

**CALIFORNIA COASTAL COMMISSION**

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

**RECORD PACKET COPY**

Filed: 1/3/01  
49th Day: 2/21/01  
180th Day: 7/2/01  
Staff: AAV/MA  
Staff Report: 3/22/01  
Hearing Date: 4/12/01  
Commission Action:

**STAFF REPORT: AMENDMENT**

**APPLICATION NO.:** 4-97-071-A1

**APPLICANT:** Elliot and Alana Megdal

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

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** 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 an alternative 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.

**DESCRIPTION OF AMENDMENT:** Modify floor plans and architectural style of approved residence including a 368 sq. ft. reduction of first and second floor square footage, 200 sq. ft. reduction of basement square footage, increase garage square footage by 44 sq. ft., decrease seaward extension of second floor deck by 2 ft. and extend deck across seaward side of residence to increase overall square footage of second floor deck by 77 sq. ft., delete stairway to beach and add a sideyard deck on west side of residence, decrease east side yard setback to 2.5 ft., and increase street side height of structure from to 26.5 ft. to 28 ft., no change in overall height of previously approved structure.

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department Approval In-Concept 11/29/00.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permit 4-97-071, 4-97-071-T1, 4-97-097-E1, Revocation Request R-4-97-071.

**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*

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- 3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code of Regulations Section 13166. In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect conditions required for the purpose of protecting a coastal resource.

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**Summary and Staff Recommendation:**

Staff recommends that the Commission approve the proposed project amendment. The proposed project amendment includes minor modifications to the previously approved development which will have no new significant adverse impacts on coastal resources or public access.

**I. STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-97-071-A1 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in

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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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

## II. STANDARD AND SPECIAL CONDITIONS

Note: Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit 4-97-071 continue to apply.

## III. FINDINGS AND DECLARATION

The Commission hereby finds and declares:

### A. Project Description and Background.

The applicants are proposing an amendment to 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 (Exhibits 2,3). The proposed project amendment would modify the previously approved floor plans and architectural style of the subject residence including a 368 sq. ft. reduction of first and second floor square footage, 200 sq. ft. reduction of basement square footage, and an increase of garage square footage by 44 sq. ft. The propose project amendment also includes a decreased seaward extension of the second floor deck by 2 ft. and extension of the deck across the seaward side of residence to increase the overall square footage of the subject deck by 77 sq. ft. In addition, the amendment would delete a previously approved stairway to the beach and add a sideyard deck on the west side of the residence, decrease the east side yard setback to 2.5 ft., and increase the street side height of the structure from to 26.5 ft. to 28 ft. with no change in overall height of the previously approved structure (Exhibits 4,5).

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The subject site is located on a 6,895 sq. ft. beachfront parcel on Amarillo Beach between Malibu Road and the Pacific Ocean (Exhibit 1). 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 presently vacant, however, a new single family residence has been approved by the Commission at the vacant parcel under Coastal Development Permit 4-00-123 (Broad Beach L.L.C.).

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 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 the current owners. Subsequently, the applicants complied with all special conditions imposed on the subject permit and the permit was issued on October 12, 2000.

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.

On January 12, 2000 the applicants submitted a written request for extension of the subject permit so that the permit would not expire and would be valid for an additional year. 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 to the extension request dated April 6, 2000 and April 13, 2000 from Daniel D. Hillman. As such, the extension request for the subject permit was scheduled for a Commission hearing on June 13, 2000. The Commission found that there were 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. Therefore, the Commission granted a one-year extension of Coastal Development Permit 4-97-071.

On November 29, 2000 the applicant submitted the subject amendment proposal and the application was scheduled as an immaterial amendment for the January 2001 Commission hearing. Staff received written objection to the proposed amendment from

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Daniel D. Hillman on January 8, 2001 and pursuant to 14 C.C.R. Section 13166, the proposed project amendment and objection is now being referred to the Commission.

