

CALIFORNIA COASTAL COMMISSION

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Staff: CLD-SF
Staff Report: September 25, 2003
Hearing Date: October 10, 2003

**STAFF REPORT FOR CONSENT CEASE AND DESIST ORDER
AND CONSENT RESTORATION ORDER**

CEASE AND DESIST ORDER: CCC-03-CD-10

RESTORATION ORDER: CCC-03-RO-08

PROPERTY LOCATION: 24750 (formerly 24734) Pacific Coast Highway,
City of Malibu (Los Angeles County)

PROPERTY DESCRIPTION: The site is a 5.94-acre bluff top lot immediately south of Pacific Coast Highway, in the vicinity of Malibu Bluffs State Park. The site contains a single-family residence, guesthouse, pool, driveway, soldier piles, putting green and landscaping in the City of Malibu. The property also contains a southern facing bluff slope, which contains an access road, and steep canyon slopes that descend in an easterly direction from the developed area to Puerco Creek, which crosses the northeast corner of the property for a distance of approximately 200 feet.

PROPERTY OWNERS: Roderick and Sandra Campbell

VIOLATION FILE NO.: V-4-01-011

VIOLATION DESCRIPTION: Non-compliance with Standard Condition 3 of Coastal Development Permit No. 4-97-102 by performing unauthorized development adjacent to riparian environmentally sensitive habitat. The unauthorized development consists of construction below the 128 ft. contour of two

putting greens, five golf tee areas, four sand bunkers, three rock retaining walls, rock steps, associated drainage systems, and an unquantified amount of grading.

SUBSTANTIVE DOCUMENTS: Coastal Development Permit No. 4-97-102; "General Biological Assessment, 24750 Pacific Coast Highway (formerly 24734 Pacific Coast Highway) Malibu, California 90265," prepared by TeraCor Resource Management, August 2002.

CEQA STATUS: Exempt (CEQA Guidelines (GC) §§ 15060(c)(2) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308 and 15321)

I. SUMMARY

Commission staff recommends that the Commission issue this Cease and Desist Order (CDO) and Restoration Order (RO) (hereafter "Consent Orders") to resolve the Campbells' Coastal Act violation. The Campbells' violation consists of unauthorized development in non-compliance with the terms of their approved coastal development permit (CDP). The unauthorized development violated Standard Condition 3 of the CDP, which prohibited any development not authorized by the CDP. The unauthorized development consisted of construction below the 128 ft. contour of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, associated drainage systems, and an unquantified amount of grading. (EXHIBIT A)

In August 1997, the Commission issued to the Campbells CDP No. 4-97-102 (EXHIBIT B) authorizing construction of a single-family residence, driveway, soldier piles, an approximately 5,000 sq. ft. pitch and putt golf area, and landscaping on a 5.94 acre blufftop lot in the City of Malibu. The Campbells constructed the development permitted by their CDP but also installed the unauthorized development in violation of the terms of their CDP, as noted above.

Slopes descend in an easterly direction from the developed area to Puerco Creek, which crosses the northeast corner of the property at the bottom of the Canyon for a distance of approximately 200 feet. Puerco Creek is designated as a blue line stream by the United States Geologic Survey and an environmentally sensitive habitat (ESHA) by the Santa Monica Mountains Land Use Plan. In addition, offshore kelp beds, also designated as ESHA are located along this section of the coast. The southern portion of the property is designated as a coastal bluff and descends from the building pad in a southerly direction to Malibu Road.

In August 2002, the Campbells applied to amend their CDP to authorize after-the-fact the unauthorized development that they performed. The amendment application also proposed restoration of approximately 0.62 acres of disturbed riparian and coastal sage scrub habitat that has been invaded by exotic plant species. The restoration was proposed as mitigation for the estimated 0.62-acre area of similar habitat disturbed by the construction of the unauthorized development. On May 9, 2003, the Commission denied the Campbell's permit amendment (EXHIBIT C) on the basis that it was inconsistent with the Coastal Act and the Malibu LCP policies for the protection of visual resources, ESHA, and water quality. Furthermore, the Commission found that alternatives existed that would eliminate all impacts to ESHA and water quality without depriving the Campbells of reasonable economic use of their property.

These Consent Orders would require and authorize the Campbells to remove the unauthorized development and restore the impacted areas to the maximum extent feasible.

II. HEARING PROCEDURES

The procedures for a hearing on a proposed CDO and RO are outlined in Section 13185 and 13195 respectively of the California Code of Regulations Title 14, Division 5.5, Chapter 5, Subchapter 8. The CDO and RO hearing procedures are similar in most respects to the procedures that the Commission utilizes for permit and LCP matters.

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

The Commission should receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in California Code of Regulations Title 14 Section 13186, incorporating by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any

Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the proposed CDO and RO, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the proposed Consent Orders.

III. MOTION

MOTION I: I move that the Commission issue Cease and Desist Order No. CCC-03-CD-10, pursuant to the staff recommendation.

MOTION II: I move that the Commission issue Restoration Order No. CCC-03-RO-08, pursuant to the staff recommendation.

COMMISSION STAFF RECOMMENDATION OF APPROVAL

Staff recommends a **YES** vote on both motions. Passage of these motions will result in issuance of these Consent Orders. The motion passes only by an affirmative vote of the majority of Commissioners present.

RESOLUTION TO ISSUE CEASE AND DESIST AND RESTORATION ORDER

The Commission hereby issues Consent Cease and Desist Order No. CCC-03-CD-08 and Consent Restoration Order No. CCC-03-RO-06 set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit, the unpermitted development is not consistent with Coastal Act policies and the unpermitted development is causing continuing resource damages.

IV. PROPOSED FINDINGS

A. Permit Violation

Standard Condition 3 attached to CDP No. 4-97-102 specifically provided that:

All development must occur in strict compliance with the proposal as set forth on 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.

The approved project plans (including the Landscaping and Erosion Control Plan and Grading Plans), did not authorize any development on the canyon slope above Puerco Creek other than minimal drainage system improvements. The approved development (including the 5,000 sq. ft. pitch and putt golf area) was

specifically limited to the existing pad area located on blufftop (above the 128 ft. elevation). The plans show that no development of any kind was allowed below the 128 ft. elevation line on the east facing slopes above Puerco Creek. According to the As Built Grading Plan completed by RJR Engineering Group, Inc., the Campbells performed development (including an expansion of the golf facilities) below the 128 ft. elevation line. The unauthorized development below the 128 ft. elevation line was not in compliance with the approved project plans, and violated Standard Condition 3 attached to the CDP.

B. Basis for Issuance of Cease and Desist Order

The statutory authority for issuance of this CDO is provided in Coastal Act Section 30810, which states, in relevant part:

- (a) If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.*
- (b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...*

The Campbells performed unauthorized development on their property (in the course of carrying out permitted development) in violation of Standard Condition 3 of their CDP, which required that all development must occur in strict compliance with the terms of the approved CDP. The unauthorized development was also inconsistent with the approved project plans.

C. Basis for Issuance of Restoration Order

The statutory authority for issuance of this Consent RO is provided in Coastal Act Section 30811, which states, in relevant part:

In addition to any other authority to order restoration, the commission... may, after a public hearing, order restoration of a site if it finds that (a) the development has occurred without a coastal development permit from the commission... (b) the development is inconsistent with this division, and (c) the development is causing continuing resource damage.

The following section set forth the basis for the issuance of the CDO and RO by providing substantial evidence that the development meets all of the required

grounds for the Commission to issue a CDO and RO as provided for in Coastal Act Sections 30810 and 30811:

(1) Development Has Occurred Without a Coastal Permit

The development that is the subject of these Consent Orders was not authorized under CDP No. 4-97-102 or any other CDP approved by the Commission.

(2) Development is Inconsistent with Coastal Act Policies

The unauthorized development was inconsistent with Coastal Act and Malibu LCP policies for the protection of visual resources, ESHA, and water quality, as discussed below.¹

(3) Development is Causing Continuing Resource Damage

The terms "continuing", "resource", and "damage" are defined in Section 13190 of the California Code of Regulations.

Section 13190(c) defines "Continuing" as:

'Continuing', when used to describe 'resource damage', means such damage which continues to occur as of the date of issuance of the Restoration Order.

Section 13190(a) defines "Resource" as:

'Resource' means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.

Section 13190(b) defines "damage" as:

'Damage' means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.

As described below, the unauthorized development is inconsistent with the policies of the Coastal Act and the Malibu LCP and is causing continuing

¹ The analysis of how this development is inconsistent with the Chapter 3 policies of the Coastal Act is set forth more fully in the staff report for CDP Amendment No. 4-97-102-A1. (Attached as Exhibit C)

resource damages, as those terms are defined in Section 13190. The continuing resource damages include of the persistent impacts to visual resources in an area designated as scenic and the permanent displacement of coastal sage scrub habitat that is adjacent to portions of the canyon slope mapped as riparian ESHA. In addition, this removal of native coastal sage scrub vegetation may be causing erosion into the watershed that results in increased sedimentation and impacts to the water quality of Puerco Creek.

Visual Resources

Section 30251 of the Coastal Act, which is incorporated as a policy of the Malibu local coastal plan (LCP) was designed to protect the scenic and visual qualities of the coastal zone.

Section 30251 provides:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

Malibu LCP Policy 6.5 provides:

New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

Policy Analysis

Both Section 30251 and Policy 6.5 require new development to be sited and designed to minimize adverse impacts on scenic coastal areas and to minimize landform alteration, through minimizing grading and designing development to be visually compatible with the character of the surrounding areas.

