The project plans must show the project foot-print in relation to the applicant's property boundaries (include surveyed benchmarks), septic system, Mean High Tide Line (winter and summer), and the Wave Uprush Limit Line.

✓ 4. For shoreline protective devices a geotechnical report and wave uprush study prepared in accordance with the Commission guidelines. Copies of guidelines are ~~available from the District Office.~~ attached.

SUBDIVISION OF PROPERTY

__1. Approved tentative tract/parcel maps with list of conditions and minutes for subdivisions and condominium projects. Maps must include location of proposed building sites (2 copies).

__2. Comprehensive site specific geologic/soils report indicating that all lots are buildable. For Malibu/Santa Monica Mountains, must have a current (not more than one year old) Geologic Review Sheet from the city or county and two copies of a geologic and/or soils report.

__3. Detailed grading and drainage plans with cross-sections showing all roads, building pads, and remedial grading with a quantitative break down of grading amounts.

__4. Map showing all parcels and their sizes within a 1/4 mile radius of the property.

__5. Percolation test results indicating lots are capable of accommodating a septic system.

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DEVELOPMENT IN SMALL LOT SUBDIVISIONS

__1. Surveyed topography map and gross structural area calculations for Malibu/Santa Monica Mountains small lot subdivisions. See Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan-copies available from district office.

__2. Statement of Water Service and Access Certificate for Building Permit signed by Los Angeles County Fire Department. If Fire Department requirements include road or water installation or modifications, submit plans stamped and approved by Los Angeles County Fire Department (not required for minor additions to single family dwellings).

STAFF COMMENTS

Under certain circumstances, additional material, not previously indicated, may be required before an application can be deemed complete. The following additional material is required for the completion of this application:

Amend project description to include 'unpermitted' residential unit, two wood walls/fences along west and east property boundary, identify the number and size of large boulders, identify the number and size of sandbags, connect residential unit to existing or upgraded septic system, import sand from Los Angeles County Beach and identify quantity in cubic yards, brick patio, tent cover and pole structure, sign posted on pole placed in beach sand as identified on 11/16/99. Provide checked information on prior pages relative to proposed project description and amended project description noted above

FAILURE TO PROMPTLY SUBMIT THE INFORMATION REQUESTED ABOVE WILL RESULT IN THE DELAY OF YOUR PROJECT. PLEASE ADD ANY COMMENTS TO THE BACK OF THIS SHEET.

Please provide the above by April 21, 2000.

By: James Johnson

Date: 2/17/00

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Attachment: Information Needed Before Your Application Can Be Filed.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

REGULAR MAIL AND HAND DELIVERED

February 17, 2000

Sam & Nina Birenbaum
25306 Malibu Road
Malibu, CA 90265

SUBJECT: Notice of intent to commence Cease and Desist Order proceedings; Coastal Act Violation File No. V-4-98-008

Dear Mr. & Mrs. Birenbaum:

This letter is to notify you of the intent of the California Coastal Commission to commence Cease and Desist Order proceedings as a result of your unauthorized development activities at 25306 Malibu Road, Malibu, CA 90265

History of the Violation Investigation

The above-referenced violation investigation concerns development (as that term is defined in section 30106 of the California Coastal Act) that has been undertaken in a manner that is inconsistent with the permitting requirements set forth in section 30600 of the Coastal Act. The subject violation consists of: 1) failure to apply for a coastal development permit (CDP) within 90 days of issuance of Emergency Permit No. 5-83-162G in 1983, for a rock revetment; and 2) failure to apply for a coastal development permit (CDP) for other development activities that continue through the present. These development activities consists of:

1) grading 1800 cubic yards of material (mainly sand some of which was imported) to create a patio area on the beach;
2) construction of a patio enclosure;
3) replacement of a septic tank;
4) placement of a trailer on the beach; and
5) construction of two 22-foot high wood retaining walls.

