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**CALIFORNIA COASTAL COMMISSION**  
SOUTH CENTRAL COAST AREA  
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(805) 585-1800



## RECORD PACKET COPY

Filed: 7/26/01  
49<sup>th</sup> Day: 9/13/01  
180<sup>th</sup> Day: 1/22/02  
Staff: SLG-V  
Staff Report: 11/19/01  
Hearing Date: 12/11/01  
Commission Action:

### STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.** 4-99-256

**APPLICANT:** Barbara Abbott

**AGENT:** Lynn Heacox

**PROJECT LOCATION:** 19710 Pacific Coast Highway, Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** After-the-fact addition of a 350 sq. ft. guest unit to an existing 2,960 sq. ft. single family residence, increase septic tank size, and upgrade to secondary septic treatment system.

<b>Lot Area:</b>	4,790 sq. ft. (.1 acre)
<b>Building Coverage:</b>	1,330 sq. ft.
<b>Paved Area:</b>	1,000 sq. ft.
<b>Parking Spaces:</b>	2 (No change)
<b>Height above existing grade:</b>	9 feet (Addition)

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of Malibu Planning Department, dated 3/22/01; In Concept Approval (Septic System), City of Malibu Environmental Health Department, dated 2/29/00; Approval In Concept, City of Malibu Geology and Geotechnical Engineering, dated 2/27/01.

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends **approval** of the proposed project with three (3) special conditions regarding (1) Assumption of Risk / Shoreline Protection, (2) Future Improvements Deed Restriction; and (3) Condition Compliance.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan (1986); Wave Uprush Study (Skelly Engineering, June 2001); Response to City of Malibu Review Letter, City Log #1685 dated 7/26/00 (Southwest Geotechnical, Inc. 1/19/01); Response to California Coastal Commission Application (5/21/01); Limited

Geotechnical Engineering Investigation – Coastal Proposed Basement Addition (6/30/00).

## II. STAFF RECOMMENDATION

**MOTION:** I move that the Commission approve Coastal Development Permit No. 4-99-256 pursuant to the staff recommendation.

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

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

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

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## III. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

#### IV. SPECIAL CONDITIONS

##### 1. Assumption of Risk/Shoreline Protection

- A. By acceptance of this permit, the applicant acknowledges and agrees to the following:
  1. The applicant acknowledges and agrees that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire.
  2. The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
  3. The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
  4. The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
  5. No future repair or maintenance, enhancement, or reinforcement of the shoreline protective device to protect the development approved pursuant to Coastal Development Permit 4-99-256 shall be undertaken if such activity extends the seaward footprint of the subject shoreline protective device. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to such activity that may exist under Public Resources Code section 30235.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel and an exhibit showing the location of the shoreline protective device approved by this permit. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

## **2. Future Improvements Deed Restriction**

This permit is only for the development described in Coastal Development Permit No. 4-99-256. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the entire parcel. Accordingly, any future structures, improvements, or change of use to the permitted structures approved under Coastal Development Permit 4-99-256, shall require an amendment to Permit No. 4-99-256 from the Commission or shall require an additional Coastal Development Permit from the Commission or from the applicable certified local government.

Prior to the issuance of the Coastal Development Permit the applicant shall Execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this Coastal Development Permit.

## **3. Condition Compliance**

Within ninety (90) days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

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

The Commission hereby finds and declares:

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

The project site is located on a beachfront parcel of land approximately 4,790 sq. ft. in size near Las Tunas Beach between Pacific Coast Highway and the ocean in the City of Malibu (Exhibits 1 and 2). The subject lot is developed with an existing single family residence previously approved by the Commission. The area surrounding the project site is characterized as a built-out portion of Malibu consisting of residential development.

The applicant is requesting after-the-fact approval of a 350 sq. ft. guest room and bathroom addition to an existing 2,960 sq. ft., tri-level, single family residence, increase septic tank size, and upgrade of septic system to a secondary system. (Exhibits 3-5). There is no change to the footprint of the residence as the guest unit addition is on the

lowermost level of the residence, underneath the existing structure. The addition is not visible from Pacific Coast Highway. Pursuant to Public Resources Code 30610(a), classes of development that require a coastal development permit because they involve a risk of adverse environmental effects, include: improvements to single-family structure if the structure or improvement is located on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in a certified land use plan, or within 50 feet of the edge of a coastal bluff (14 California Administrative Code 13250). In this case, the development is located seaward of Pacific Coast Highway on a beachfront lot.