The unauthorized development is located on the canyon slopes below the 128 ft. contour elevation and outside of the area containing the development approved under the original permit. The slope forms the western bank of Puerco Creek, and the portions of the slope adjacent to the stream are mapped as riparian ESHA in the Malibu LCP. The unauthorized development is visible from Pacific Coast Highway and Malibu Bluffs State Park. Pacific Coast Highway is a designated Scenic Road pursuant to LCP Policy 6.2 and the State Park is parkland. Thus the site meets the definition of a "Scenic Area", under Malibu LCP Policy 6.4, because it is "visible from a scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features..." This site is therefore governed by LCP Policy 6.5, which requires that development minimize adverse impacts on scenic areas that are visible from scenic roads or public viewing areas.

The unauthorized development consists of manicured golf tees and putting greens, sand bunkers, accented with rock retaining walls, and rock steps. Construction of the unauthorized pitch and putt golf greens and sand bunkers occurred outside of the developed portions of the site and required significant landform alteration, including grading and the placement of an unquantified amount of fill to reduce the grade of the steep slopes. The putting greens do not conform to natural topography, but rather consist of a series of relatively flat pad areas carved into the canyon walls. The rock retaining walls and uniform appearance of the irrigated turf accentuate the contrast between the constructed greens and the surrounding hillside.²

Environmentally Sensitive Habitat/Water Quality

Sections 30230, 30231, and 30240 of the Coastal Act, and the Malibu LCP provide for the protection of ESHA, including both terrestrial and marine habitats, coastal waters, including streams and other surface waters, and the marine environment.

Section 30230 of the Coastal Act, which is incorporated as part of the Malibu LCP, provides:

² The Commission already found that the unauthorized development is inconsistent with Section 30251 in the denial of CDP Amendment No. 4-97-102-A1. (Attached as Exhibit C)

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act, which is incorporated as part of the Malibu LCP, provides:

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

Section 30240 of the Coastal Act, which is incorporated as a policy of the Malibu LCP, provides:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

In addition, the following LCP policies for the protection of ESHA are applicable in this case:

- 3.1 Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native*

woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.

- 3.6 Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.*
- 3.8 Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- 3.25 New development, including, but not limited to, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted in required ESHA or park buffer areas, except for that case addressed in Policy 3.27³*
- 3.46 Grading or earthmoving exceeding 50 cubic yards shall require a grading permit. Grading plans shall meet the requirements of the local implementation plan with respect to maximum quantities, maximum cuts and fills, remedial grading, grading for safety purposes, and maximum heights of cut or fill. Grading proposed in or adjacent to an ESHA shall be minimized to the maximum extent feasible.*
- 3.51 Disturbed areas ESHAs shall not be further degraded, and if feasible, restored. If new development removes or adversely impacts native vegetation, measures to restore any disturbed or degraded habitat on the property shall be included as mitigation.*

³ i.e. open space buffers from coastal sage scrub and chaparral of sufficient width to ensure that no required fuel modification will extend into the ESHA.

Policy Analysis

The project site is a 5.94-acre bluff top lot that consists of a developed pad area, a southerly facing coastal bluff top, and the easterly facing terminal walls of Puerco Canyon. The developed pad area contains a single-family residence, driveway, soldier piles, a pitch and putt golf area, and landscaping, which were approved under the original CDP. The southern facing bluff slope is developed with an access road and contains disturbed coastal sage scrub/saltbrush scrub habitat. The canyon slope forms the western terminal bank of Puerco Creek, which crosses the northeast corner of the property for a distance of approximately 200 feet. The area of the canyon slope adjacent to the Creek is mapped as riparian ESHA in the Malibu LCP. The canyon slopes contain primarily native coastal sage scrub vegetation, and some exotic species such as fennel and castor bean. Southern willow riparian habitat is found in the canyon bottom along Puerco Creek.

The unauthorized development consists of construction of two putting greens, five tee areas, four sand bunkers, three rock retaining walls, rock steps, and associated drainage systems, and an unquantified amount of grading. The development is located on the canyon slopes below the 128 ft. contour. Under CDP No. 4-97-102, the Commission approved an approximately 5,000 sq. ft. pitch and putt golf area above the 128 ft. contour on a previously developed and disturbed area of the site. The Campbells have expanded these golfing facilities to include portions of the canyon slopes below the 128 ft. elevation.

Puerco Creek, a U.S. Geological Survey designated blue line stream. Puerco Creek enters a culvert downstream of the property and flows onto Puerco Beach approximately 75 feet downstream of the subject site. The offshore waters at Puerco Beach contain Kelp Bed ESHA, as designated in the Malibu LCP.

The proposed putting greens and tees are located on the canyon slopes above Puerco Creek. The southernmost of the two unauthorized putting greens is located at the transition point between the canyon slopes and the southern facing bluff slope, approximately 130 feet west of the stream corridor, while the northern green is located on the canyon slopes near Pacific Coast Highway, approximately 100 feet west of the stream.

The unauthorized development resulted in the removal of coastal sage scrub adjacent to riparian ESHA.⁴ Removal of vegetation can result in increased erosion, which can cause sedimentation of the Puerco Creek and reduce the biological productivity of riparian habitats and the quality of coastal waters. An important ecological function of coastal sage scrub in the City of Malibu is to protect water quality in coastal streams by reducing erosion in the watershed. Although shallow rooted, the shrubs that define coastal sage scrub have dense root masses that hold the surface soils much more effectively than irrigated turf.

The unauthorized development also involved an unquantified amount of grading and the importation of fill adjacent to the riparian ESHA, which is inconsistent with the resource protection policies of the Malibu LCP. Construction of the greens also included the installation of irrigated non-native turf. Irrigation increases the potential for erosion and slope destabilization, particularly on fill slopes like those used to construct the greens. Even surficial slumping or erosion could increase the transport of sediments into Puerco Creek. In addition, use of pesticides and fertilizers to maintain the manicured turf increases the likelihood of introducing chemical and biological pollutants into Puerco Creek and the kelp beds approximately 150 feet downstream. Malibu LCP Policy 3.18 prohibits the use of pesticides adjacent to ESHA.

In conjunction with their CDP amendment application, the Campbells submitted a biological report that addresses habitat resources on site ("General Biological Assessment, 24750 Pacific Coast Highway (formerly 24734 Pacific Coast Highway) Malibu, California 90265," prepared by TeraCor Resource Management, August 2002). The report included a map that delineated the location of habitat types on the subject site and showed that the unauthorized putting greens and tees are located adjacent to coastal sage scrub and disturbed coastal sage scrub habitat. In addition, a site survey submitted with the amendment application indicates that the site of the southern green contained native coastal sage scrub vegetation contiguous with that of the canyon and bluff slope. The survey also indicates tree cover in the location of the northern green.

Special Condition 1 of the original permit required the Campbells to submit landscaping and erosion control plans for review and approval by the Executive Director. The approved plans show that the western portion of the southern green is located in an area that was to have been landscaped with native toyon, a hydroseed native wildflower mix, and some non-native ornamental plant species. Similarly, the northern tees are located in an area that was to have been planted with a native wildflower mix. The eastern portion of the southern green, the southern tees, and the northern green are located in an area that was to have consisted of native drought resistant, fire tolerant species and thinned

⁴ The Commission already found that the unauthorized development is inconsistent with Section 30251 in the denial of CDP Amendment No. 4-97-102-A1. (Attached as Exhibit C)

coastal sage scrub habitat. Instead of native plantings required under Special Condition 1, the Campbells installed the golf tees, putting greens, sand bunkers, retaining walls, steps, and drainage system. Thus, the unauthorized development was also inconsistent with the approved landscaping and erosion control plans.

D. Background and Administrative Resolution Attempts

On January 12, 2000, Commission staff discovered the unauthorized development on the Campbells' property. At that time, Commission staff advised the Campbells that the development on their property did not conform to the approved plans and the terms and conditions of their CDP.

On November 8, 2001, Commission staff sent the Campbells a letter informing them they were in violation of the Coastal Act for failure to comply with Standard Condition 3 of their CDP. The letter directed them to submit an application for an amendment to their CDP to remove or retain the unauthorized development. The letter also indicated that the unauthorized development does not appear to be consistent with the Chapter 3 policies of the Coastal Act and that Commission staff was likely to recommend denial of the amendment.

On August 6, 2002, the Campbells submitted an after-the-fact application to amend their CDP to retain the unauthorized development. They proposed to mitigate the loss of the 0.62 acres of ESHA and riparian habitat below the 128 ft. contour by restoring approximately 0.62 acres of degraded riparian and coastal sage scrub habitat elsewhere on the property

On May 9, 2003, the Commission denied CDP No. 4-97-102-A1 based upon the inconsistency of the proposed development with the visual resource and ESHA policies of the Malibu LCP and the Coastal Act.

On July 16, 2003, based on the denial of the amendment, Commission staff sent to the Campbells a notice of intent to issue a CDO and a RO (EXHIBIT D) to require them to remove the unauthorized development and restore the property to the maximum extent feasible. Commission staff also outlined the option of negotiating consent orders as an alternative to a unilateral CDO and RO. The letter established an August 5, 2003 deadline for receipt of the Campbells' Statement of Defense⁵ and stated Commission staff would schedule a public hearing on the matter at the September Commission meeting. No Statement of Defense was submitted.

⁵ California Code of Regulations Section 13181 provides that persons issued a notice of intent to issue a CDO shall be given 20 days from transmittal to complete and return a statement of defense form.

On September 19, 2003, the Campbells and Commission staff reached agreement on the terms of the proposed Consent Orders. In addition to requiring the Campbells to remove the unauthorized development and restore the site so that it is consistent with the approved plans, the Consent Orders would require the Campbells to pay a \$10,000 penalty.