**B. Grounds for Amendment Approval**

On November 5, 1997 the Commission approved the subject permit finding it to be consistent with the Coastal Act, pursuant to 6 special conditions. The proposed project amendment was filed on January 3, 2001 and scheduled as an immaterial amendment for the January 2001 Commission hearing. Staff received written objection to the proposed amendment on January 8, 2001 contending that the proposed changes to the approved project are not minor, that previously submitted and approved project plans were inaccurate and misleading, and that notice of the proposed amendment was inadequate. The objection letter requests that the applicant submit a new application for review (Exhibit 6).

As described, the proposed project amendment involves modifications to the architectural style, floor plans, square footage, and height of the previously approved development. The proposed project amendment would modify the previously approved floor plans and architectural style of the subject residence including a 368 sq. ft. reduction of first and second floor square footage, 200 sq. ft. reduction of basement square footage, and an increase of garage square footage by 44 sq. ft. The proposed project amendment also includes a decreased seaward extension of the second floor deck by 2 ft. and extension of the deck across the seaward side of the residence to increase the overall square footage of the subject deck by 77 sq. ft. In addition, the amendment would delete a previously approved stairway to beach and add a sideyard deck on the west side of the residence, decrease the east side yard setback to 2.5 ft., and increase the street side height of the structure from to 26.5 ft. to 28 ft. with no change in overall height of the previously approved structure. All of the proposed modifications described above are contained within the footprint and height limit approved for the subject development and the applicants are not proposing modifications to the size, type, or location of the bulkhead approved for the project site. Additionally, the proposed project modifications will not extend beyond, or in anyway modify, the previously approved structural and deck stringlines for the project site, and therefore will not result in seaward encroachment of development. Therefore, the Commission finds that the proposed project amendment will not result in development that will have new significant adverse impacts on public access, visual or coastal resources.

The issue of the possible submittal of inaccurate project plans for the subject application was previously discussed and evaluated at the original Commission hearing on the subject permit 4-97-071, and was again addressed at the Commission hearing on the revocation request R-4-97-071 for the subject permit. The Commission determined in these past permit actions that all information submitted on project plans submitted for

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the subject permit was accurate and sufficient for the Commission's determination of the project's consistency with Coastal Act policies.

With respect to contentions that notice of the proposed amendment was inadequate, the Commission notes that the applicant submitted all required materials for noticing of the public and property owners consistent with the Commission's regulations regarding noticing, and staff has confirmed with the applicants' representative that the project site is adequately posted.

For the reasons set forth above, the Commission finds that the proposed project amendment will not result in new significant adverse impacts on coastal resources and is consistent with all applicable policies of the Coastal Act.

### **C. 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 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 amendment will be in conformity with the provisions of Chapter 3. The proposed amendment 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 amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for the Santa Monica Mountains and Malibu area, which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