On March 5, 1995 Coastal Commission staff simultaneously became aware of the violation and sent you the first of seven letters notifying you that you were in violation of the Coastal Act and that you could resolve the violation by applying for an after-the-fact CDP for the unpermitted development. Our most recent letter to you dated November 18, 1999, gave you until December 20, 1999, to file a CDP. On December 20, 1999, you verbally requested and we granted you a

EXHIBIT NO. 6
CCC-00-CD-03
1 of 3

time extension until December 31, 1999, to file a complete CDP application to resolve this violation. On January 24, 2000 you submitted an incomplete CDP application for only the unpermitted riprap on your property. As a result of your failure to file a complete CDP application for all the cited unpermitted development on your property, and your failure to comply with the Coastal Act, Commission staff has moved forward with proceedings for the Commission to issue a Cease and Desist Order pursuant to Coastal Act section 30810 to resolve the subject violation.

Steps in the Cease and Desist Order Process

Pursuant to Coastal Act section 30810, the Commission has the authority to issue an order directing any person to cease and desist if the Commission, after a public hearing, determines that such person has engaged in "any activity that requires a permit from the commission without securing one." Additionally, pursuant to section 30810(b), the cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including immediate removal of any development or material.

An order issued pursuant to section 30810 would require that you: 1) refrain from engaging in any further development activities on your property without a CDP; and 2) submit a complete CDP application to the Coastal Commission's South Central District Office requesting a permit to either retain the existing unpermitted development, or to remove existing development and restore the site to its pre-violation condition within a specified time period.

Please be advised that if the Commission issues a cease and desist order section 30821.6(a) of the Coastal Act authorizes the Commission to seek monetary daily penalties for any intentional or negligent violation of the order for each day in which the violation persists.

In accordance with the California Code of Regulations, Title 14, section 13181(a), you have the opportunity to respond to the Commission staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. The completed Notice of Defense form must be returned to this office no later than **March 10, 2000.**

Options for Resolving this Violation

You can prevent this hearing from taking place by filing a complete CDP application for all the cited unpermitted development activity with our South Central (Ventura Office), prior to the scheduled date of cease and desist order action, requesting a permit to either retain the existing unpermitted development, or to remove existing development and restore the site to its pre-violation condition. A CDP is required if you propose to remove cited unpermitted development because removal constitutes "development" as defined in section 30106 of the Coastal Act. The Commission must review any proposed removal project to ensure that it is consistent with the resource protection policies contained in the Coastal Act. For CDP filing requirements, please contact John Ainsworth in our Ventura Office at (805) 641-0142.

Should you have any questions regarding this enforcement action or procedures, please contact Jan E. Perez at (415) 904-5294.

Sincerely,

PETER DOUGLAS
Executive Director

Enclosure

cc: Nancy L. Cave, Manager, Statewide Enforcement Program
Jan E. Perez, Statewide Enforcement Program
John Ainsworth, South Central Coast Permits and Enforcement Supervisor