V. ALLEGATIONS

The Commission alleges the following:

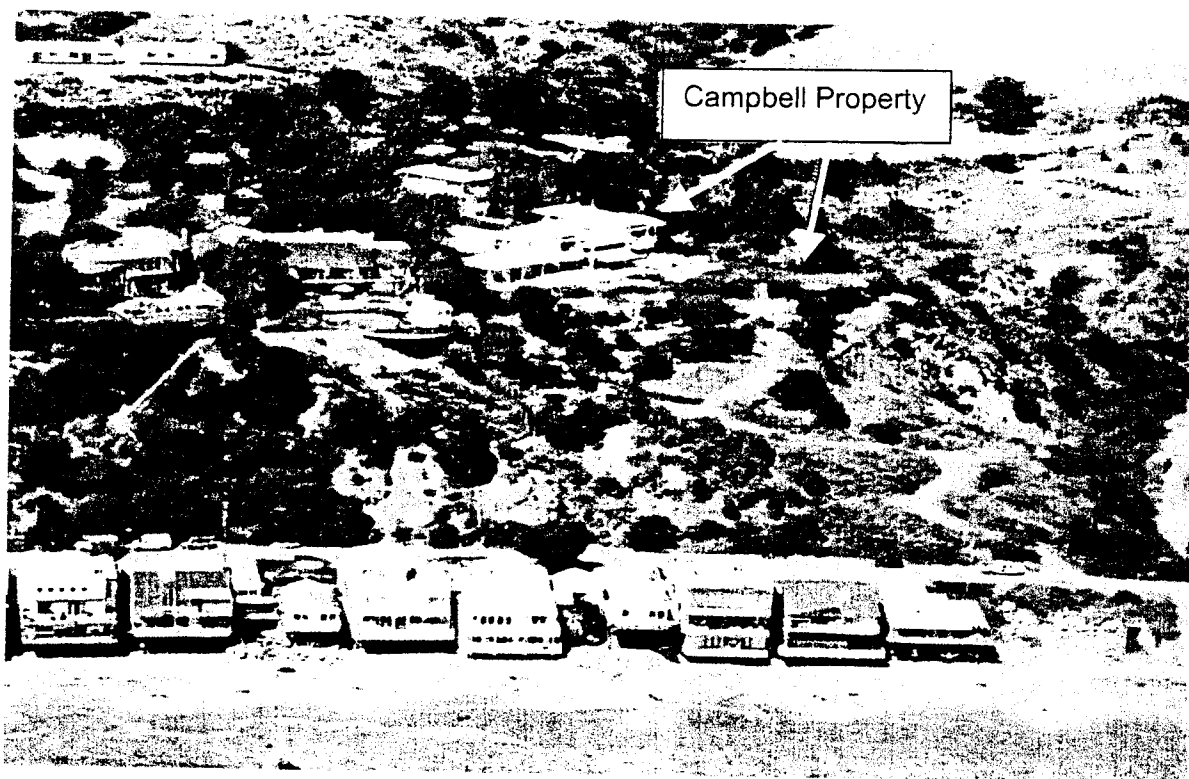
- (1) The Campbells violated the Coastal Act by performing unpermitted development.
- (2) The Campbells violated the Coastal Act by performing unauthorized development inconsistent with their approved CDP.
- (3) At the time the Campbells performed the unauthorized development the Campbells were knowledgeable of the requirements of their approved CDP including conditions that imposed limits on the development.
- (4) The unauthorized development performed by the Campbells negatively impacted visual resources and is therefore inconsistent with Section 30251 of the Coastal Act and the Policy 6 of the Malibu LCP. The unauthorized development also resulted in the removal of native coastal sage scrub that may have impacted the adjacent riparian ESHA nearby marine habitat which is inconsistent with Sections 30240, 30231, and 30230 of the Coastal Act and Policy 3 of the Malibu LCP.
- (5) The unauthorized development is causing or has the potential to cause continuing resource damages to visual resources and the portions of the canyon slope that are designated as ESHA.

VI. CEQA COMPLIANCE

The Commission finds that issuance of this CDO and RO to compel the removal of the unauthorized development and restoration of the property to the conditions that existed prior to the unauthorized development is exempt from any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the meaning of CEQA. The CDO and RO is exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(2) and (3), 15061(b)(2), 15307, 15308 and 15321 of CEQA Guidelines.

EXHIBITS

- A. Photographs of the Campbell property, including an oblique aerial taken from Californiacoastline.org, and other shots taken during the site visit on January 12, 2000.
- B. Commission Staff report for Coastal Development Permit No. 4-97-102 (Campbell) approved by the Commission on August 14, 1997.
- C. Commission Staff report for Coastal Development Permit Amendment No. 4-97-102-A1 (Campbell) denied by the Commission on May 9, 2003.
- D. Notice of intent to issue Cease and Desist Order and Restoration Order dated July 16, 2003.

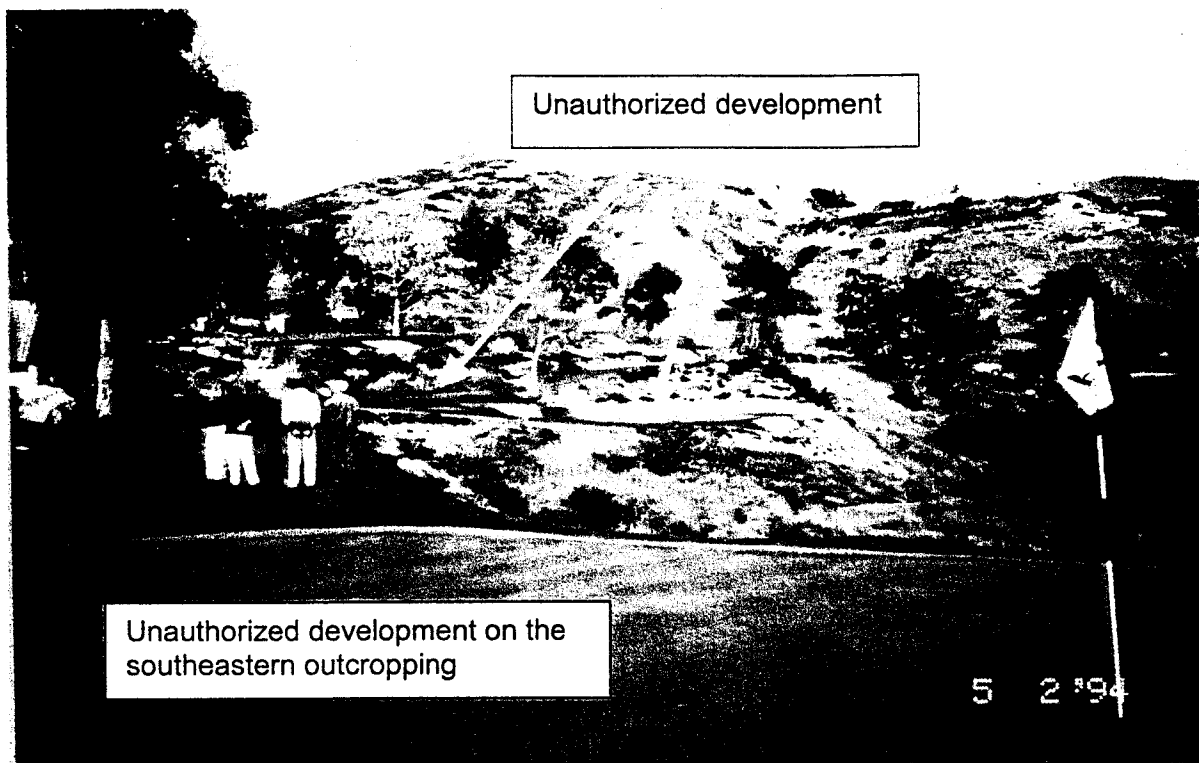


Photograph from of the Campbell property from Californiacoastline.org showing the unauthorized golf green on the southeastern outcropping.



Line showing the approximate location of the 128 ft. contour below which no development was authorized.

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CCC-03-CD-10 (Campbell)
CCC-03-RO-08 (Campbell)



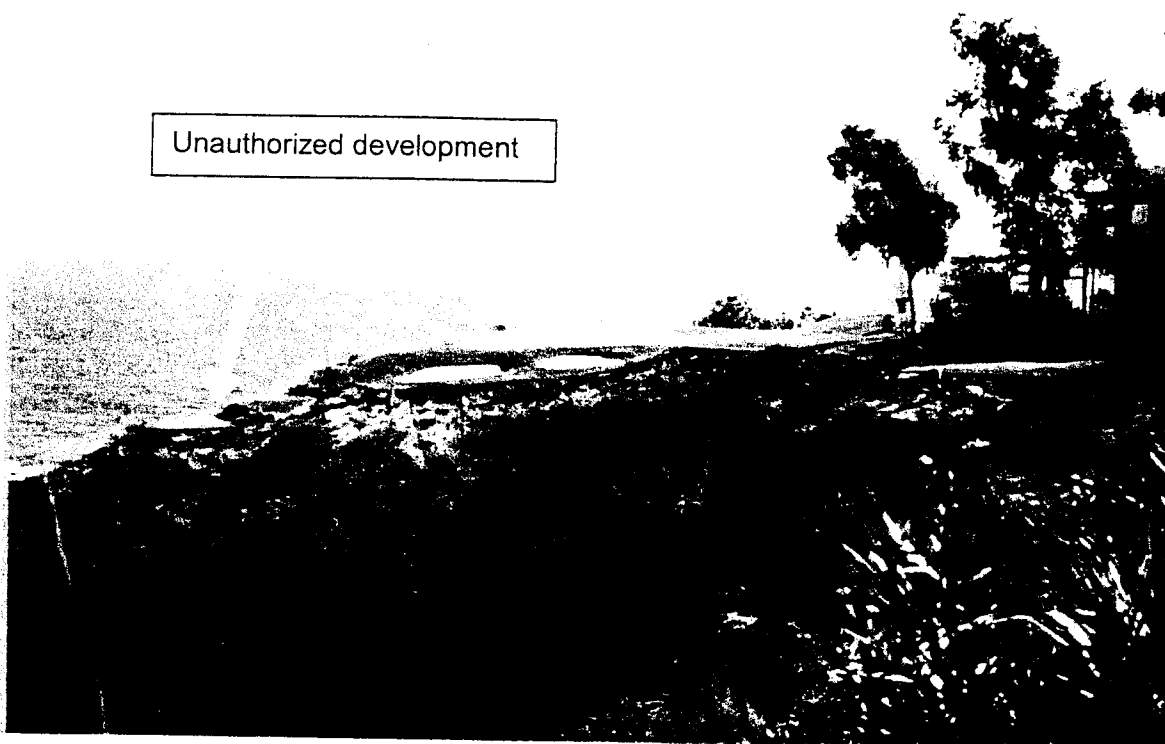
View from the golf green on the western outcropping below the house looking east on 1/12/00



