

CALIFORNIA COASTAL COMMISSION

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

Filed: 2/12/00
49th Day: 4/1/00
180th Day: 8/10/00
Staff: A. Verbanac
Staff Report: 5/24/00
Hearing Date: 6/13-16/00
Commission Action:



RECORD PACKET COPY

STAFF REPORT: PERMIT EXTENSION REQUEST

APPLICATION NO.: 4-97-071-E1

APPLICANT: Elliot and Alana Megdal

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

PROJECT DESCRIPTION: Request for a one year extension of Coastal Development Permit 4-97-071 approved for 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.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department Approval in Concept; City of Malibu Environmental Health Department Approval in Concept; Malibu City Council Resolution No. 97-010; Approval of Negative Declaration No. 96-023.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 4-97-071, 4-97-071-T1, Revocation Request R-4-97-071.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the extension be granted because there are no changed circumstances have occurred since the approval of the subject coastal development permit which affect the project's consistency with the Coastal Act.

4-97-071-E1 (Megdal)

PROCEDURAL NOTE: The Commission's regulations provide that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act (14 C.C.R. Section 13169).

If three Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act due to changed circumstances, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period.

I. STAFF RECOMMENDATION:

The staff recommends that the Commission find no changed circumstances, which results in approval of the request for a one year extension of the permit:

MOTION: *I move that the Commission determine that there are changed circumstances that affect consistency of the development proposed in Coastal Development Permit 4-97-071 with the Coastal Act and therefore the request for a one year extension of the permit is denied.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a NO vote and adoption of the Resolution and Findings set forth below. If three Commissioners vote YES, the request for a one year extension of the permit is denied. If three Commissioners do not vote YES, the one year extension is granted.

RESOLUTION:

The Commission hereby determines that there are no changed circumstances that affect the consistency of the development proposed in Coastal Development Permit No. 4-97-071 with the Coastal Act and therefore a one year time extension of the permit is granted.

4-97-071-E1 (Megdal)

II. FINDINGS AND DECLARATION

The Commission hereby finds and declares:

A. Project Description and Background.

The applicants are requesting a one year extension of Coastal Development Permit 4-97-071 for 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.

The subject site is located on a 6,895 sq. ft. beachfront parcel on Amarillo Beach between Malibu Road and the Pacific Ocean. The area surrounding the subject site is characterized as a built-out section of Malibu, with a majority of the beachfront parcels along Amarillo Beach developed with single family homes. The property directly east of the subject site is developed with an existing single family residence and the adjacent property directly to the west of the site is vacant. The parcel west of the vacant lot, two parcels west from the project site, is also developed with a single family home.

On November 5, 1997 the Commission granted to Paul and Judy Schaeffer the subject permit with special conditions regarding 1) construction responsibilities and debris removal, 2) applicant's assumption of risk, 3) geology, 4) offer to dedicate lateral public access, 5) revised plans, and 6) signs (restriction). Prior to compliance with all the above referenced special conditions of the subject permit, the property was sold to the new owners of the subject property, Elliot and Alana Megdal, on December 18, 1998. On November 12, 1999 staff received a request to assign the subject permit to the new owners of the property and the permit was transferred to Mr. and Mrs. Megdal on December 10, 1999. Final issuance of the coastal permit is dependent on completion of compliance, by the new owners, with all special conditions required by the Commission for permit approval and issuance.

On January 10, 2000 Commission Staff received a written request for revocation of the subject permit (R-4-97-071) from Daniel D. Hillman, resident of the adjacent property directly east of the project site, and the item was scheduled for public hearing on March 14, 2000. The Commission found that grounds did not exist, under Administrative Code Section 13105, for revocation of the subject permit and the revocation request was denied.

4-97-071-E1 (Megdal)

As previously mentioned, the Commission approved the subject coastal permit on November 5, 1997 with a standard condition that the permit would expire two years after the approval date if development did not commence within that time period. The current permit applicants submitted a written request for extension of the permit on January 12, 2000, after the two year expiration date. Staff notes however, that the Notice Of Intent To Issue Permit sent to both the original applicant of the permit (Schaeffer) and later to the assignees of the permit (Megdal), cited an incorrect date for Commission approval of the permit. The Notice Of Intent cited February 2, 1998 for the date of Commission approval of the permit, therefore, the assignees and current applicants of the permit were notified that the permit would be valid two years from the date cited on the Notice Of Intent (February 2, 1998) rather than the actual date of Commission approval (November 5, 1997). Staff has determined that the extension request for Coastal Permit 4-97-071 is a timely and valid request by the current owners of the subject property being that the request was submitted prior to the two year expiration dated as it was cited on the Notice Of Intent To Issue Permit. The applicants were notified of the date error on the Notice Of Intent after the actual expiration date of the subject permit, and were informed that the actual Commission approval date of November 5, 1997 would be referred to for all subsequent applications related to the subject permit. A corrected copy of the Notice was prepared and sent to the applicants (Exhibit 1).