### **D. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit Amendment application to be supported by a

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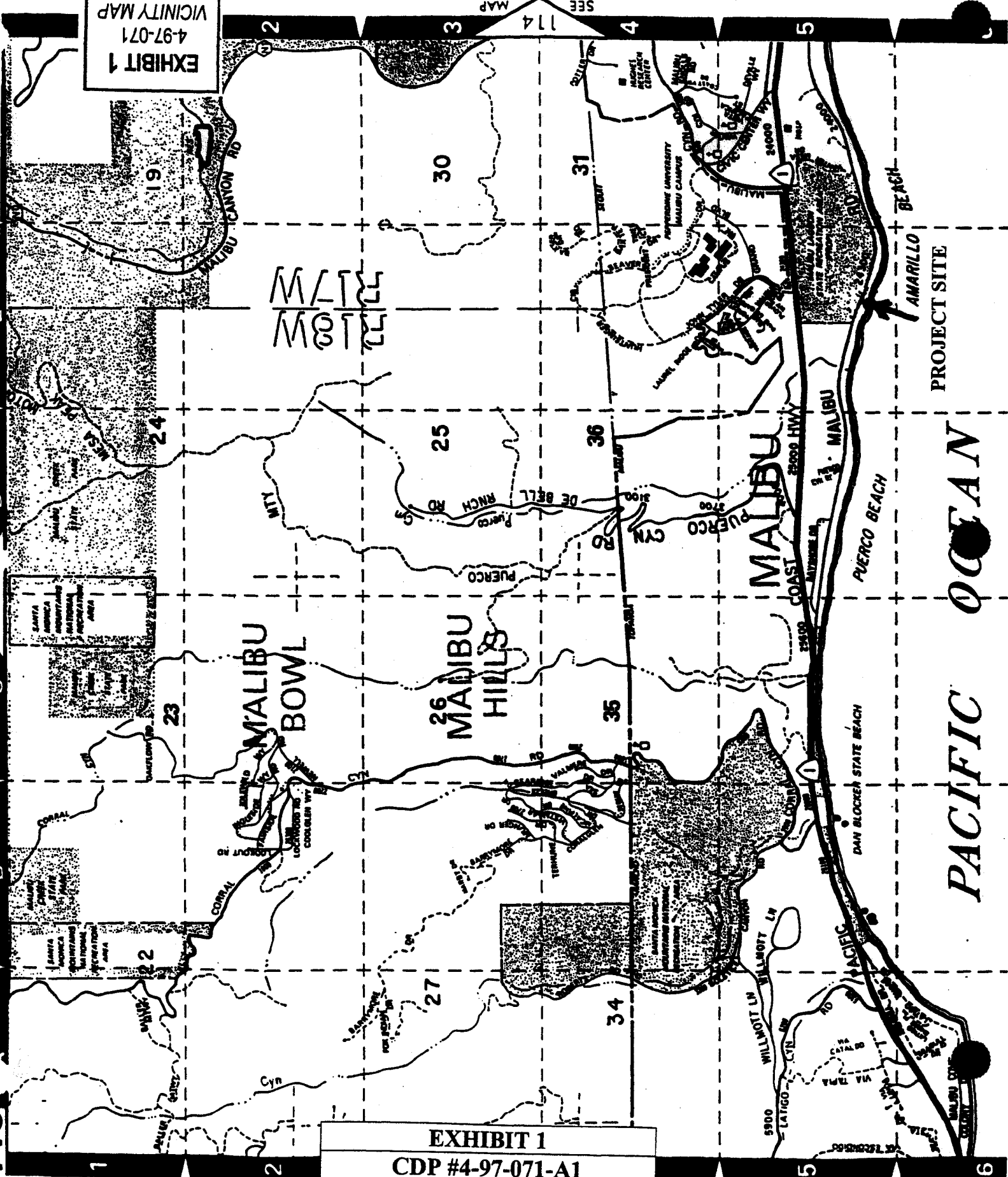
finding showing the application to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity would have on the environment.

The proposed amendment would not cause significant, adverse environmental effects. Therefore, the proposed amendment is found consistent with CEQA and with the policies of the Coastal Act.