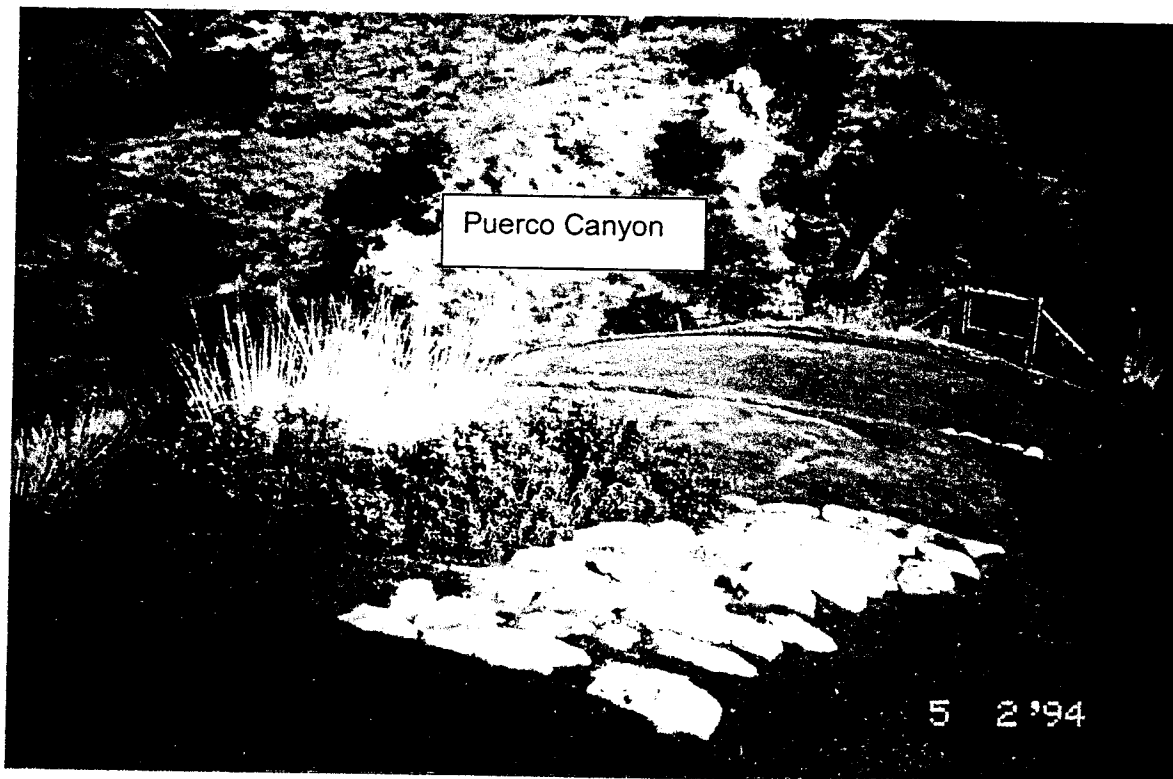
View of unauthorized golf greens, sand trap, and rock retaining wall on the canyon slope on 1/12/00

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CCC-03-CD-10 (Campbell)
CCC-03-RO-08 (Campbell)



View from PCH of the western outcropping with unauthorized golf greens and sand bunkers on 1/12/00



View of the unauthorized golf tees and rock steps below the golf green on the western outcropping on 1/12/00

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CCC-03-CD-10 (Campbell)
CCC-03-RO-08 (Campbell)



Th 3b

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
800 SOUTH CALIFORNIA ST., SUITE 200
SANTA ANA, CA 92701
(714) 641-0142

Filed: 7/15/97
49th Day: 9/2/97
180th Day: 1/11/98
Staff: S. Hudson *ja*
Staff Report: 7/24/97
Hearing Date: August 12-15, 1997
Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-102

APPLICANT: Rod and Sandra Campbell

AGENTS: Richard Scott

PROJECT LOCATION: 24734 Pacific Coast Highway, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a new 8,143 sq. ft., two-story, single family residence with a 748 sq. ft. guesthouse over a 1,354 sq. ft. detached garage, soldier piles, retaining walls, hydraulics, driveway, footpath, trellis, entry gate, pitch and putt golf area and 941 cu. yds. grading (486 cu. yds. cut and 455 cu. yds. fill) and 2,345 cu. yds. of grading for recompaction. The project also includes removal of an unpermitted trailer/manufactured home, paved road, turnaround area, and concrete tiebacks on bluff face and a bluff restoration and revegetation program.

Lot area:	258,782 sq. ft.
Building coverage:	6,546 sq. ft.
Pavement coverage:	16,685 sq. ft.
Landscape coverage:	12,000 sq. ft.
Parking spaces:	6
Ht abv ext grade:	28 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept, Approval in Concept City of Malibu Health Department (Septic).

SUBSTANTIVE FILE DOCUMENTS: Geotechnical Engineering and Geologic Report dated 1/27/97 by RJR Engineering Group, Inc.; Geotechnical Engineering Addendum Letter dated 6/10/97 by RJR Engineering Group, Inc.; Biological Review dated 2/18/97 by City of Malibu; and Archaeological Survey and Proposal by W and S Consultants dated 3/26/97.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with ten (10) special conditions regarding landscaping and erosion control, bluff restoration, archaeological resources, plans conforming to

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geologic recommendations, drainage, removal of existing structures, future development, condition compliance, assumption of risk and wildfire waiver of liability. The project involves the demolition of an existing single family residence (SFR) and two guest units (demolition for the SFR and one of the two guest houses has been previously approved by the Commission under Coastal Development Permit Waiver 4-97-141) and the construction of a new SFR and single guest house over a detached garage. Archaeological resources, an active landslide and unpermitted structures in violation of the Coastal Act (to be removed under this permit) are present on the project site which is located on a bluff top parcel between Pacific Coast Highway and Malibu Road. The site is also adjacent to the Puerco Canyon Environmentally Sensitive Resource Area (ESHA) which contains Puerco Creek designated as a blueline stream by the United States Geologic Service.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. 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 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 development during construction, 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.

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III. Special Conditions.

1. Landscaping and Erosion Control Plan

Prior to issuance of the coastal development permit, the applicant shall submit landscaping and erosion control plans for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting geologic and geotechnical consultants to ensure that the plans are in conformance with the consultants' geotechnical recommendations. The plans shall incorporate the following criteria:

(a) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

(b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

(c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

(d) The plan shall include a long-term fuel modification plan that includes the radii of the required fuel modification zones along with notations showing what work is required in each zone (i.e. clearing, trimming, removal of dead vegetation) and how often thinning is to occur. Vegetation clearance within the riparian corridor of the stream channel shall be minimized to the greatest extent feasible and shall be limited to hand clearance and thinning only. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County.

2. Bluff Restoration Plan

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a detailed bluff restoration plan prepared by a qualified Landscape Architect, resource specialist or biologist. The plan shall be reviewed and approved by the geotechnical consultant to ensure that the plans are in conformance with the consultants' geotechnical recommendations. The plans shall include, but not be limited to, the following criteria:

(a) Provisions and specifications for removal of all non-native plants; the unpermitted paved road, turnaround, and concrete tiebacks. An unpaved footpath of no more than three (3) ft. in width may be retained for the purpose of landscape and slope maintenance.

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(b) Bluff revegetation program which utilizes only native drought resistant plants, endemic to coastal bluffs. The revegetation program shall use a mixture of seeds and container plants to increase the potential for successful revegetation. No hydroseeding shall occur in areas of the bluff where native plant material is already established. A temporary irrigation system may be used until the plants are established, as determined by the consulting landscape architect or resource specialist, but in no case shall the irrigation system be in place longer than three (3) years. Disturbed slopes shall be planted within 30 days of disturbance to minimize erosion and bluff instability.

(c) Monitoring and maintenance program to ensure the successful revegetation of the bluff. The bluff restoration plan shall be implemented within 90 days of the issuance of this permit. However, the removal of exotic vegetation and revegetation with native species may be carried out in several phases to minimize bluff disturbance. The applicant may request an extension of time in order for revegetation to coincide with the 1997-1998 rain season. In no event, should the planting occur later than March 1, 1998. Revegetation shall provide 90 percent coverage within three (3) years and shall be repeated, if necessary, to provide such coverage. This time period may be extended by the Executive Director for good cause

3. Archaeological Resources

(a) By acceptance of this permit the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors shall be adequate to observe the earth moving activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, grading work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist, the City of Malibu archaeologist and the native American consultant consistent with CEQA guidelines.

(b) All recommendations contained in the Archaeology Report dated 3/26/97 by W & S Consultants, as well as, any additional recommendations developed by the archaeologist(s) during the Phase II Archaeological Evaluation, shall be incorporated in to all final design and construction. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, a report of the Phase II Archaeological Evaluation of the projects site. If the consulting archaeologist's recommendations, based on the Phase II Archaeological Evaluation of the site, require a substantial modification or redesign of the proposed project plans, an amendment to this permit is required.