In addition, pursuant to Public Resources Code 30610(a), classes of development that require a coastal development permit because they involve a risk of adverse environmental effects includes property that is located "between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance... improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure or an additional improvement of 10 percent or less where an improvement to the structure had previously been undertaken pursuant to Public Resources Code Section 30610(a)...[California Administrative Code, Title 14, Section 13250(b)(4).]" In this case, the applicant is proposing both beachfront development and an addition of 350 sq. ft. to an existing 2,960 sq. ft. residence. The addition represents approximately a 12% addition to the existing floor area. Thus, the proposed project is not exempt from coastal development permit requirements.

The Commission notes that the subject site has been subject to past Commission action. Coastal Development Permits (CDP) No. P-77-42 and P-77-686 were approved by the Commission in 1977 for a new single family residence with a timber bulkhead located seaward of the residence. In CDP 5-81-267A, the applicant (Morgan) at this site requested a permit to resolve a dispute about the location of the proposed bulkhead. The permit amendment was approved to allow the applicant to align the proposed bulkhead with the neighboring bulkhead. In 1992 (CDP 4-92-15), the Commission approved a 308 sq. ft. addition on the lower level at the east side of the residence. The proposed 350 sq. ft. addition is adjacent to, and west of, this previously approved addition. The applicant's consultants, including a licensed coastal engineer, have stated that the existing bulkhead is adequate to protect the addition and expand the septic disposal system. Therefore no modifications to the existing bulkhead are proposed to accommodate the addition.

## **B. Hazards and Shoreline Processes**

Section 30235 of the Coastal Act states:

***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. Existing marine structures causing water stagnation***

**contributing to pollution problems and fish kills should be phased out or upgraded where feasible.**

Finally, Section 30253 of the Coastal Act states in part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.**
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.**

The project site is located on a beachfront parcel in Malibu, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu/Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Even beachfront properties have been subject to wildfires. Finally, shoreline areas, such as the project site, are subject to flooding and erosion from storm waves.

The applicant is requesting after-the-fact approval for a 350 sq. ft. guest unit, upgraded septic tank, and secondary septic treatment system. No change to the footprint or seaward extent of the residence is proposed and no development will occur seaward of the bulkhead. The septic system is located in the northwest portion of the property, landward of the residence. No modifications to the bulkhead are proposed to accommodate the guest unit addition or septic improvements.

Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. In this case, Coastal Development Permit (CDP) P-77-42 and P-77-686 were previously approved by the Commission in 1977 for a new single family residence with a bulkhead located seaward of the residence.

The existing bulkhead was built in 1978 in conjunction with the construction of the residence. An analysis of the adequacy of the existing bulkhead to serve the guest unit addition was submitted by the applicant. In the Wave Uprush Study prepared for this project by Skelly Engineering (June 2001), the coastal engineer found that:

***The proposed bulkhead was not subject to wave overtopping during storms similar to the 1982-83 and 1997 El Nino winters. A worst case wave event (100 year recurrence), with all of the cobbles scoured from the site down to the formational material, will produce wave overtopping of the bulkhead at elevation +19.0' MSL. This overtopping will amount to about 1.15 ft<sup>3</sup>/sq. ft. The approximate height of the overtopping water is 0.2 feet. This amount of overtopping can occur on each wave cycle but only during a 30 minute window when sea level is the highest during elevated spring tides, very high waves, and maximum scour conditions. The water depth coming over the seawall will be on the order of one inch. On the top of the sea wall is a patio***

***which can easily drain that quantity of water. This amount of overtopping would be similar to a strong down pour of rain. This very small potential overtopping is not considered significant and will not impact the stability of the existing structure.***

The consulting coastal engineer also noted (Skelly Engineering, 2001):

***The applicant stated that ocean waters have not overtopped the seawall (since the wall was constructed in 1978) and no water damage has occurred to the structure or the improvements that are the primary subject of this study.***

Furthermore, the coastal engineer concluded that:

***The proposed improvements as constructed are reasonably safe from wave runup. It is our opinion that no additional shoreline protection measures are needed.***

As discussed above, the Commission notes that the applicant's coastal engineering consultants have indicated that the development will be adequately protected by the existing bulkhead. However, the Commission recognizes that the long term stability of the site may require maintenance, replacement, or other changes to the bulkhead. Modification of the bulkhead may have significant impacts to the shoreline system.

Interference by shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on their own property. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. This affects public access again through a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. In addition, if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. Fourth, if not sited landward in a location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy.

Section 30235 of the Coastal Act allows for the construction of a shoreline protective device only when necessary to protect existing development or to protect a coastal dependent use and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. In this case, the existing bulkhead has been deemed adequate by the consulting coastal engineer to protect the addition to the residence (which has been constructed on at-grade slab foundation) as well as the septic system which are located landward of the existing bulkhead.