LOS AN

DETAIL

EXHIBIT 1  
4-97-071  
VICINITY MAP

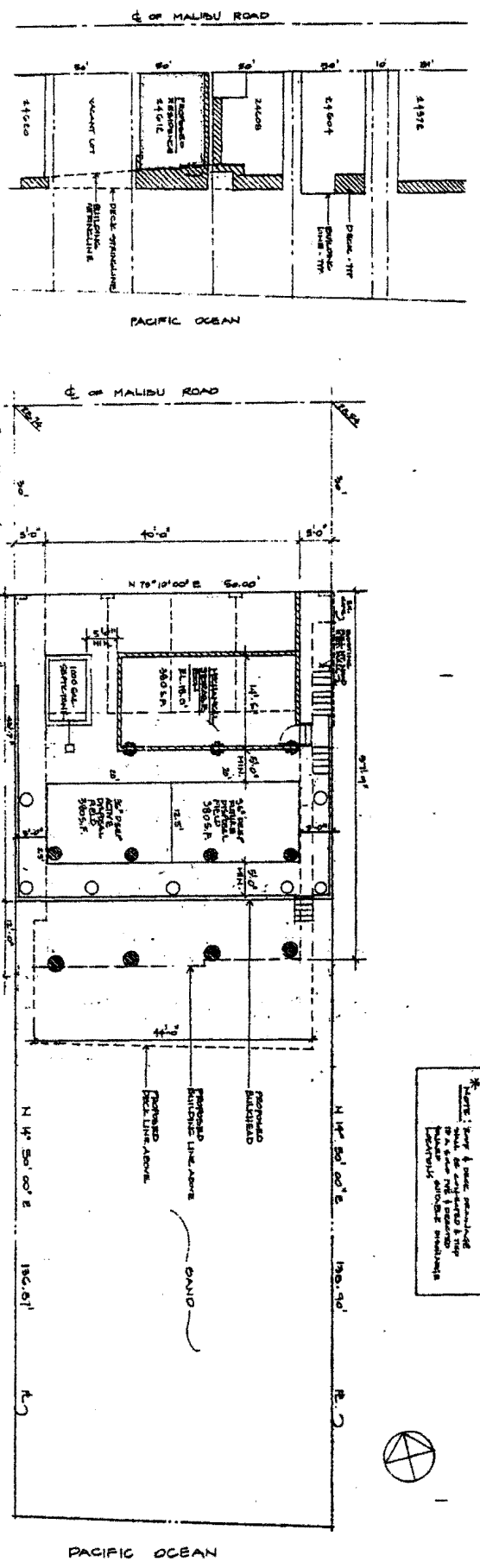


PROJECT SITE

PACIFIC OCEAN

EXHIBIT 1  
CDP #4-97-071-A1  
Location Map





BUILDING SETBACKS: 10'-0" (FRONT), 5'-0" (SIDE), 10'-0" (REAR)

SITE PLAN / SEPTIC SYSTEM SCALE: 1/8" = 1'-0"

NOTE: Survey & map, including all data, are subject to change without notice. The owner shall be responsible for obtaining all necessary permits and approvals.

**PROJECT DATA**

PROPOSED 2-STORY SFR  
 BUILDING AREA : 1782 S.F.  
 FIRST FLOOR : 1782 S.F.  
 SECOND FLOOR : 1782 S.F.  
 TOTAL : 3564 S.F.  
 GARAGE : 417 S.F.  
 BIRTH: HIGH/SPEAKE : 300 S.F.

**BUILDING SETBACKS:**

FRONT : AVERAGE OF NEIGHBORS  
 REAR : STRONGLINE RULE  
 SIDES : 10% OF LOT (MIN. 5' MAX)

CONSTRUCTION : TYPE X

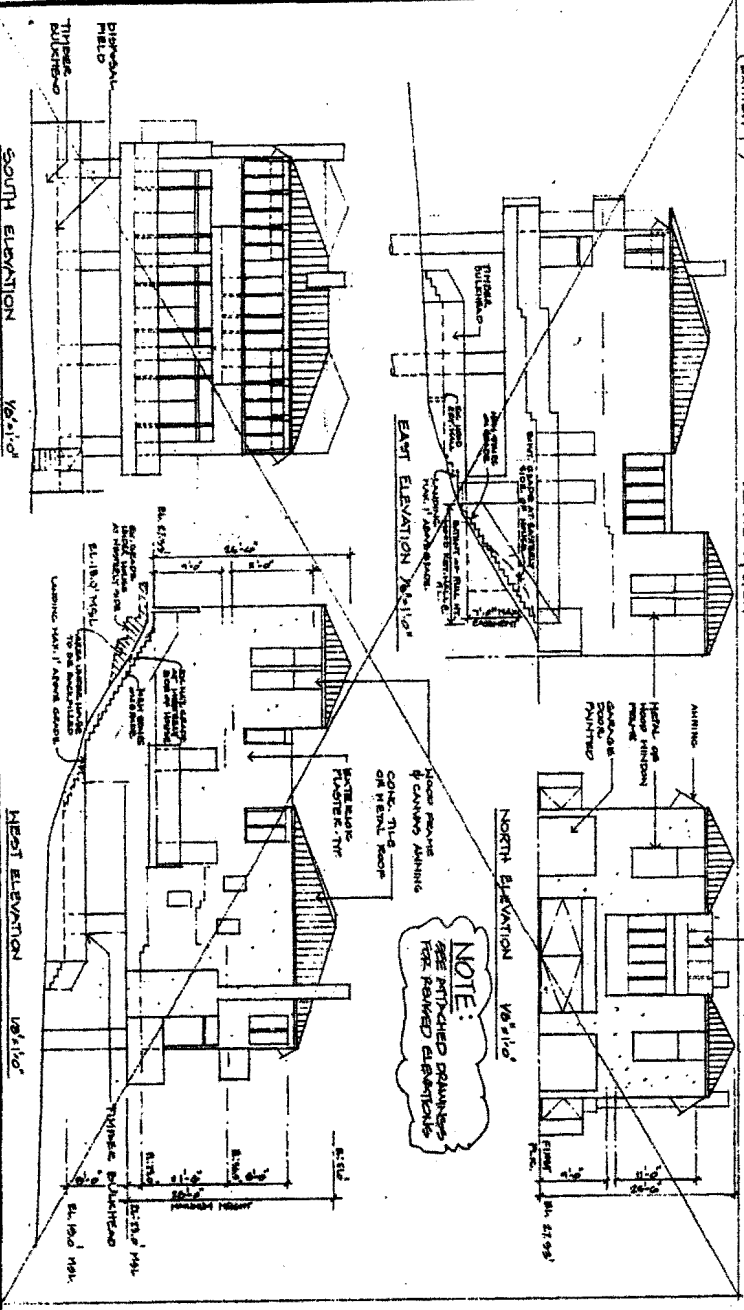
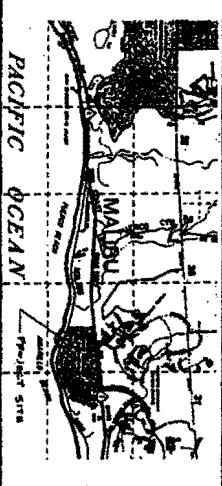
MAXIMUM BLDG. HEIGHT : 20'-0"