4. Plans Conforming to Geologic Recommendation

All recommendations contained in both the Geotechnical Engineering and Geologic Report dated 1/27/97 and the Geotechnical Engineering Addendum Letter dated 6/10/97 by RJR Engineering Group, Inc.; shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the consultant. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project 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 consultants' shall require an amendment to the permit or a new coastal permit.

5. Drainage Plans and Maintenance Responsibility

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff. With acceptance of this permit, the applicant agrees that should the project's drainage structures fail or result in erosion of the bluff, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

6. Removal of Unpermitted Structure

With acceptance of this permit, the applicant agrees that the unpermitted trailer/manufactured home, as shown on Exhibit One, shall be removed from the site to an approved location within thirty days of issuance of the Certificate of Occupancy for the residence from the City of Malibu.

7. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the downstairs portion of the structure (designated as garage) shall remain non-habitable space with no interior access between the first and second levels of the structure and that any future structures, additions, or improvements related to the guest house/garage or second unit, approved under coastal development permit number 4-97-102, will require a permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest conveyed.

8. Condition Compliance

The requirements specified in the foregoing special conditions that the applicant is required to satisfy as a prerequisite to the issuance of this permit must be fulfilled within 90 days of Commission. Failure to comply with such additional time as may be granted by the Executive Director for good cause, will terminate this permit approval.

9. Assumption of Risk

Prior to permit issuance, applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that: (a) the applicant understands that the site may be subject to extraordinary hazard from landsliding and erosion, and the applicant assumes the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the California Coastal Commission and agrees to indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees relative to the California Coastal Commission's approval of the project for any damage from such 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.

10. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a new 8,143 sq. ft., two-story, single family residence with a 748 sq. ft. guesthouse over a 1,354 sq. ft. detached garage, soldier piles, retaining walls, hydraulaugers, driveway, footpath, trellis, entry gate, pitch and putt golf area and 941 cu. yds. grading (486 cu. yds. cut and 455 cu. yds. fill) and 2,345 cu. yds. of grading for recompaction. The project also includes removal of an unpermitted trailer/manufactured home, paved road, turnaround area, and concrete tiebacks on bluff face and a bluff restoration and revegetation program. The subject site is a 5.94 acre lot located in a built out section of Malibu between Pacific Coast Highway to the north, Malibu Road to the south, and Puerco Canyon to the east. Slopes descend from the building pad in an easterly direction to Puerco Creek. Puerco Creek is located on the adjacent property approximately 250 ft. to the east and is designated as both a blue line stream by the United States Geologic Service and an environmentally sensitive habitat (ESHA) by the Santa Monica Mountains Land Use Plan. In addition, offshore kelp beds, also designated as ESHA are located along this portion of coast. The southern portion of the property is designated as a coastal bluff and descends from the building pad in a southerly direction to Malibu Road.

The site has been previously developed with an approximately 6,000 sq. ft. single family residence and two guest units. A portion of archaeological site CA-LAN-19 extends onto the proposed project site. On July 8, 1997, the Commission issued Coastal Development Permit Waiver 4-97-141 to the applicant for the demolition of the existing single family residence and one guest house in order to allow a Phase II Archaeological Study of the locations for the new proposed single family residence and guest house to be carried out. The remaining existing guest house (trailer/manufactured home), which was constructed by the previous owner during the mid 1980's without the benefit of a coastal development permit, will be removed upon completion of construction.

A landslide is present on the bluff slope to the south of the building pad. Emergency Coastal Development Permits P-5209 and P-5274 were issued for this site in 1979 for the placement of 10,000 cu. yds of fill to stabilize the landslide. In addition, tiebacks along the headscarp, a paved road down the bluff to Malibu Road, turnaround area, and seven hydraulaugers to de-water the slope.

were also installed at this time without the benefit of coastal development permits. The applicant is now proposing to restore the bluff habitat, remove the road, turnaround, and concrete tiebacks after installation of the new soldier piles is completed. The applicant is requesting "after the fact" approval for the hydrauger system.

B. Blufftop Development/Geologic Stability

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 proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission will only approve the project if the applicant assumes liability from the associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by special condition ten (10).

In addition, Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood and fire hazard, and assure stability and structural integrity. Coastal bluffs, such as this one are unique geomorphic features that are characteristically unstable. By nature, coastal bluff are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. The bluffs along this stretch of the coast are not subject to erosion from wave addition because of intervening residential development with shoreline protective devices and Malibu Road. However, due to the geologic structure and soil composition, these bluffs are susceptible to failure, especially with excessive water infiltration. In addition, these bluffs are subject to erosion from runoff at the top of the slope. Finally, since these bluffs are highly erodible and geologically unstable, the Commission, in past permit actions, has consistently required a 25 ft. setback or compliance with a stringline, whichever is greater, for development located at the top of the bluff.

Malibu Road and single family residences on the seaward side of the road separate theses bluffs from the shore. However, prior to the construction of Malibu Road, these bluffs were a part of the shoreline habitat. These bluffs still retain native vegetation and are habitats for many plants and animals. As such, these bluffs still provide nesting, feeding, and shelter sites and remain a part of

the shoreline ecosystem. Further, this site is morphologically unique in that the bluff edge transitions from the southerly facing coastal blufftop edge (110 ft. elevation) to an easterly facing canyon blufftop edge (120 ft. elevation).

Due to the geologic instability of bluffs and their continuing role in the ecosystem, the certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (LUP) contains a number of policies regarding development on or near coastal bluffs. Although the City of Malibu is now incorporated, these policies are still used as guidance by the Commission in order to determine the consistency of a project with Section 30253 of the Coastal Act. As noted above, Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property. The LUP policies suggest that geology reports be required for development in unstable areas, and that development minimize both grading, landform alteration and other impacts to natural physical features. Finally, the LUP suggests that new development be set back a minimum of 25 ft. from the top of the bluff or a stringline, whichever distance is greater, but in no case less than would allow for a 75-year useful life for the structure. The LUP also suggests that no permanent structures be permitted on a bluff face. Therefore, in this case, a 25 ft. development setback is appropriate. As proposed, all structures are to be located more than 25 ft. from the top of the bluff and are consistent with past Commission action regarding blufftop development setbacks. The applicant has submitted a Geotechnical Engineering and Geologic Report dated 1/27/97 and a Geotechnical Engineering Addendum Letter dated 6/10/97 by RJR Engineering Group, Inc.

The January 27, 1997, report states:

Discussions and Conclusions of Slope Stability

Based on the analysis performed for the site, the landslide under existing conditions has a factor of safety between 1.15 and 1.30. The installation of additional hydraugers to further de-water the slide could increase the factor of safety...The area of the proposed residence has a factor of safety in excess of 1.5 and is considered stable. However, the stability of this area is dependent on the adjacent area, and a long-term concern would be continued degradation of the headscarp area.

Based on this study, the proposed swimming pool and deck will extend into the existing slide area. The southern portion of the residence will be within a block of landslide debris between the crack in the trench and the landslide headscarp.

The geotechnical consultant also recommended a number of measures to ensure the structural stability of the proposed development. The January 27, 1997, report states:

Summary and Conclusions

The proposed improvements are feasible from a geologic and geotechnical standpoint, and should be free of landslides, slumping and excess settlement as described in this report, assuming the recommendations presented in this report are implemented during

the design and construction of the project. In addition, the stability of the site and surrounding areas will not be adversely affected by the proposed residential addition.

In addition, the June 10, 1997, letter states in order to improve site stability that:

Piles will be constructed at the headscarp area (top) of the landslide...The piles will be constructed in front of the pool and house. The pool and house will also be supported on piles, as specified in report. The soldier piles have been designed to extend into competent bedrock...to resist any future movement and provide adequate support for the upslope structures.

As conditioned above, the consulting geotechnical consultant has included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure the recommendations of the geotechnical consultant are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by special condition four (4), to submit project plans certified by the consulting geotechnical engineer as conforming to all recommendations.

Due to the potential hazardous geologic conditions on this site, including the presence of an active landslide, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by special condition nine (9). This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has required such deed restrictions for other development throughout the Malibu/Santa Monica Mountains region.

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. In addition, the applicant's Geotechnical Engineering Geologic Report dated 1/27/97 by RJR Engineering Group, Inc. states:

In general, it is our opinion that the surficial soils under certain conditions may be prone to future erosion and slumping and steps should be taken to minimize the future potential. We recommend that all slopes be vegetated and/or constructed with an erosion control mat as soon as possible, and a thorough maintenance plan be implemented at the end of construction to ensure proper drainage, vegetation cover, and prevention of burrowing rodents.

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Therefore, the Commission finds that special condition one (1) is required to ensure that all proposed disturbed areas are vegetated to minimize erosion and ensure stability of the bluff. The January 27, 1997, report also states:

Drainage should not be allowed to pond anywhere on the pad, foundations or pavements and should be directed towards suitable collection and discharge facilities.

Uncontrolled runoff over the bluff and canyon slopes will result in erosion and destabilization of the bluff, canyon slopes and eventually the building site. Therefore, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by special condition five (5), to submit drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations.

Previous slope remediation activity includes the placement of 10,000 cu. yds. of fill at the base of the bluff slope along Malibu Road in an effort to halt the slumping of the hillside after the occurrence of a landslide. Emergency permits EME-5209 and EME-5274 were issued in 1979 for the placement of the fill. However, various unpermitted development has also occurred on the bluff slope. Construction of concrete tiebacks, a paved road, turnaround area, and seven hydraugers was carried out on the bluff slope without the benefit of coastal development permits. The certified Malibu/Santa Monica Mountains LUP contains a number of policies regarding geologic stability and development on coastal bluffs. These policies have been certified as consistent with the Coastal Act and used as guidance by the Commission in numerous past permit actions in evaluating a project's consistency with Sections 30253 and 30251 of the Coastal Act. For example, in order to assure stability of the bluff slope and structural integrity of new development, Policy 165 prohibits the placement of any permanent structures on a bluff face, with the exception of engineered staircases or accessways to provide public beach access where no feasible alternative exists. The unpermitted development which has occurred on the bluff face is inconsistent with this policy and Section 30253 of the Coastal Act. Commission staff notes that the road could actually contribute to bluff instability as it has not been designed to any engineered standard.