Staff initially determined that the extension request was immaterial and that there were no changed circumstances that might affect consistency of the project with the Coastal Act. Notices of that determination were sent out April 3, 2000. Staff received two written objections dated April 6, 2000 and April 13, 2000. The applicants were notified of the objections to the extension request and informed that the item would be scheduled for the next available Commission hearing.

B. Grounds for Extension Approval

On November 5, 1997 the Commission approved the subject permit finding it to be consistent with Chapter Three policies of the Coastal Act pursuant to 6 special conditions. As previously mentioned, the subject permit was due to expire on November 5, 1999, two years from the date of Commission approval of the project. However, due to an inadvertent error on the Notice Of Intent To Issue Permit for the date of Commission approval of the project, the current applicants were not aware of this expiration date. The Commission notes that the applicants have submitted a request for an extension of the subject permit prior to the expiration date as cited on the Notice of Intent sent to the applicants upon assignment of the permit.

Section 13169 of the California Code of regulations requires that the Executive Director determine whether or not there are changed circumstances that may affect the consistency of the permitted project with the Coastal Act. Staff has reviewed the

4-97-071-E1 (Megdal)

Commission's files on the subject permit and the written objections to the extension request.

The first letter of objection to the extension request dated April 6, 2000 (Exhibit 2) asserts that the subject permit was granted on inaccurate and misleading plans submitted by the applicant, and that when the City of Malibu reviewed the plans the permit was denied. Staff contacted the City of Malibu Planning Department to request information on the City's review of this project. Drew Purvis, Senior Planner for the City of Malibu Planning Department, confirmed on May 22, 2000 that the project, as originally approved under the subject coastal permit, retains an active approval from the City. The applicants have recently submitted an amendment application to the City for the approved project which the City Planning Department and Commission has reviewed. During the review of the proposed amendment the issue of inaccurate plans was raised by the City and the item was continued. The review and status of the project amendment by the City has no bearing on the project previously approved under the subject coastal permit.

Therefore, the status of the Local Approval for the proposed project has not changed. The objection letter further asserts that the subject permit has expired and that project plans for the approved project have changed. As previously mentioned, the date of Commission approval was incorrectly cited on the Notice Of Intent To Issue Permit prepared for the subject permit. As such, the new applicants of the permit (Megdal) were not informed of the correct date of Commission approval of the project and therefore, were not aware of the actual expiration date of the permit. The applicants have, however, submitted an extension request for the subject permit prior to the expiration date of the permit as cited on the Notice Of Intent To Issue Permit received by the applicants when they assumed responsibility for compliance with the subject coastal permit. Therefore the Commission finds that the applicants' request for an extension to the subject permit is a timely and valid request. Finally, staff has received no evidence that project plans have changed for the proposed project and the applicants are aware that, (for example) should the project description or plans approved by the Commission under Coastal Development Permit 4-97-071 change, the applicants are required to submit for an amendment to the subject permit or a new coastal permit.

The second letter of objection to the extension request dated April 13, 2000 (Exhibit 3) asserts that the permit approval by the Commission was based on incorrect project plans submitted by the applicant relative to deck and building stringlines for the project site. The letter asserts that existing development, on properties adjacent to the subject site, was not accurately illustrated on plans submitted with the coastal permit application. The issues of building and deck stringlines and the possible submittal of inaccurate project plans by the original applicant for the project site were previously discussed and evaluated at the original Commission hearing on the subject permit, and were again addressed at the Commission hearing on the Revocation Request (Exhibit

4-97-071-E1 (Megdal)

4) for the subject permit. The Commission determined that information submitted on project plans for the subject permit was accurate, and information identified in the letter of objection is not relevant to the stringline determination for the site and would not affect the Commission's decision for the permit. Staff has received no evidence that there are changed circumstances regarding the project plans and established stringlines approved by the Commission for the subject permit.

There have been no changes relative to the status of Local Approval of the project approved under Coastal Development Permit 4-97-071 or coastal resources at the project site. Therefore, the Commission finds that there are no changed circumstances pursuant to 14 C.C.R. Section 13169 of the California Code of Regulations that would affect the consistency of the approved project with the Coastal Act. Accordingly, the Commission finds that there are **no changed circumstances** since the approval of the project that affect its consistency with the Coastal Act. Therefore, the Commission grants a one year extension of Coastal Development Permit 4-97-071.