EXHIBIT NO. 6
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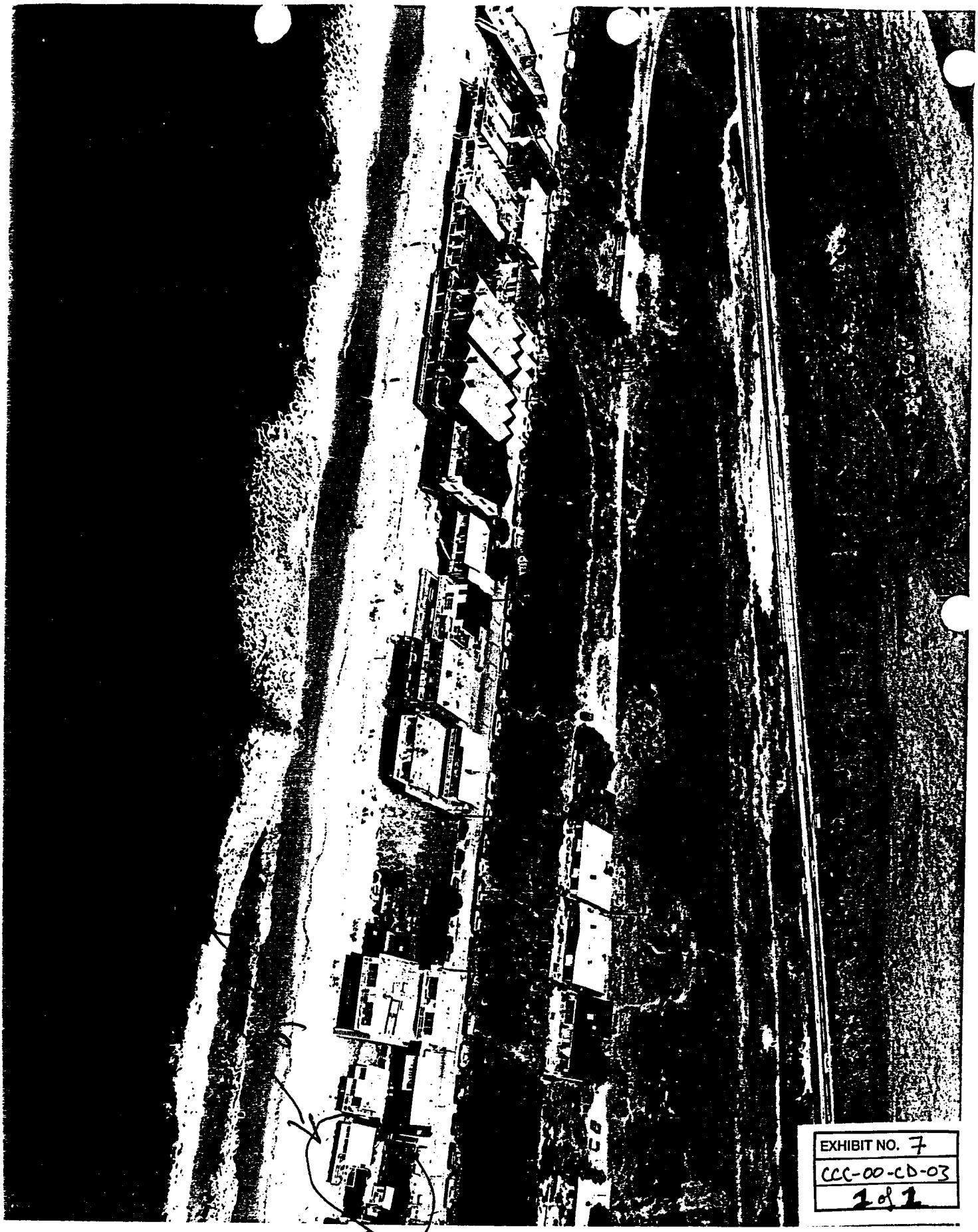

EXHIBIT NO. 7
CCC-00-CD-03
1 of 1

DESTROYED BY OCEAN STORM
3-2-83

7-28-74 25306 MALIBU RD

3 CERT # 1367216 to D.C.S. 25

SAM BIRENBAUM
ATTORNEY AT LAW
OLD MALIBU COURTHOUSE BUILDING
21323 PACIFIC COAST HIGHWAY - SUITE 3
MAIL TO: POST OFFICE BOX 385
MALIBU, CALIFORNIA 90265
TELEPHONE (213) 456-5533

April 22, 1983

L.A. County Assessor's Office
500 W. Temple
Los Angeles, CA 90012

Re: Ass. I.D. No.: 4459-016-013
Address: 25306 Malibu Road, Malibu, CA

Dear Assessor,

The purpose of this letter is to notify your office that on March 2, 1983 the house which I own which was located at the above-described address was completely destroyed by the ocean storm which occurred on said date. This fact is material to the determination of its assessed value.

There is also a question as to whether or not any reconstruction will be allowed on this site because of a "slide zone" designation which has been made by the County Engineer. That office has instructed me to request your office to provide some documentation to me which will reflect the size and description of the improvements which existed prior to the storm. Please forward whatever documentation you have to me as soon as possible. (Return envelope enclosed).

Thank you for your assistance.

Very truly yours,

SAM BIRENBAUM

SB:gl

EXHIBIT NO. 8
CCC-00-CD-03
1 of 1

C

APPLICATION FOR REASSESSME
PROPERTY DAMAGED OR DESTROYED BY MISFORTUNE OR CALAMITY

ASSESSOR, LOS ANGELES COUNTY
500 W. TEMPLE ST., LOS ANGELES, CALIFORNIA 90012

APPLICATION MUST BE FILED WITHIN 30 DAYS OF THIS DATE OF NOTIFICATION

5 (MONTH) 3 (DATE) 83 (YEAR)

In accordance with Section 170 of the Revenue and Taxation Code of the State of California, I hereby apply for a reassessment of the following described property which was damaged or destroyed through no fault of my own.