The applicant has proposed to remove all unpermitted structures on the bluff face with the exception of the seven hydraugers which are to be maintained in proper working order. Removal of the unpermitted development will promote long-term site stability and serve to restore the bluff environment to a more natural condition. However, the applicant has not provided detailed plans for the bluff restoration. Therefore, the Commission finds it is necessary, as required by special condition two (2), for the applicant to submit plans to ensure the removal of the unpermitted structures and restoration of the bluff face.

The Commission finds that based on the findings of the geologic and geotechnical reports, and as conditioned to incorporate the recommendations of the geologic consultants, the proposed project is consistent with Section 30253 of the Coastal Act.

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C. Archaeological Resources

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PRC Section 30244 of the Coastal Act states that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The proposed development is located in a region of the Santa Monica Mountains which contains one of the most significant concentrations of archaeological sites in southern California. The coastal act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures.

Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

The applicant proposes to remove an existing trailer/manufactured home, road, turnaround, and concrete tiebacks and construct a new 8,143 sq. ft., two-story, single family residence with a 748 sq. ft. guesthouse over a 1,354 sq. ft. detached garage, soldier piles, retaining walls, hydraulaugers, driveway, trellis, footpath, entry gate, pitch and putt golf area, bluff restoration including the removal of exotic plant species, 941 cu. yds. grading (486 cu. yds. cut and 455 cu. yds. fill) and 2,345 cu. yds. of grading for recompaction. The property lies within the mapped boundaries of archaeological site CA-LAN-19. This site has been subject to extensive archaeological testing and evaluation intermittently since its original discovery in 1949. The applicant's Archaeological Reconnaissance Report dated 3/28/97 by W & S Consultants states:

Based on the previous archaeological work that has been conducted on CA-LAN-19, we can infer that the property is likely to contain intact archaeological deposits, and that these should prove to maintain importance based on the research potential criterion outlined in both CEQA Appendix K and 36 CFR 60.4.

To ensure that impacts to archaeological resources are minimized, special condition three (3) requires that the applicant have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation in order to monitor all earth moving operations. In addition, if any significant archaeological resources are discovered during construction, work shall be stopped and an appropriate data recovery strategy shall be developed by the City of Malibu archaeologist and the Native American consultant consistent with California Environmental Quality Act (CEQA) guidelines. The Commission further finds that it is

necessary to require the applicant to implement all other recommendations contained in Archaeological Survey and Proposal by W and S Consultants dated 3/26/97.

In addition, the City of Malibu has required that a Phase II archaeological evaluation of the footprint area of the proposed structures be conducted before construction may commence. In order to evaluate any new information produced by the pending Phase II Evaluation, special condition number three (3) has been required in order to ensure that any recommendations developed by the archaeologist(s) during the Phase II Evaluation shall be incorporated as part of the project and that the applicant submit a report of the evaluation. In addition, if the recommendations require a substantial modification or redesign of the proposed project, the applicant shall be required to submit an amendment to this permit.

Thus, the Commission finds that based on the findings of the archaeological report and other available evidence, the proposed development, as conditioned to monitor the site during earth moving activities and to incorporate the recommendations of the archeological consultant (Phase I and II) to mitigate any adverse impacts on archaeological resources, is consistent with Section 30244 of the Coastal Act.

D. Environmentally Sensitive Habitat Areas

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, and minimizing alteration of natural streams.

Section 30240 of the Coastal Acts states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed project site is located adjacent to the Puerco Canyon Environmentally Sensitive Habitat Area (ESHA) containing Puerco Creek which is also designated as a blueline stream by the United States Geologic Service. The ESHA is mostly located outside of the property boundaries, downslope and to the east of the project site, and includes the stream course and the associated riparian vegetation of Puerco Creek between Pacific Coast Highway and Malibu Road. In addition, offshore kelp beds, also designated as ESHA are located along this portion of coast. Although, the bluff in this area is separated from the beach by residential development and Malibu Road and is not designated as ESHA, these bluffs do provide nesting, feeding and shelter sites for shore birds

and remain a part of the shoreline ecosystem. A paved road, turnaround and concrete tiebacks have been previously constructed without the benefit of a coastal development permit on the bluff face. In order to resolve the violation, the applicant has proposed to include restoration of the bluff environment as part of this project. Restoration will include the revegetation with native species of areas disturbed by either the removal of unpermitted structures or of the invasive non-native plant species. The proposed bluff restoration and revegetation will restore and enhance the degraded bluff habitat, as well as, minimize the spread of non-native plants into the adjacent stream corridor. The applicant has not submitted a detailed bluff restoration plan. Therefore, special condition two (2) requires the applicant to submit a bluff restoration plan for approval by the Executive Director which will include the removal of the unpermitted development and non-native plants from the bluff slope and revegetation with native plants.

Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The Commission has in past actions, required a minimum 50 ft. setback from the riparian canopy of streams in order to provide adequate protection of the riparian habitat. As all proposed structures will be setback more than 200 ft. from the designated ESHA, this project will have an adequate buffer zone from the proposed development provided that the intensity of use of the structures and area remains the same.

However, the Commission also notes that the proposed project is located upslope from the Puerco Creek ESHA, which in turn drains directly to the ocean and the offshore kelp beds (also designated as ESHA). Increased erosion on site would subsequently result in an increase in the sedimentation of the downslope stream and offshore kelp beds. The Commission finds that the minimization of site erosion will reduce the project's individual and cumulative contribution to sedimentation of the adjacent stream and offshore kelp beds. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore, special condition one (1) has been required to ensure that all proposed disturbed areas are stabilized and vegetated in order to minimize the proposed project's cumulative contribution to sedimentation of the stream and offshore kelp beds. Special condition five (5) has also been required to ensure that project drainage be achieved in a non-erosive manner and that the applicant assume responsibility for the maintenance of all drainage devices on site.

In addition, fire department fuel modification requirements for the proposed development requires that vegetation be thinned around the proposed structures with allowances made to minimize clearance in and around the riparian corridor. Although vegetation thinning will not extend to the riparian corridor, excessive thinning on the slope above the drainage course may increase the potential for erosion. In order to ensure that vegetation clearance adjacent to the riparian corridor is minimized, a fuel modification plan has been included as part of special condition one (1) which requires the applicant to submit a fuel modification plan approved by the forestry department for

the review and approval of the Executive Director. The Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. Visual Impacts

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

Although the proposed residence is quite large it does not exceed 28 ft. in height from the existing natural grade and is similar to surrounding development. Public view corridors from the north looking towards the water will not be adversely impacted by the proposed project. The proposed structures will be located behind a rise in the land and vegetative screening and will not be easily visible from Pacific Coast Highway. Puerco Creek Canyon, which is adjacent to the site, provides a view corridor of the coast and water from the highway.

However, the single family residence, patio, and footpath will be visible from Malibu Road, the beach, and the public accessway to the beach located at the base of the coastal bluff. The unpermitted paved road and concrete tiebacks are also visible from these public view corridors. The applicant has included the removal of the unpermitted structures as part of the proposed project but has not yet submitted detailed plans of their removal. Therefore, special condition two (2) has been required in order to ensure that the paved road and concrete tiebacks are removed. In order to reduce visual impacts resulting from development, the landscape plan mentioned in the previous section, and required by special condition one (1), shall also include adequate vertical elements to screen the proposed development from Malibu Road and the public accessway to the beach. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30251 of the Coastal Act.

F. Violations

Various developments have been carried out on site without the benefit of coastal development permits. A second guest unit (trailer/manufactured home), hydraugers and tiebacks for bluff stabilization, and a paved road down the bluff slope with turnaround area have all been constructed by the previous owner of the property without coastal development permits. Although the applicant has agreed to include the removal of these developments (with the exception of the hydraugers for bluff stability) as part of the project description for this permit application in order to resolve any violation issues, detailed plans for the bluff restoration have not yet been submitted. Therefore, special condition number two (2) has been required in order to ensure removal of the unpermitted paved road, turnaround, and concrete tiebacks on the bluff slope and implement a bluff restoration plan. The applicant proposes to construct a permeable surface foot path, not to exceed

three (3) ft. in width, in the same location as the former road in order to maintain landscaping and bluff vegetation. The applicant has requested to retain the existing hydraugers since the applicant's geologic consultant has recommended that additional hydraugers be placed for de-watering purposes in order to increase the stability of the slope.

On July 8, 1997, the Commission issued Coastal Development Permit Waiver 4-97-141 to the applicant for the demolition of the existing single family residence and one of the two existing guest units in order to allow a Phase II Archaeological Study of the new proposed single family residence and guest house locations to be carried out. As a new guest unit is proposed as part of the project description, the applicant proposes to remove the remaining unpermitted guest unit (trailer/manufactured home) upon completion of construction activity. Special condition six (6) has been required in order to ensure that the existing trailer/manufactured home (placed without the benefit of a coastal development permit) is removed within 30 days of issuance of the Certificate of Occupancy from the City of Malibu. Furthermore, as the violations on site can not be resolved until the unpermitted structures are removed and the restoration of the bluff slope has been completed, the Commission finds it necessary to require special condition eight (8) in order to ensure compliance with all conditions within a timely manner. In addition, special condition two (2) has been required in order to specifically ensure that the unpermitted development located on the bluff slope is removed and revegetation is carried out within a timely manner.