Adverse effects to shoreline processes from shoreline protective devices are greater the more frequently that they are subject to wave action. As such, in past permit actions, the Commission has required that all new development on a beach, including shoreline protection devices, be located as landward as possible in order to reduce adverse impacts to the sand supply and public access resulting from the development. To ensure that future modifications to the approved bulkhead do not result in seaward extension of the shoreline protective device in order to protect the guest unit addition, **Special Condition One (1)** prohibits any future repair or maintenance, enhancement, or reinforcement of the shoreline protective device to protect the development approved pursuant to this permit, if such activity extends the seaward footprint of the subject shoreline protective device. This will prevent adverse impacts to shoreline processes from seaward extensions of the bulkhead.

In addition, Section 30253 of the Coastal Act requires that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard as well as ensure stability and structural integrity. As discussed above, the applicant's coastal engineering consultants have determined that the existing bulkhead is adequate to protect the proposed development on the subject site.

Furthermore the applicant's geoconsultants found that (Southwest Geotechnical, Inc 6/30/00):

***Based upon a review of the referenced reports and construction documents and pictures taken during construction, the addition foundations followed and meet the recommendations contained in the original reports. The construction also meets the recommendations contained in this report...***

The consulting geoconsultant concluded (Southwest Geotechnical, Inc. 5/21/01):

***Based upon the findings summarized in previous reports, it is our professional opinion that the proposed building site will not be subject to hazard from settlement, slippage, or landslide provided the recommendations of this report are incorporated into the site development and grading. It is also our opinion that the proposed site improvements will not adversely affect the geologic stability of the site or adjacent properties provided the recommendations contained within this report are incorporated into site development...***

As discussed above, the Commission notes that the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative structural



stability on the subject site. However, the Commission also notes that the proposed development is located on a beachfront lot in the City of Malibu and will be subject to some inherent potential hazards.

The Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the 1998 severe El Nino winter storm season. The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. Past occurrences have caused property damage resulting in public costs through emergency responses and low-interest, publicly-subsidized reconstruction loans in the millions of dollars in Malibu area alone from last year's storms. In the winter of 1977-1978, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council, damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost \$5 million to private property alone. The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused over \$12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast.

Thus, ample evidence exists that all beachfront development in the Malibu area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The proposed development will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future. The Coastal Act recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, flooding, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by **Special Condition One (1)**, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30235 and 30253.

### **C. Water Quality**

The Commission recognizes that new development in the Santa Monica Mountains and Malibu has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states that:

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

As described, the proposed project includes the installation of a secondary septic treatment system and construction of a 350 sq. ft. guest unit. There is no increase in the footprint of the residence, as the addition is proposed underneath the existing permitted structure.

The proposed development does not include the construction of new structures that would result in an increase in impervious surface at the site. As such, the proposed project will not affect the infiltrative function and capacity of existing permeable land and beach on site. Therefore the Commission finds that the proposed project will not result in increased run-off into the marine environment associated with the addition to the residence.

The proposed alternative method of sewage disposal is an upgraded septic system with secondary treatment that will be installed consistent with the Uniform Plumbing Code and with the approval of the City of Malibu Environmental Health Specialist. The City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, dated 2/29/00, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. Furthermore, the Commission has found in past permit actions that use of alternative methods of sewage treatment designed for beachfront development is protective of marine resources and water quality. The Commission also notes that the proposed septic system's compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the Commission finds that, as conditioned, the proposed development will be designed to minimize adverse impacts to coastal resources in a manner consistent with coastal water quality protection, and the project is therefore consistent with Section 30231 of the Coastal Act.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

#### **D. Cumulative Impacts**

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

***New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.***

Section 30252 of the Coastal Act states:

***The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.***

Pursuant to Coastal Act Sections 30250 and 30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. Construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

Based on the requirements of Coastal Act Section 30250 and 30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu/Santa Monica Mountains Land Use Plan (LUP). In its review and action on the LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure

constraints which exist in Malibu/Santa Monica Mountains area and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one, or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29). Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose, as a guest unit, rather than as second residential units with intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The applicant is proposing a 350 sq. ft. guest unit (guest room and bathroom) addition underneath the existing single family residence. As proposed, the addition is accessible from an existing exterior staircase and is not accessible from the interior of the current residence. This proposed addition is not intended to be occupied as a rental unit. Furthermore, the City of Malibu Planning Department Approval-In-Concept is predicated on the assumption that this "cellar may not be rented out."