CALIFORNIA COASTAL COMMISSION

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



Page 1 of 4

Date: April 3, 2000

Permit Application No. 4-97-071

CORRECTED COPY**NOTICE OF INTENT TO ISSUE PERMIT**

On November 5, 1997, the California Coastal Commission granted to Paul & Judy Schaeffer, permit 4-97-071, subject to the attached conditions, for development consisting of: Demolition of an existing 1390 sq. ft. single family residence; 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; 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 and is more specifically described in the application on file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 24612 Malibu Rd., Malibu.

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions 1-6, imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission by,

PETER DOUGLAS
 Executive Director

By: April Verbanac
 Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit No. _____, and fully understands its contents, including all conditions imposed.

 Date

 Permittee

Please sign and return one copy of this form to the Commission office at the above address.

EXHIBIT 1
CDP #4-97-071-E1
Notice Of Intent Corrected Copy

NOTICE OF INTENT TO ISSUE PERMIT

Page 2 of 4
Permit No. 4-97-071

STANDARD CONDITIONS:

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

SPECIAL CONDITIONS:

1. **Construction Responsibilities and Debris Removal**

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

NOTICE OF INTENT TO ISSUE PERMIT

Page of 3 of 4
Permit No. 4-97-071

2. Applicant's Assumption of Risk.

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from storm waves, erosion or flooding and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

3. Geology

All recommendations contained in the Wave Uprush Study by Pacific Engineering Group dated April 30, 1996 and in the Preliminary Soils and Engineering Geologic Investigation Report, prepared by California Geosystems dated 1/24/96 shall be incorporated into all final design and construction plans including drainage, septic system, and retaining walls, and all plans must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultant's review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

4. Offer to Dedicate Lateral Public Access

In accord with the applicant's proposal as part of this project of an offer to dedicate, an easement for lateral public access and passive recreational use along the shoreline, the applicant shall be required to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be located along the entire width of the property from the mean high tide line landward to 10 ft. seaward from the dripline of the first floor deck as illustrated on the site plans prepared by Goldman/Firth/Boccatto Architects dated September 9, 1996 and revised March 3, 1997. The document shall contain the following language:

NOTICE OF INTENT TO ISSUE PERMIT

Page 4 of 4

Permit No. 4-97-071

(a) Privacy Buffer.

The area ten (10) feet seaward from the dripline of the first floor deck as illustrated on the site plans prepared by Goldman/Firth/Boccatto Architects dated September 9, 1996 and revised March 3, 1997 shall be identified as a privacy buffer. The privacy buffer shall be applicable only if and when it is located landward of the mean high tide line and shall be restricted to pass and repass only, and shall be available only when no other dry beach areas are available for lateral public access. The privacy buffer does not affect public access should the mean high tide line move within the buffer area.

(b) The remaining area shall be available for passive recreational use.

The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the easement area.

5. Revised Plans

Prior to issuance of the permit, the applicant shall submit for the review and approval of the Executive Director revised plans which show the wooden bulkhead relocated at a minimum of seven (7) ft. landward from the current location on the site plans prepared by Goldman/Firth/Boccatto Architects dated September 9, 1996 and revised March 3, 1997. This shall be accomplished by redesigning either the size, location or type of septic system and shall involve, if necessary, the removal or the reduction of the 580 sq. ft. basement/storage area and/or the reduction in the number of bedrooms. The applicant shall submit evidence, for the review and approval of the Executive Director that the revised plans have been reviewed and approved by the City of Malibu Health Department.

6. Signs

No signs shall be posted on the property subject to this permit (and/or on any adjacent properties) which (a) explicitly or implicitly indicate that the portion of the beach on Assessor's Parcel Number 4458-12-019 located seaward of the deck permitted in this application 4-97-071 is private or (b) contain similar messages that attempt to prohibit public use of this portion of the beach. In no instance shall signs be posted which read "Private Beach" or "Private Property." In order to effectuate the above prohibitions, the permittee is required to submit the content of any proposed signs to the Executive Director for review and approval prior to posting.

DANIEL D. HILLMAN, M.D.

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

April 6, 2000

ATTN: April Verbanne
California Coastal Commission
California Coastal Commission
South Coastal Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

Re: NOTICE OF EXTENSION
REQUEST FOR COASTAL
DEVELOPMENT PERMIT
4-97-071-E1
Applicant(s) Elliot & Alma Megdal.

Dear Commissioners:

I am opposed to the extension request for coastal development of the above stated applicant Elliot & Alma Megdal.

The initial permit was granted on inaccurately drawn property lines, which the City of Malibu has recognized and has denied their applications to the City. The City of Malibu is now requiring the Megdals and architect Ron Goldsman to submit certified plans before any further consideration can be given to their application. I and Mr. David Heckerman, the neighbor on the other side of the Megdal property, have notified your Commission of these misleading plans and would hope that the Commission will respect the City's rejection of the submitted plans and honor the decision of the City of Malibu.