Consideration of this 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 the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

G. Second Residential Unit

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

(a) 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.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on the site where a primary residence exists intensifies the use of a parcel raising potential impacts on public services, such as water, sewage, electricity and roads. New development also raises issues regarding the location and amount of new development maintaining and enhancing public access to the coast.

Based on these policies, the Commission has limited the development of second dwelling units (the guest house) on residential parcels in the Malibu and Santa Monica Mountain areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in the certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu 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 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, electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

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 functions which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, and farm labor unit; and 2) a guesthouse, 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. As such, 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 (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

As proposed, the 748 sq. ft. guest unit above the garage conforms to the Commission's past actions allowing a maximum of 750 sq. ft. for a second dwelling unit in the Malibu area. The Commission notes that any use of the downstairs portion of the proposed structure (designated as garage) as habitable space, or the installation of any interior accessway between the first and second levels of the structure would increase the size of the guest unit beyond the maximum of 750 sq. ft. and constitute a violation of this coastal development permit. As proposed, access to the second-level guest unit is from an exterior stairway with no interior access between levels. To ensure that the downstairs portion of the structure shall not be converted to habitable space or connected to the upstairs guest unit by an interior accessway, any additions or improvements that could further

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intensify the use of this guest unit or second residential unit will be reviewed by the Commission as required by special condition seven (7).

In addition, although the applicant has previously been issued Coastal Development Permit Waiver 4-97-141 to remove the first guest unit and now proposes to remove the second existing guest unit (trailer/manufactured home) under this permit application, the Commission notes that retention of either structure in addition to the construction of the new proposed guest unit would constitute a violation of this coastal development permit. As such, special condition six (6) has been required in order to ensure the removal of both existing second units before a Certificate of Occupancy may be issued for any new structure. Therefore, the Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

H. Septic System

The Commission recognizes that the potential build-out of lots in Malibu and the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. 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.

The proposed development includes constructing a septic system for the new residence to provide for adequate sewage disposal. The applicant has submitted approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the City of Malibu Uniform Plumbing Code. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

I. Local Coastal Program.

Section 30604 of the Coastal Act states that:

a) 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).

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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 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 of Malibu's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

J. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

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 proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

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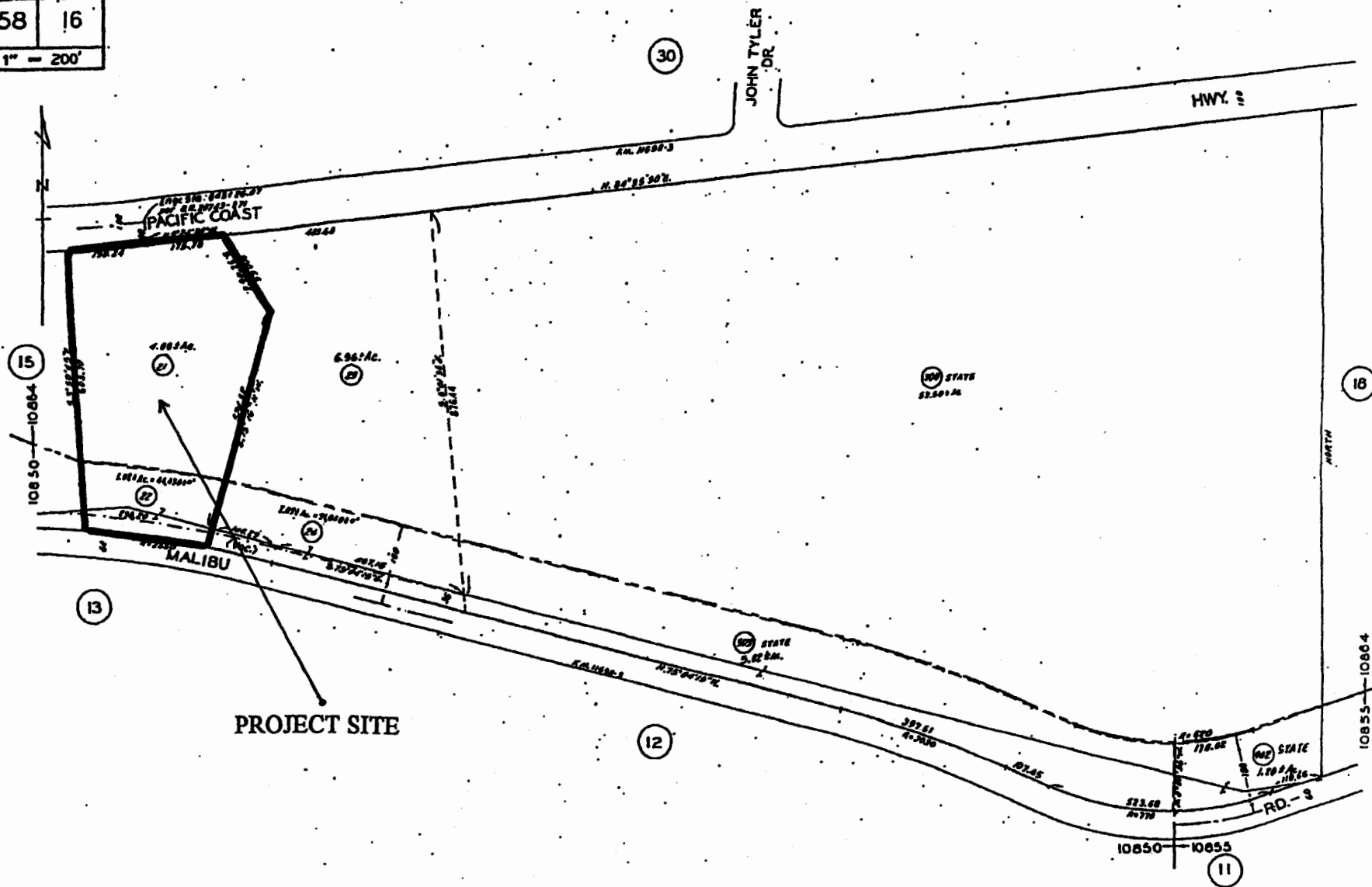
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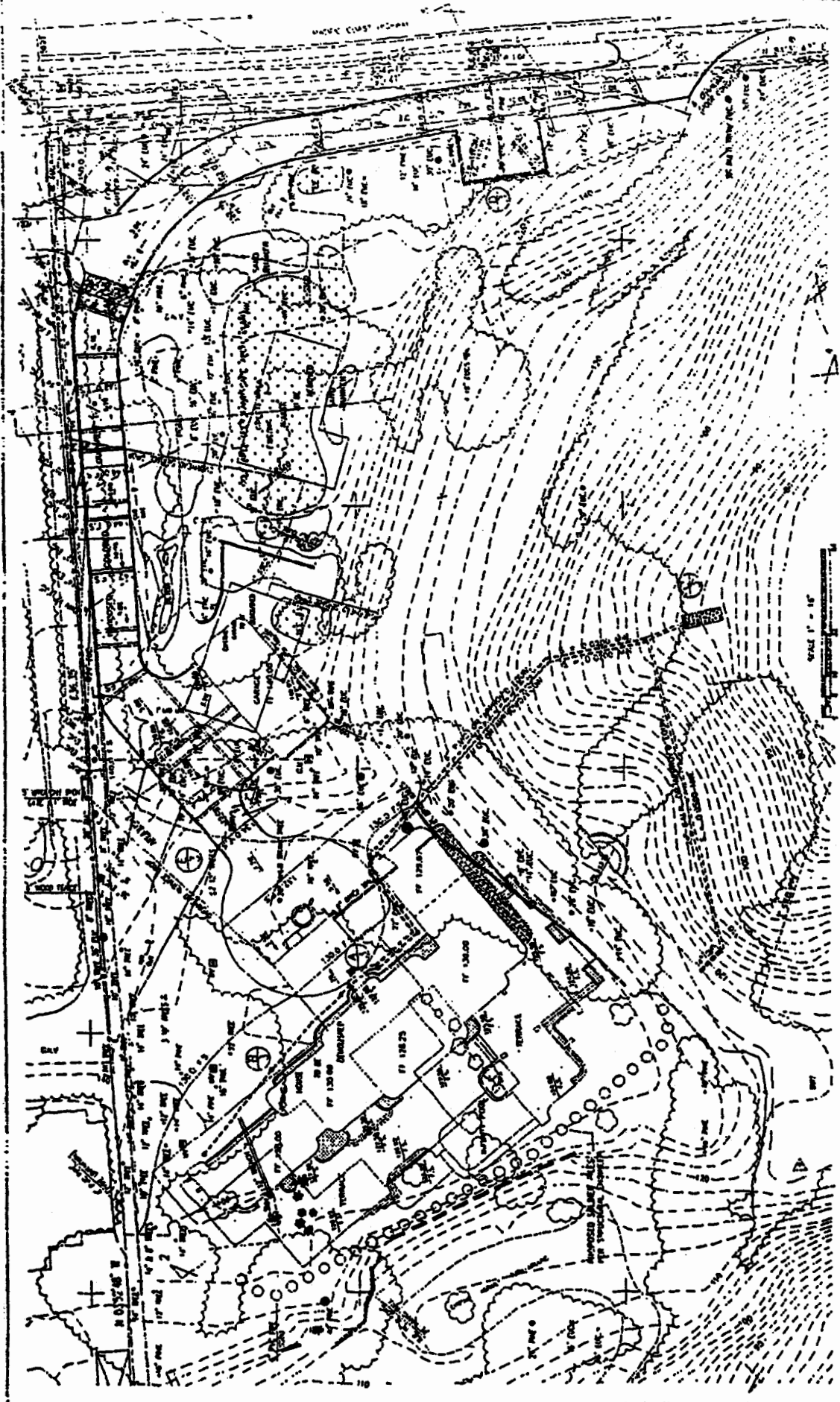