THE DAMAGE WAS AT LEAST $5,000.

Address of Damaged Property 25306 Malibu Rd. Malibu (CITY)

Type of Damaged Property: ☒ Real Property
☐ Business Personal Property
☐ Inventory ☐ Personal Property ☐ Fixtures
☐ Boat or Aircraft

If Available from Tax Bill Please Indicate:

☐ Secured Tax Bill Map Book 4459 Page 016 Parcel 013 Tax Rate Area 8664

☐ Unsecured Tax Bill Assm't No. _____ Index No. _____ Bill No. _____

☐ Unsecured Tax Bill Boat or Aircraft Registration No. _____

1. Date the damage occurred: MARCH 3, 1983 Date ~~repaired~~ REPLACED: N.A. (NONE YET)
2. Type of property damaged or destroyed consisted of: SINGLE FAMILY DWELLING
3. Damage was caused by: OCEAN STORM
4. Describe the damage: ENTIRE HOUSE PLUS DECKS, SERVICE PORCH, FOUNDATION, SEPTIC TANK AND LEACHFIELD, HOT TUB, GARDEN, YARD & LANDSCAPING WERE COMPLETELY DESTROYED AND WASHED AWAY.
5. The amount of damage to Real Property $ 150,000.00

   The amount of damage to taxable Personal Property $ _____
   (Do not include household furnishings or personal effects.)
6. If you acquire repair bills or estimates, please attach copies ✓ ATTACHED
   (This request does *not* extend the 30-day filing requirement.)

   If you acquire repair bills or estimates after filing this application, mail copies to the above address. Attention: DCS Room 250.

We strongly recommend that photographs of the damaged property be taken. If copies of the photographs are enclosed with the application for reassessment, the Assessor's Department will be able to process your application more quickly.

If my property is reassessed, and taxes have been paid, this application shall constitute a claim for refund.

I declare under penalty of perjury that all of the foregoing statements are, to the best of my knowledge, true and correct.

Applicant's Name (please print) SAM & NIDIA BIRENBAUM

Applicant's Mailing Address P.O. BOX 385, MALIBU (CITY), CA 90265 (ZIP CODE)

Phone (from 8:00 a.m. to 5:00 p.m.) (213) 456-5533

Applicant's Signature Sam Birenbaum / Nidia Birenbaum Date 5.4.83

MAIL TO ABOVE ADDRESS! ATTENTION: DCS ROOM 250

REVERSE SIDE FOR REMARKS AND ADDITIONAL INFORMATION

ASSESSOR'S USE ONLY				
DATE OF FILING:	T.R.A.	MAP BOOK	PAGE	PARCEL
		4459	016	013

02

EXHIBIT NO. 9
CCC-00-CD-03
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76A836C AOS-820 (Rev. 6/80)

5206 MALIBU ROAD

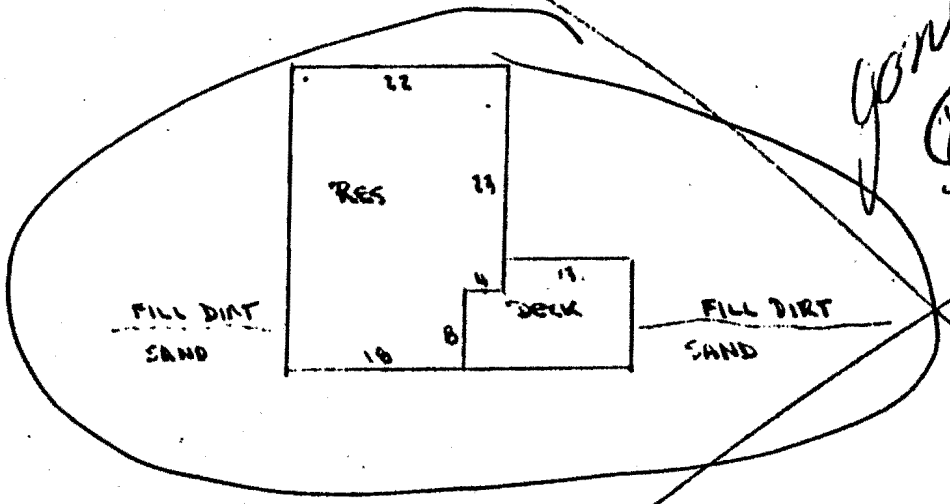
DIAGRAM AND COMPUTATION RECORD - L.A. Co. Assessor