Additionally, the Megdals are requesting an extension of a 1997 application filed by Paul & Judy Schaeffer, which has long since expired. The Megdal house plans have also changed significantly from those of the Schaeffers.

At this point, it is equitable that the Megdals come forward and file a coastal development permit of their own and answer. The ownership and the plans of the property have changed. A new permit application should follow.


Daniel D. Hillman, M.D.
DDH/co

CC: Mr. David Heckerman

23732 MALIBU RD., MALIBU, CALIFORNIA 90265-4603 (310) 456-3371 FAX (310) 456-1232

EXHIBIT 2

CDP # 4-97-071-E1

Objection Letter 1

David Heckerman
648 W Lk Samm Ln NE
Bellevue, WA 98008
425 936 2662
425 644 8112 (fax)

April 13, 2000

Attn: April Verbanac + BRENT McDONALD
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001
805 641 1732 (fax)

RE: Extension request for coastal development permit 4-97-071-E at 24612 Malibu Road
Applicants Elliot and Alana Megdal

Dear Commissioners:

I am the owner of the closest property to the west of 24612 Malibu Road, separated from that property by a 50' wide vacant lot.

I am opposed to the extension request for the above stated permit, because that permit was granted based on plans that are grossly incorrect. In particular, the layout of my house and decks were drawn incorrectly, leading to the placement of incorrect stringlines far more liberal (closer to the Ocean) than those that would have resulted from a correct drawing of my house and decks. Had my house and decks been drawn correctly, it is quite likely that the original proposal would never have been approved.

The inaccuracies are detailed in Exhibit 1—a sketch of my residence as it is currently built. The west deck stringline in the project plan was drawn to Point A on Exhibit 1. However, as is clear from this exhibit, the west deck stringline should have been drawn to Point B on Exhibit 1, which is the nearest adjacent corner. In addition, the west dwelling stringline in the project plan was drawn to Point C on Exhibit 1. However, this stringline should have been drawn to Point D on Exhibit 1, which is the nearest adjacent corner.

As you can see, the correct stringlines are substantially more conservative than the stringlines in the project plan.

Recent photographs supporting the drawing in Exhibit 1 are included with this letter. Also enclosed are permits for the main structure of my house as well as the particular portion of the house near Point D on Exhibit 1.