OWNER : ELLIOT HANCOCK Phone: (760) 371-0166  
 1875 CENTURY PARK WEST SUITE 1000 CARLSBAD, CA 92008

**LEGAL DESCRIPTION:**

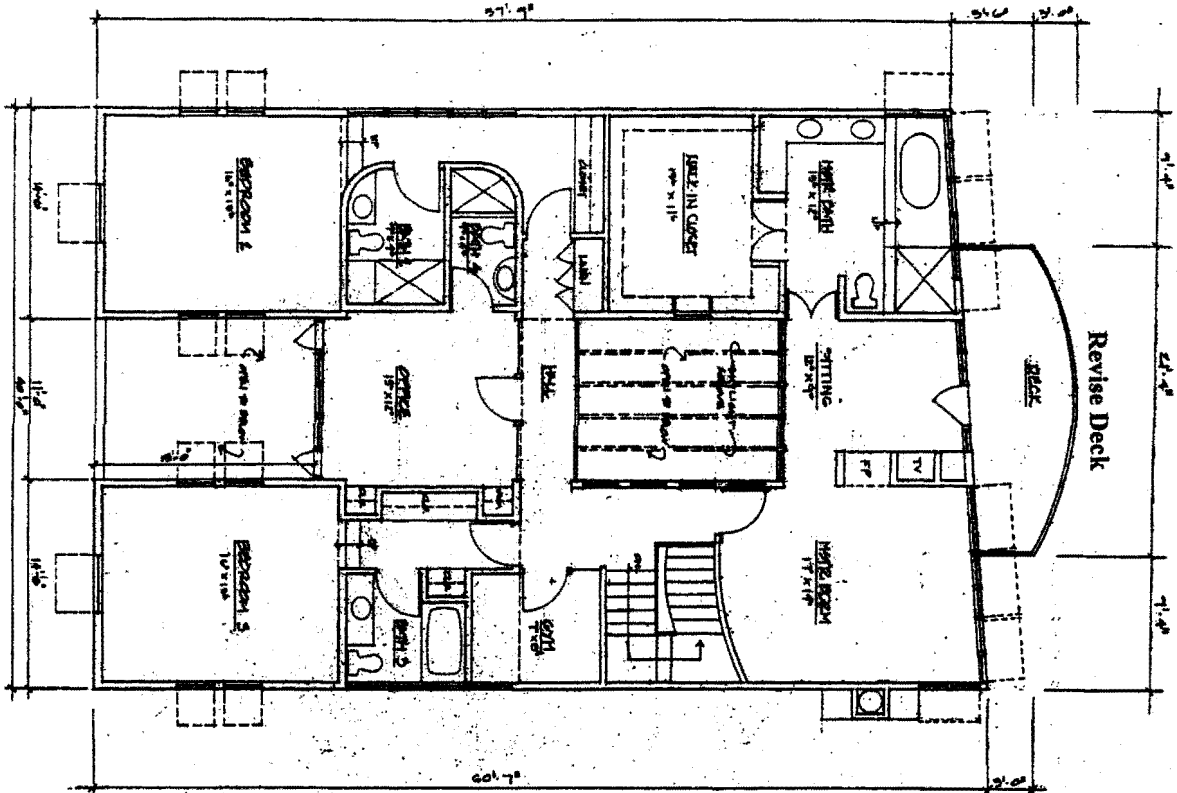
LOT 50 OF TRACT N 18187, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 572, PAGES 10, AND 11 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY

**VICINITY MAP**

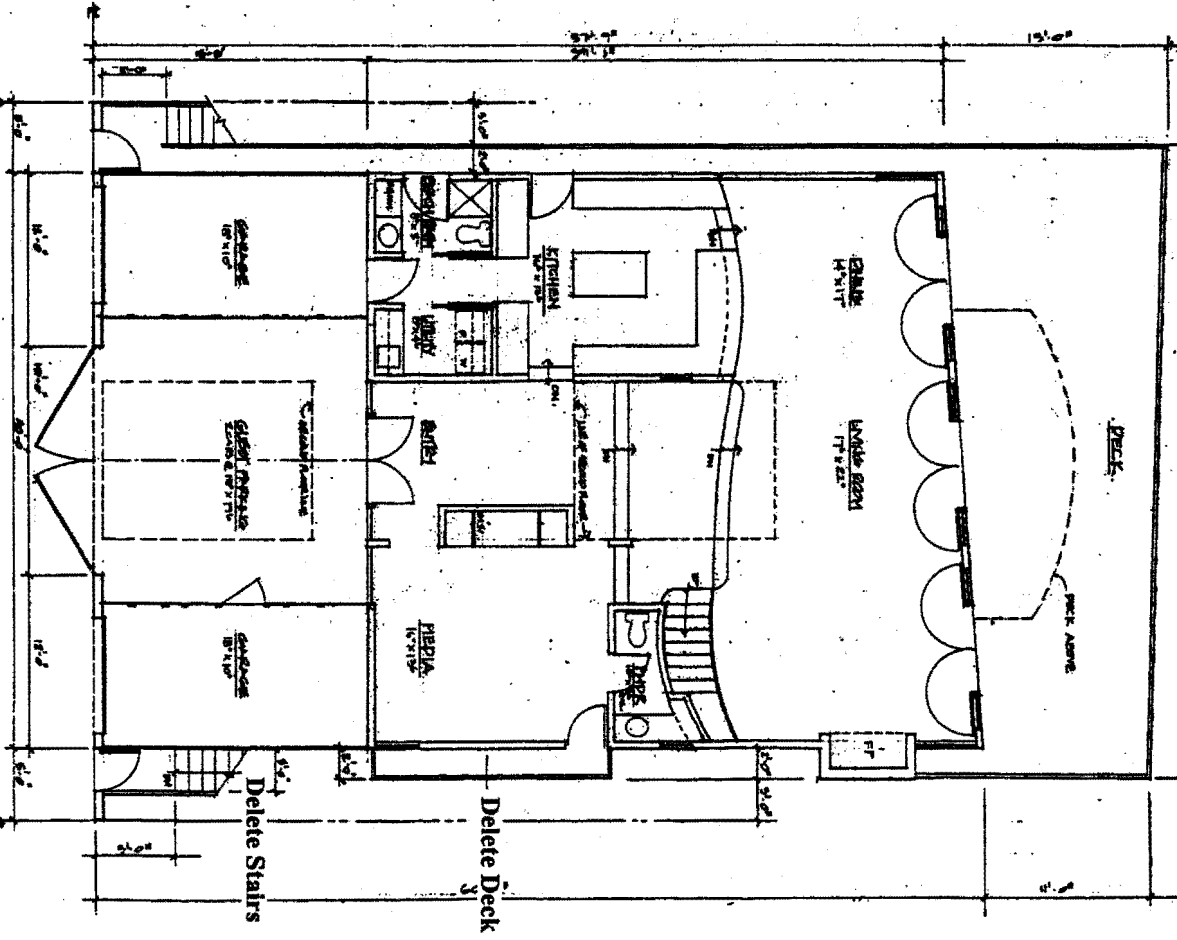


NOTE: SEE ATTACHED DRAWINGS FOR REMOVED ELEMENTS

SECOND FLOOR PLAN  
1875 SQ.F.



FIRST FLOOR PLAN  
3700 SQ.F.  