07 | 4459

MALIBU ROAD

DIRT PARKWAY

BANK DOWN 10' FT



gone due to Storm of 83

MISCELLANEOUS STRUCTURES

Structure	Foundation	Floor	Exterior	Roof

AREA COMPUTATIONS

Main Areas		Other Areas	
RES. 22 x 22	506	GAR.	
8 x 18	144		
	650	DECK 4 x 13	52
		8 x 13	136
			188

Date	Appraiser	MISCELLANEOUS INFORMATION
740507	Schwarz	FIELD PICK-UP OLD RES ADDED TO YEARS 1968
1974		

1974 DS B

	Area	Unit Cost	Cost
RES	650	12.50	8130
DECK	168	3.00	504
SHED	80	3.00	240
RES (1)	650	2.00	1300
R.C.N.	OTHER		2100
R.C.N.	TOTAL		10720

EFF 40 .67 x 10720 = 6670

EXHIBIT NO. 9
CCC-00-CD-02
2 of 3

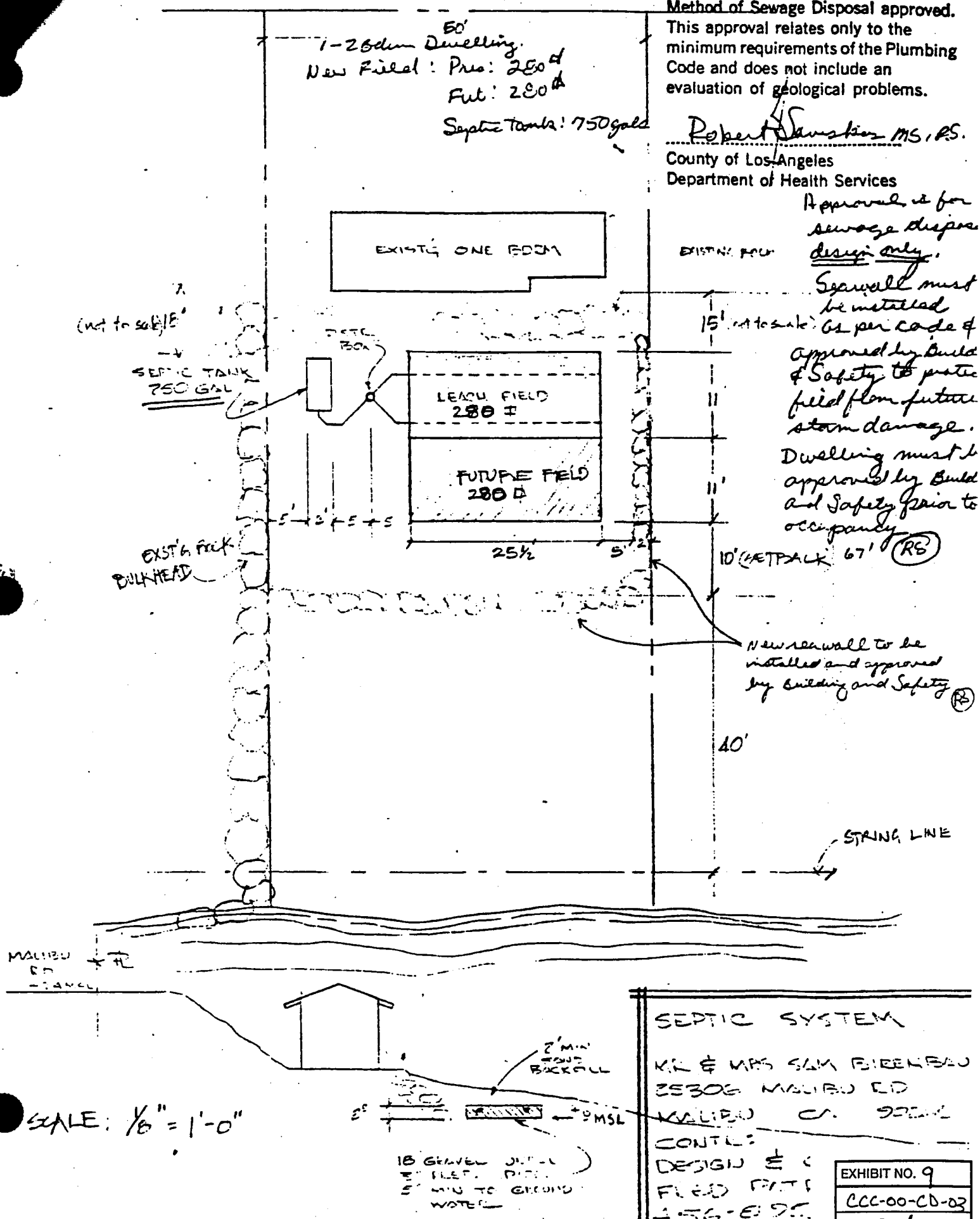
MALIBU, RD

6-9-83
Date

Method of Sewage Disposal approved. This approval relates only to the minimum requirements of the Plumbing Code and does not include an evaluation of geological problems.

Robert Samstein MS, RS.
County of Los Angeles
Department of Health Services

Approval is for sewage disposal design only. Seawall must be installed as per code & approved by Build & Safety to protect field from future storm damage. Dwelling must be approved by Build and Safety prior to occupancy (RS)



SEPTIC SYSTEM

MR & MRS SAM BIRENBAU
25306 MALIBU RD
MALIBU CA. 90265
CONTL:
DESIGN & C
FIELD PATT
456-6095

EXHIBIT NO. 9
CCC-00-CD-03
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State of California, George Deukmejian, Governor

California Coastal Commission
South Coast District
245 West Broadway, Suite 380
P.O. Box 1450
Long Beach, California 90801-1450
(213) 590-5071

FILE COPY

EXEMPTION FROM OBTAINING COASTAL DEVELOPMENT PERMIT

DATE: March 15, 1983

TO: Mr. Sam Birenbaum, 25306 Malibu Road, Malibu, CA 90265
(456-5533)

FROM: SOUTH COAST DISTRICT OFFICE, CALIFORNIA COASTAL COMMISSION

SUBJECT: PROPOSED DEVELOPMENT AT: 25306 Malibu Road, Malibu