EXHIBIT 3
CDP # 4-97-071
Objection Letter 2

Sincerely,

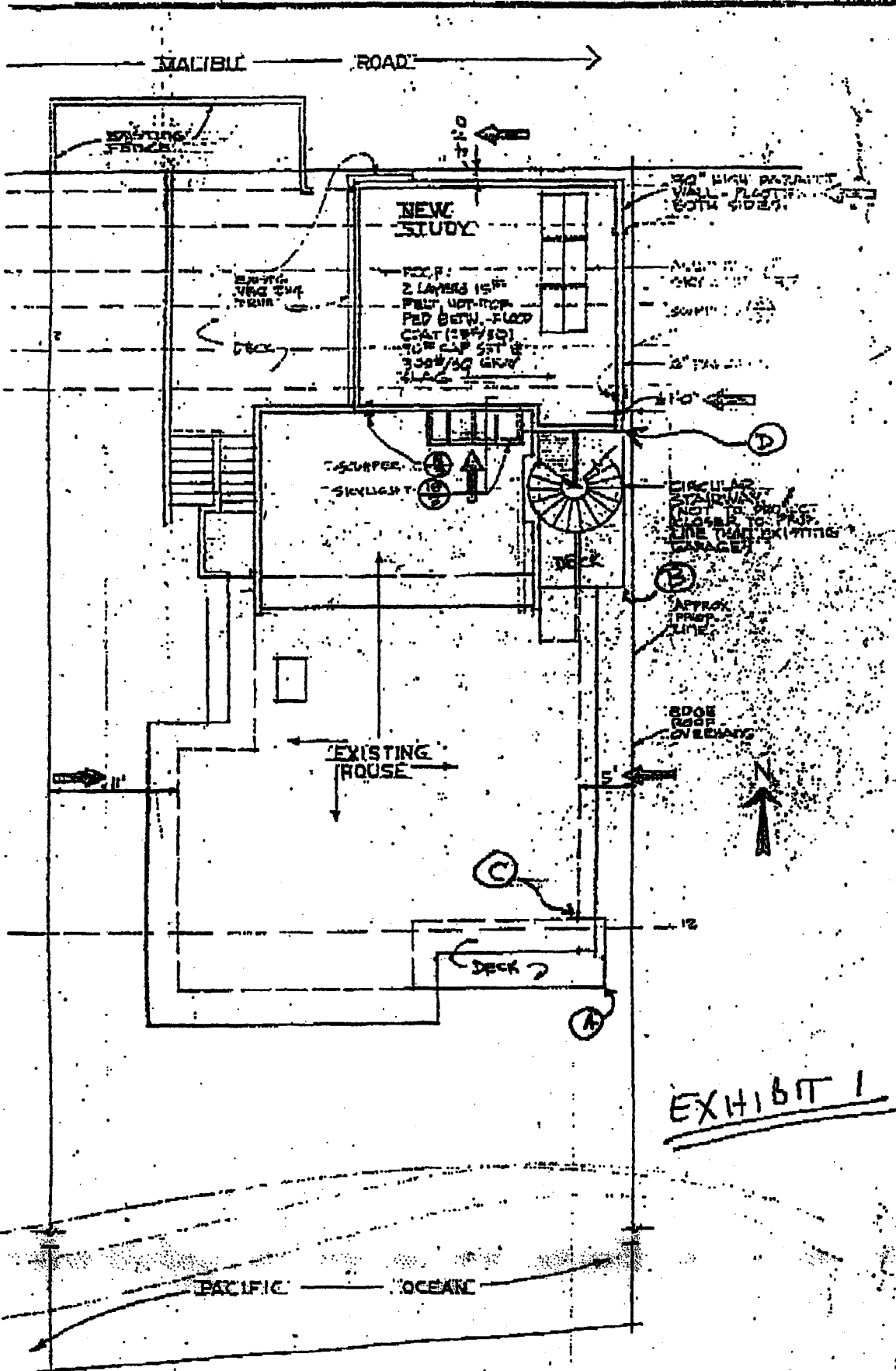


David Heckerman

Attachments:

- Exhibit 1** Sketch of my residence as it is currently built
- Exhibit 2** Permit for the initial construction of my residence
- Exhibit 3** Permit for the additional construction of my residence
- Photos 1 and 2**

EXHIBIT 1



BLDG 17 ROOF PLAN 1/8" = 1'-0"

EXHIBIT 1

ARCHITECT: *Douglas W. Rucker*

JOB NO.	DRAWN: F. V. H.	CHECKER:
DATE: 11/11/77		

DOUGLAS W. RUCKER
architect

1117 PACIFIC COAST HIGHWAY - MALIBU, CALIFORNIA

JOB ADDRESS: 24620 MALIBU, CALIF.	PROVIDED
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RON

EXHIBIT 2

4670

APPLICATION FOR BUILDING PERMIT

DIVISION OF BUILDING AND SAFETY
 Department of County Engineer
 County of Los Angeles
 Wm. J. Fox, County Engineer
 CARROLL G. BARTON, SUPERVISOR OF BUILDING

FOR APPLICANT TO FILL IN

ADDRESS: 24620 N Melby Road
 CITY: Van Nuys
 ZIP: 91411

LOT NO.: 1357
 TRACT: 1357
 SIZE OF LOT: 50 X 127 L
 USE OF EXISTING BLDG.: None

OWNER: Sidney Lend
 MAIL ADDRESS: 4010 Metzler Drive
 CITY: Sherman Oaks
 BUSINESS ADDRESS: 4 Key Street
 LICENSE NO.: 228264

APPLICANT: S. S. Robinson
 SIGNATURE: [Signature]
 ADDRESS: 7327 Maple Lane

TYPE OF WORK: REPAIR
 NO. OF PERMITS: 2
 NO. OF UNITS: 1
 USE OF STRUCTURE: RESIDENCE

SIGNATURE OF APPLICANT: [Signature]
 SIGNATURE OF ENGINEER: [Signature]

DATE: 2-20-57
 FEE: 4.00

I HEREBY ACKNOWLEDGE THAT I HAVE READ THIS APPLICATION AND STATE THAT I AM IN COMPLIANCE WITH ALL CITY ORDINANCES AND STATE LAWS REGULATING BUILDING CONSTRUCTION.

BUILDING ADDRESS: 24620 N Melby Rd
 LOCALITY: Van Nuys
 STREET CORNER: Van Nuys Blvd
 DISTRICT: 1
 MAP: 1100

PERMIT NO.: 4502
 DATE ISSUED: 2-20-57

USE: INDUSTRIAL
 1. TRACT DWELL. 2. UNIT 3. INDUSTRIAL
 4. COMMERCIAL 5. UNIT 6. PUBLIC BLDG.
 7. APT. 8. UNIT 9. MISCEL.