1875 SQ.F. + 3125 SQ.F. + 3175 SQ.F. + 500 SQ.F. HALL/STAIRS



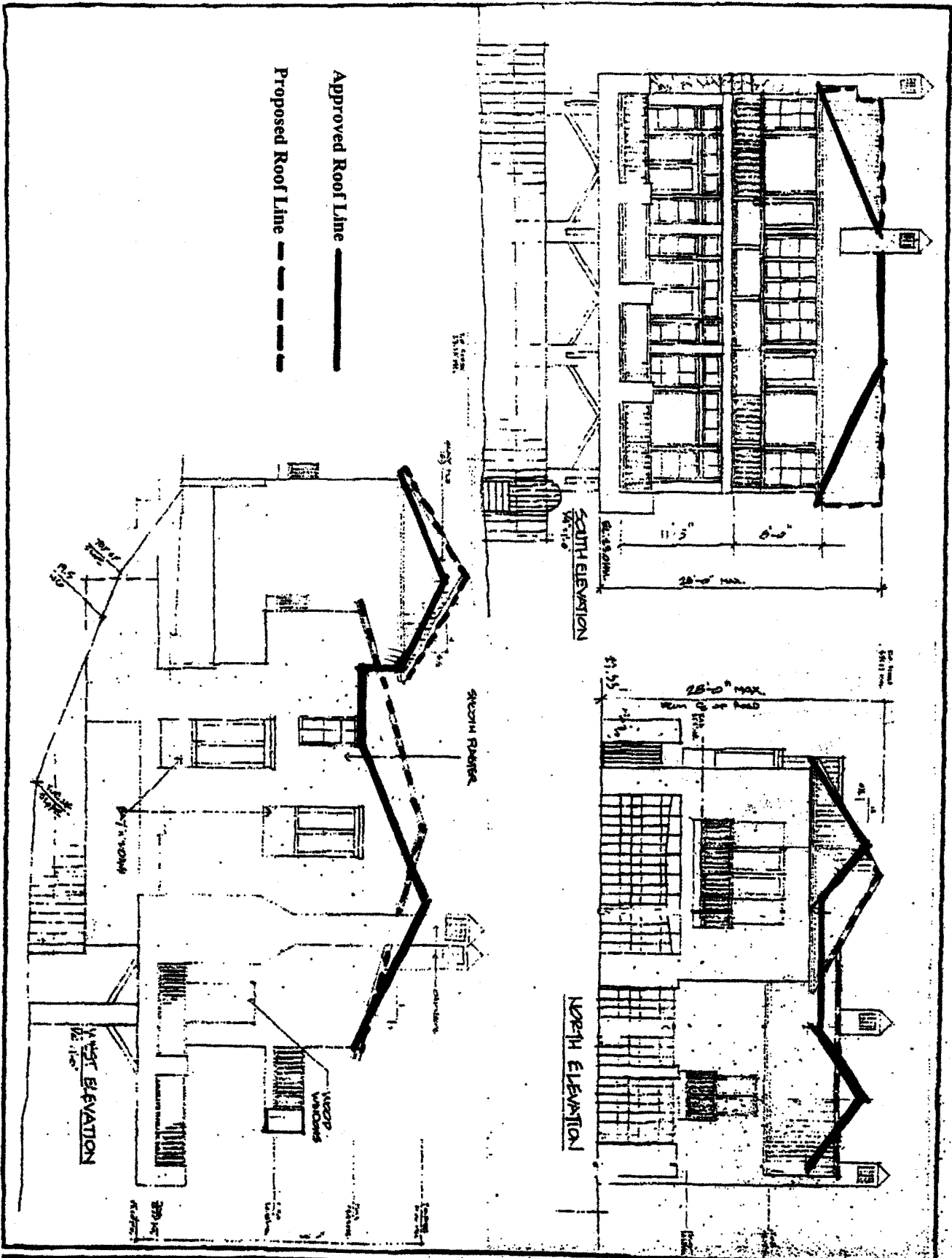
DATE	9.6.96
PROJECT	First & Second Floor
CLIENT	CHASPER RESIDENCE
ADDRESS	84612 MALIBU RD MALIBU, CA 90265
SCALE	1/8" = 1'-0"
NO.	2