IN ACCORDANCE WITH PUBLIC RESOURCES CODE SECTION 30610 (g) OF THE CALIFORNIA COASTAL ACT OF 1976 AS AMENDED AND EFFECTIVE 1 JANUARY 1980, NO COASTAL DEVELOPMENT PERMIT IS REQUIRED FOR:

ection 30610(g) - The replacement of any structure, other than a public works acility, destroyed by a disaster. The replacement structure shall conform to pplicable existing zoning requirements, shall be for the same use as the estroyed structure, shall not exceed either the floor area, height or bulk of the estroyed structure by more than 10 percent, and shall be sited in the same locatic n the affected propoerty as the destroyed structure...."

~~REPLACE SEPTIC SYSTEM, REPLACE BUILDING LOST TO AN AS-IT-WAS CONDITION~~

YOUR PERMIT APPLICATION NUMBER _____ IS HEREWITH BEING RETURNED.

SINCERELY YOURS,

SOUTH COAST DISTRICT OFFICE

NANCY A. LUCAST, DISTRICT DIRECTOR

BY Dixie Newell

EXHIBIT NO. 10
CCC-00-CD-03
1 of 1

Sam Birenbaum
Attorney at Law
25306 Malibu Road
Malibu, California 90265
Telephone: (310) 456-5533
Fax: (310) 456-6146

By U.S. Mail, Certified Return Receipt Requested

March 10, 2000

Jan E. Perez
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105

Re: File No. 4-00-023
Property location: 25306 Malibu Road, Malibu, CA 90265

Dear Ms. Perez:

Please be advised that the following constitutes the submission of the "Statement of Defense Form" by the applicants Sam and Nidia Birenbaum with reference to the above-referenced property location and file number:

Paragraph No. 5 (page 4):

Application for Coastal Development Permit was submitted and the applicants will supplement that application in order to complete the process pursuant to the February 17, 2000 directions by staff member James Johnson.

Sincerely,

Sam Birenbaum

SB:ncb

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