FOUNDATION: CONCRETE
 FRAMING: WOOD
 ROOFING: ASPH/FLT
 FLOORING: WOOD
 LATH: None
 FINISH: None

INSPECTION RECORD

DATE	INSPECTOR'S INITIALS
2-20-57	[Initials]
4-6-56	[Initials]
4-6-56	[Initials]
4-6-56	[Initials]

FINAL: 4-25-57

VALIDATION: [Signature]
 DATE: 2-20-57
 FEE: 4.00

NO. 2416 2050
 JAN 24 1957
 4100

[Signature]

[Handwritten notes and signatures at the top of the page, including "4670" and various initials.]

111111

APPLICATION FOR BUILDING PERMIT

FOR APPLICANT TO FILL IN

BUILDING ADDRESS: 24620 MALIBU RD. MALIBU, CALIF. 90265

CITY: MALIBU ZIP: 90265

AREA OF LOT: 50x

OWNER: JAMES E. MOSEY 2456-389

ADDRESS: 24620 MALIBU ROAD MALIBU, CALIF. 90265

ARCHITECT: DAVID RUCKENSTEIN 22917 PACIFIC HWY. MALIBU, CALIF. 90265

CONTRACTOR: JAMES MOSEY

ADDRESS: 2456-389 MALIBU ROAD MALIBU, CALIF. 90265

BUSINESS: STUDIO OVER GARAGE

NO. OF STORIES: 2

NO. OF FAMILIES: 1

USE OF BUILDING: RESIDENCE

APPLICANT: JAMES MOSEY - 2456-389

SIGNATURE OF APPLICANT: James Mosey

LOCALITY: MALIBU

NEAREST CORNER: PACIFIC COAST

SECTION: 9-2 I

STATISTICAL CLASSIFICATION: R-1

CLAS. NO.: 21

DEPT. NO.: 12-3-069

FRONT PROP. LINE OF: MALIBU RD

HEIGHT: 0 x 20 = 20

AREA: 1000

PERMITS REQUIRED: YES NO

PERMITS: PERMIT 1022

DATE: 7/19/76

PERMITS: PERMIT 1022

DATE: 7/19/76

PERMITS: PERMIT 1022

DATE: 7/19/76

PLAN CHECK VALIDATION

PERMITS: PERMIT 1022

DATE: 7/19/76

PERMITS: PERMIT 1022

DATE: 7/19/76

PERMITS: PERMIT 1022

DATE: 7/19/76

PERMITS: PERMIT 1022

DATE: 7/19/76

PERMITS: PERMIT 1022

DATE: 7/19/76



Photo 1

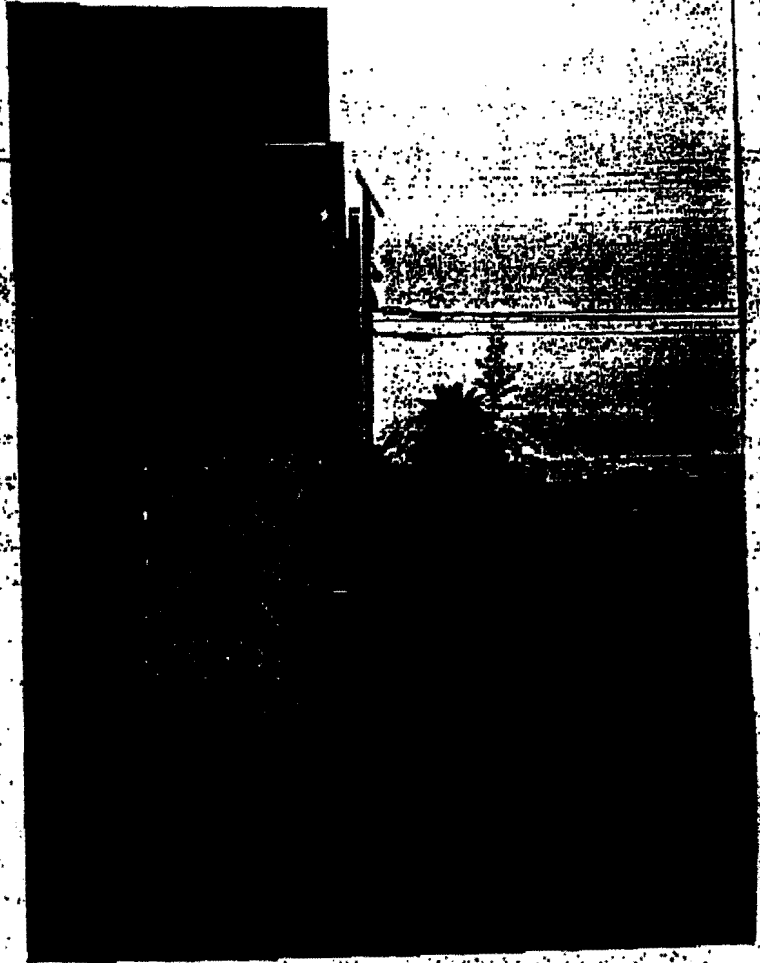


Photo 2

CALIFORNIA COASTAL COMMISSION

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



TU25

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*

EXHIBIT 4
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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 13 1999