**EXHIBIT 3**  
**CDP # 4-97-071-A1**  
**Approved Floor Plans**  
**CDP 4-97-071**

**TH BOCCATO**  
ARCHITECTS  
HIGHWAY, SUITE A202  
(310) 456-1831

These drawings are preliminary and are prepared for the purpose of the application and shall not be used for any other purpose without the approval of the architect. Other drawings shall not be used without the approval of the architect and shall not be used for any other purpose without the approval of the architect. The architect shall not be responsible for the construction of the project.





Approved Roof Line ———

Proposed Roof Line - - - - -

SOUTH ELEVATION

NORTH ELEVATION

WEST ELEVATION

GOLDMAN | FIRTH | BOCCATO  
ARCHITECTS

EXHIBIT 5

CDP # 4-97-071-A1

Elevations

SUITE A702  
7 609-1027

**DANIEL D. HILLMAN, M.D.**  
**PO BOX 2005**  
**MALIBU, CALIFORNIA 90265**  
**OFFICE (310) 456-3371 FAX (310) 456-3372**

**FACSIMILE COVER SHEET**

**TO:** California Coastal Commission-South Central Coast Area  
Attn: Peter Douglas, Executive Director  
89 South California Street, Suite 200  
Ventura, CA 93001  
**FAX #:** (805) 641-1732  
**DATE:** January 8, 2001  
**FROM:** Daniel D. Hillman, M.D.  
**RE:** Permit No. 4-97-071-A1---Notice of Proposed Permit Amendment  
24612 Malibu Rd. - Megdal

I object to the above referred to proposed permit amendment. The footage and changes involved in this amendment are not minor changes, and as such I am requesting that the property developer file one complete, non-fragmented, and less confusing application for review. Since the original permit was granted some three years ago, the ownership and plans have both changed, and permit extensions and changes have been granted many times.

I request that you deny the applicant's proposed permit amendment and request that the property owner submit a clear, complete, up-to-date application of the property plan that can be reviewed in total by the Commission and the neighborhood.

As regards the plans submitted for this amendment, in the past the Planning Commission of the City of Malibu required this architect to provide certified plans to the City because the plans he had submitted were inaccurate and misleading (see attached hand-delivered letter of January 10, 2000 to you). I am requesting that certified plans be provided in this instance.

Regarding procedure and notice, I have not been notified of this amendment. Furthermore the small posting was not visible from the street.

Please contact me with your decision.

Notice: If you have received this communication in error, please be so kind as to phone us (collect call accepted) notifying us of our error. We endeavor to always comply with the strict laws pertaining to facsimiles and trust that you will comply as well in agreeing not to copy, duplicate, distribute, or disseminate any information contained herein.

**EXHIBIT 6**

**CDP # 4-97-071-A1**

**Objection Letters**

**DANIEL D. HILLMAN, M.D.**

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

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

Hand delivered  
January 10, 2000

Re: Application 4-99-227

Applicant: Elliot Megdal

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

Dear Commissioners:

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

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

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

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

Sincerely,

  
Daniel D. Hillman, MD

DDH/co enc. 3 pages