The addition of the guest unit results in minimal disturbance to the site and is confined to the area directly below the existing residence. As such, the proposed project would have no impact on coastal resources. However, there is an increased potential for a permanent second residence on the site, as a temporary guest unit of this nature could easily be converted to a permanent second residence.

Future improvements to the proposed unit such as additional square footage, addition of kitchen facilities, or conversion of the structure to permanent residential use, such as a rental unit, could raise issues with regard to individual or cumulative impacts to coastal resources. Such improvements and their potential impacts must be addressed by the Commission to ensure conformance with the Chapter 3 policies of the Coastal Act.

To ensure that any additions or improvements that could further intensify the use of the unit will be reviewed by the Commission, **Special Condition Two (2)** requires that any future structures, additions, or improvements related to the addition including, but not

limited to, a change in use from a guest unit to permanent secondary rental unit, will require a permit or permit amendment.

The Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

### **E. Violations**

Development of the 350 sq. ft. guest unit has occurred on the subject site without the required coastal development permit. The applicant is proposing to retain this unpermitted development.

To ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition Three (3)** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. The Executive Director may grant additional time for good cause.

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

### **F. Local Coastal Program**

Section 30604(a) of the Coastal Act states that:

***Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).***

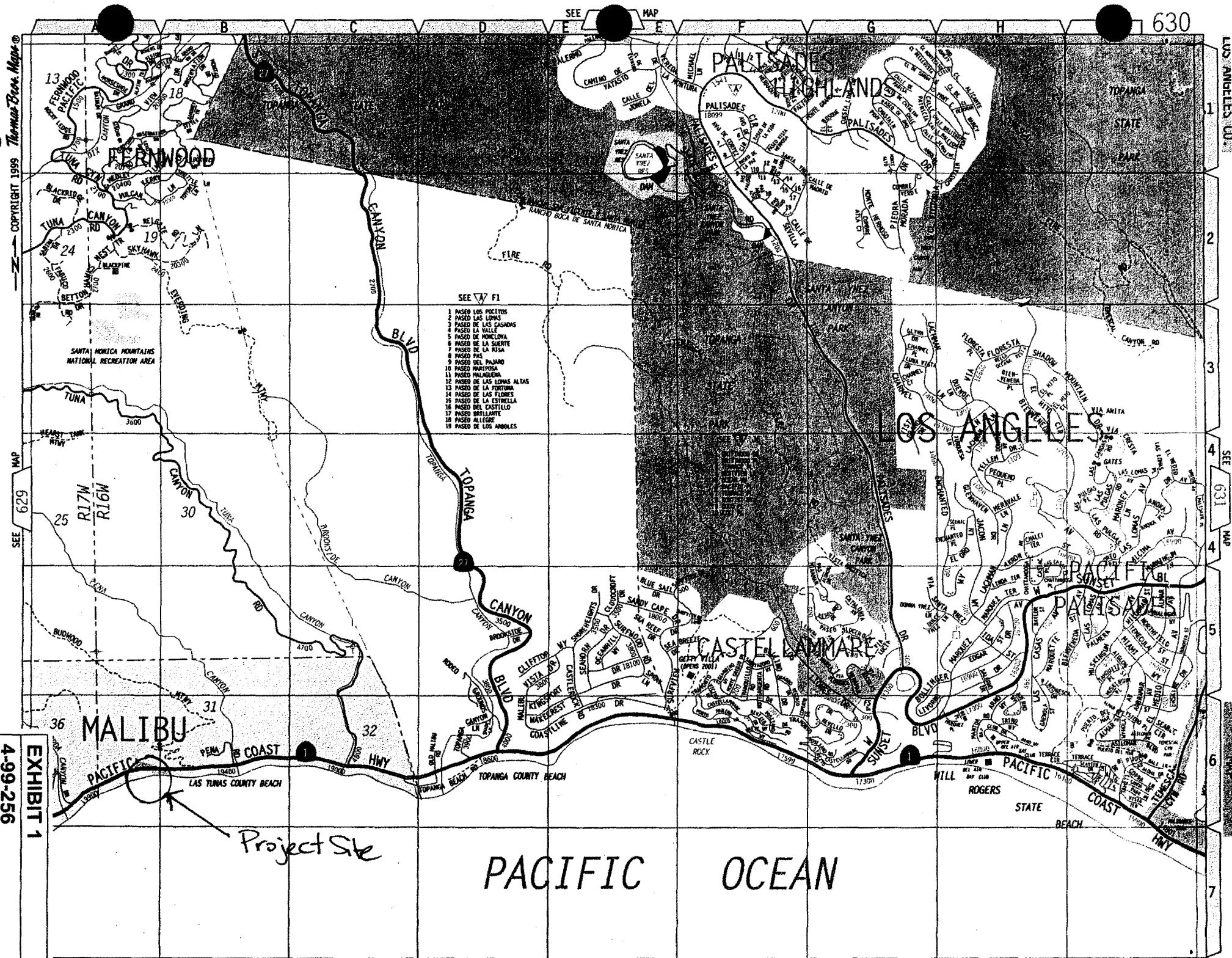
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also

consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

**G. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity would have on the environment.

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

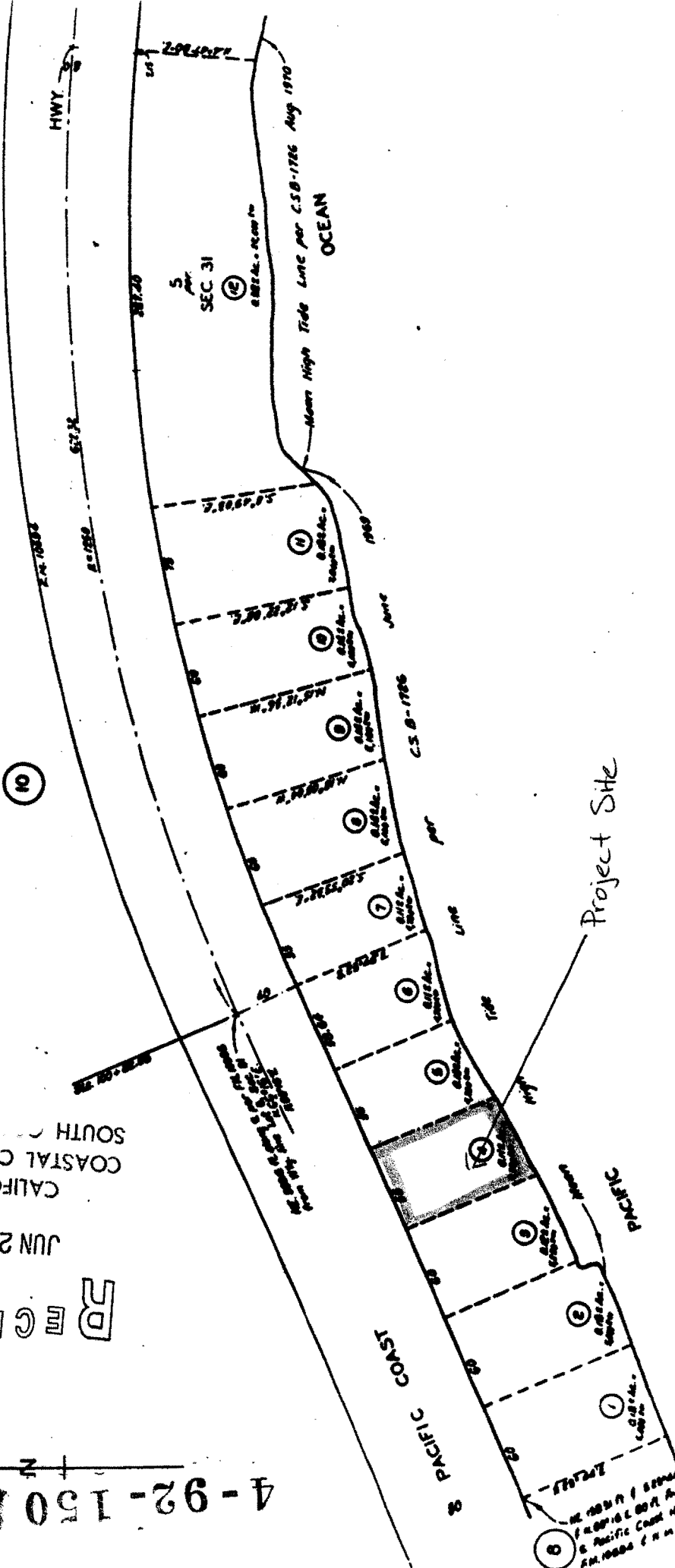


4449 7

SCALE 1" = 60'

4-92-150

RECEIVED  
JUN 26 1992  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT



CODE  
B631

EXHIBIT 2
4-99-256
Parcel Map

FOR PREV. ASSMNT SEE:  
4450-48

T. 15 S., R. 16 W.

ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.





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## Floor Plans

<b>EXHIBIT 5</b>
<b>4-99-256</b>
<b>Elevations</b>