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

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001
Re: Application 4-99-227
Applicant: Elliot Megdal
Project Location: 24612 Malibu Road, Malibu (L.A. County)(APN(s) 4458-012-019

Hand delivered
January 10, 2000

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
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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

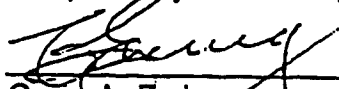
- a. September 8, 1999
- b. September 22, 1999

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

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

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

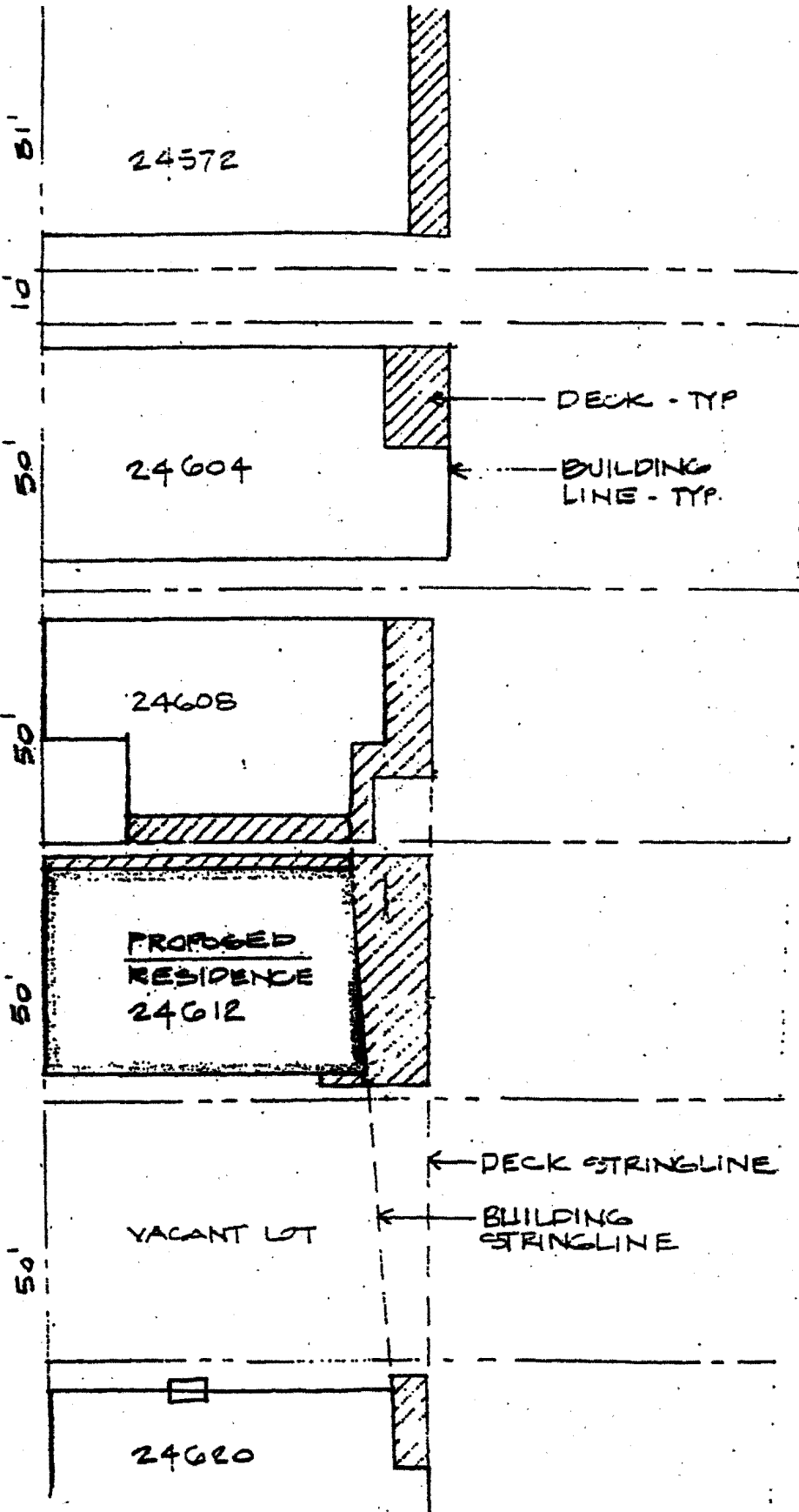
Commissioner Kearsley moved and Commissioner Kabrin seconded a motion to continue the item to a date uncertain.

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.

☐ OF MALIBU ROAD

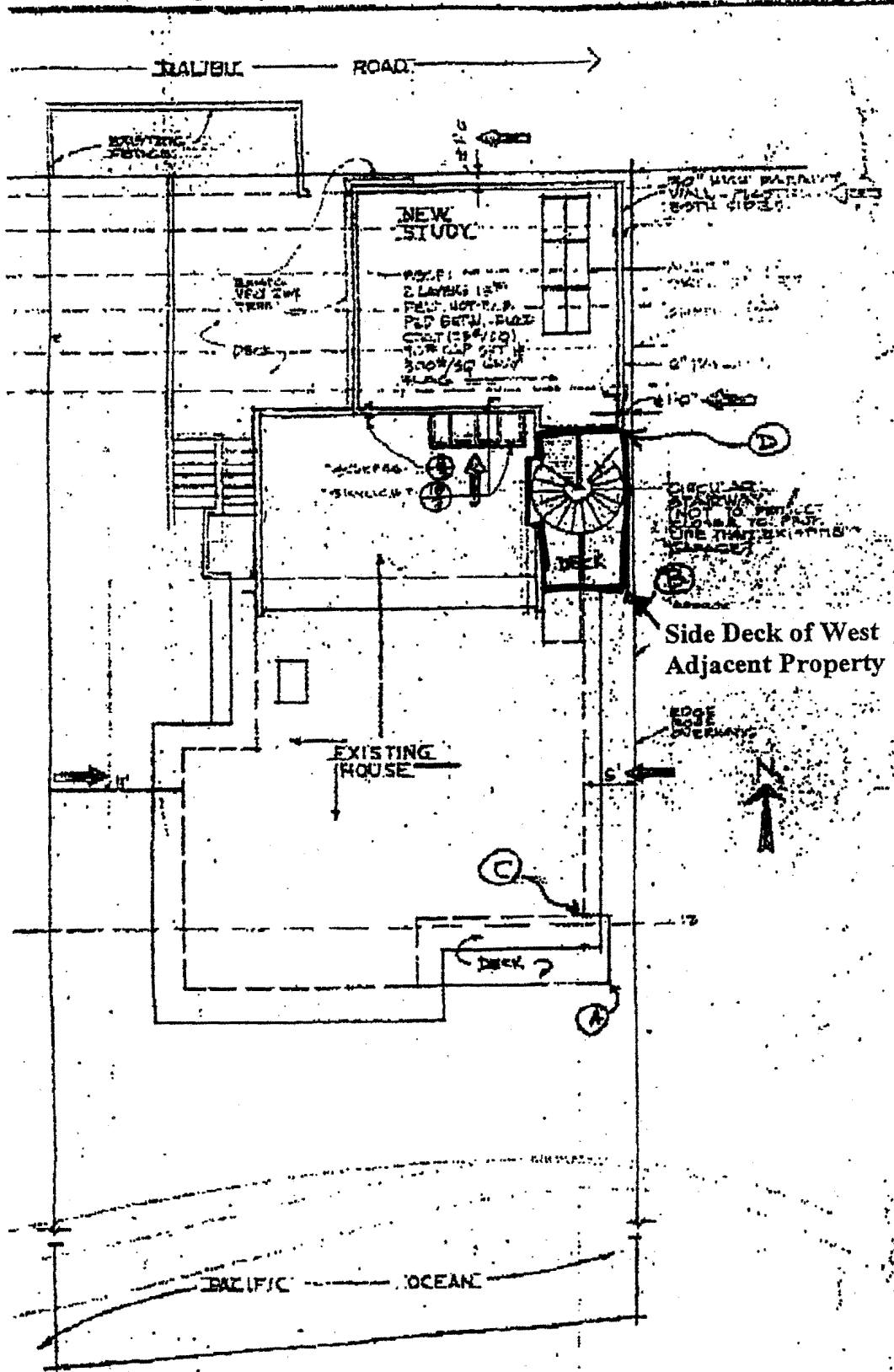


PACIFIC OCEAN

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

EXHIBIT 2
R-4-97-071
STRINGLINE

EXHIBIT 1



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

DOUGLAS W. RUCKER
architect

24620 MALIBU ROAD, MALIBU, CALIF. 90263

101

1993 PACIFIC COAST HIGHWAY - MALIBU, CALIFORNIA 90263

JOB NO. DATE: DRAWN BY: CHECKED BY:

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.

EXHIBIT 4

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STRINGLINE FINDINGS

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