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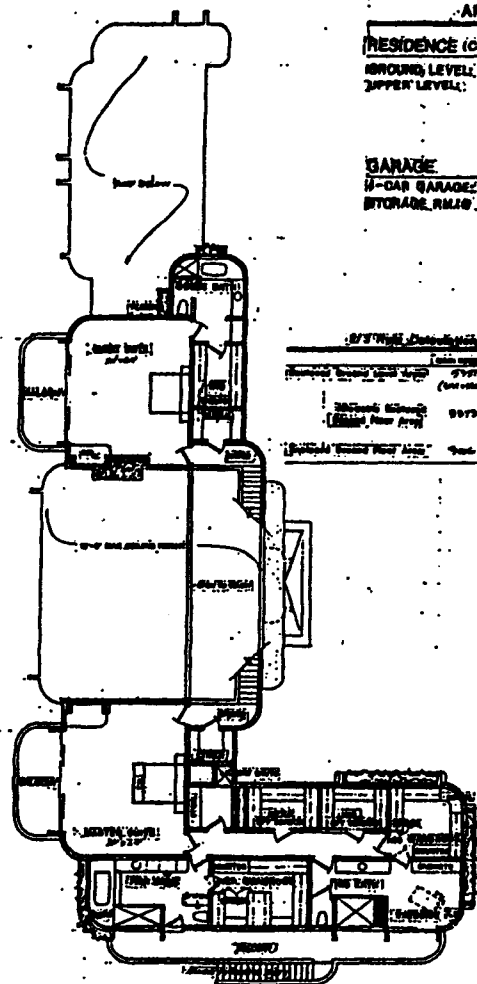
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Grading and Drainage Plan City of Malibu 8/2/08		Project: 10/08 Date: 8/2/08 Scale: 1" = 16'
Prepared by: [Name] Checked by: [Name] Drawn by: [Name]		Project: 10/08 Date: 8/2/08 Scale: 1" = 16'
Project: 10/08 Date: 8/2/08 Scale: 1" = 16'		Project: 10/08 Date: 8/2/08 Scale: 1" = 16'

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UPPER LEVEL FLOOR PLAN

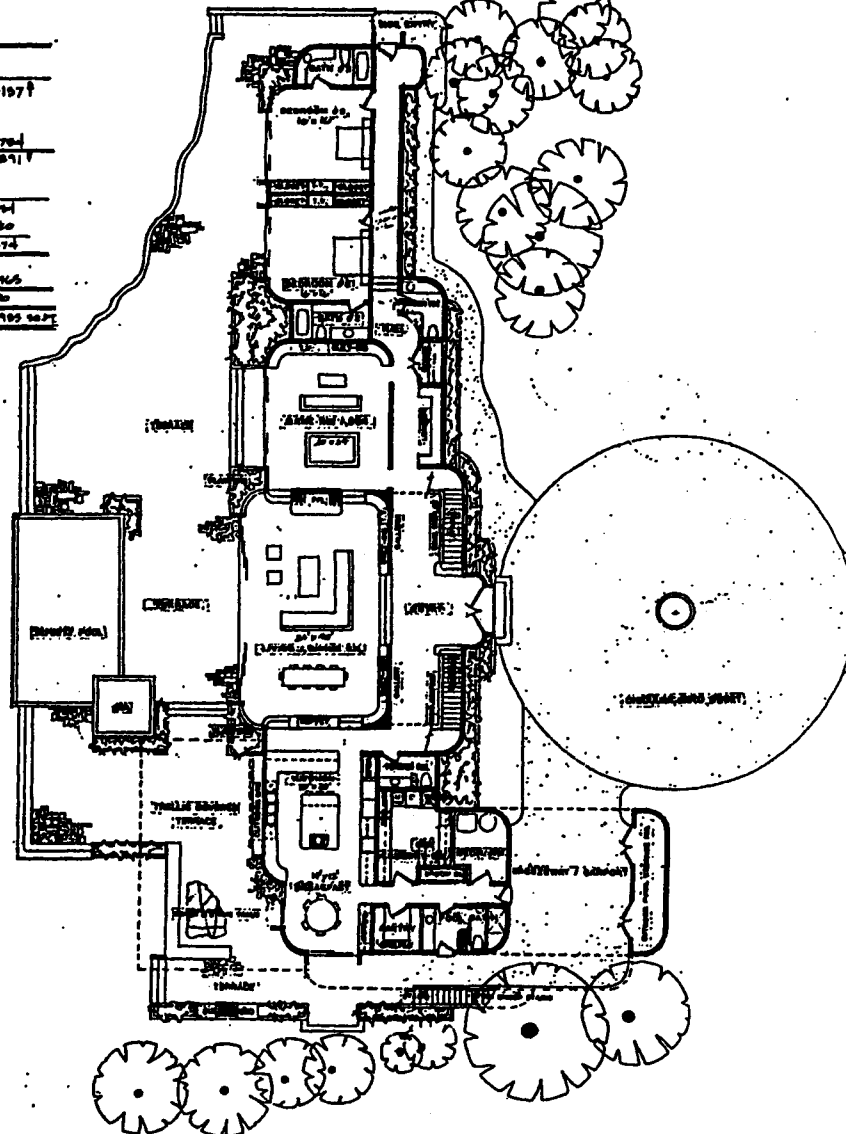
AREA TABULATION

RESIDENCE (Conditioned Space)	
GROUND LEVEL:	5157
UPPER LEVEL:	746
SUBTOTAL:	5903

GARAGE	
2-CAR GARAGE:	554
STORAGE RM/SHED:	220
SUBTOTAL:	774

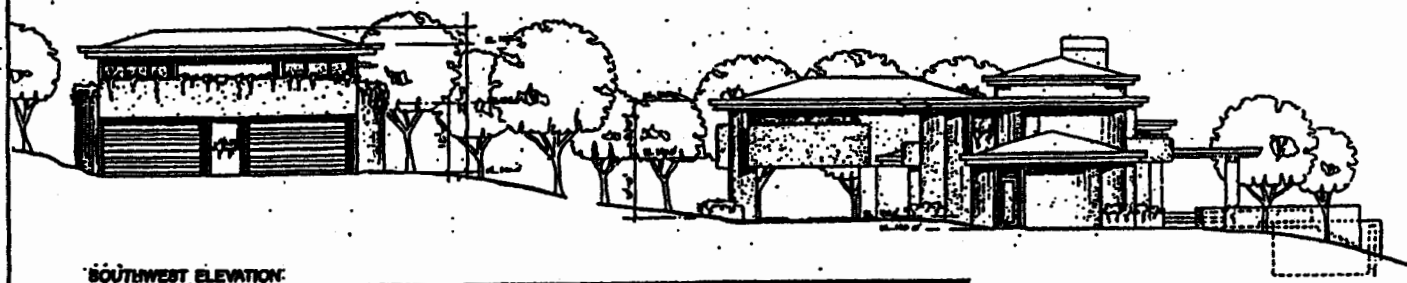
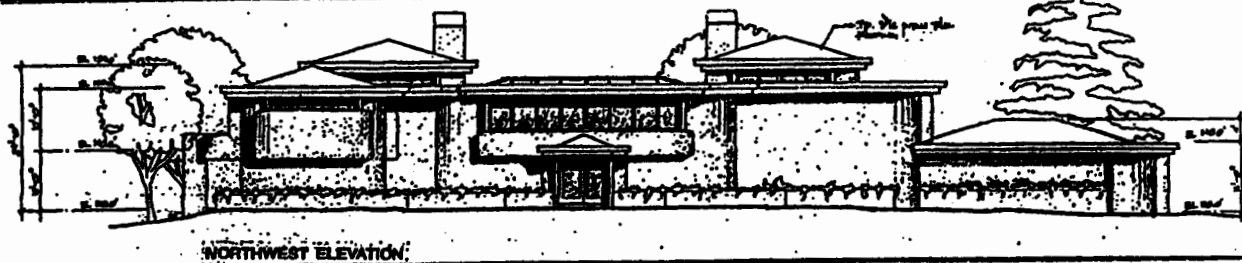
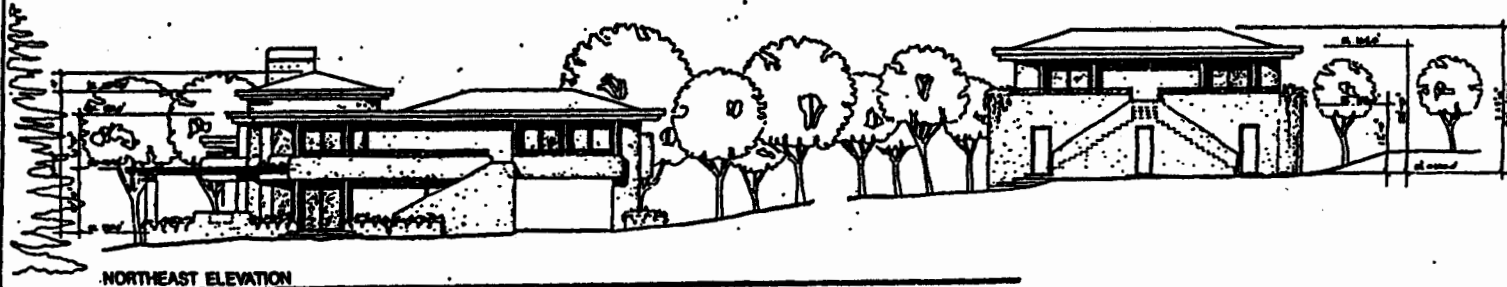
Total Conditioned Space:	6677
Covered Carport:	470
Total Development:	7147

STAIRS, PORCHES, TERRACES, AND PATIOS		
Room	Area (sq. ft.)	Area (sq. ft.)
Front Porch	150	675
Back Porch	100	446
Side Porch	100	310



GROUND LEVEL FLOOR PLAN

BARBONCINI & ASSOCIATES, INC.
ARCHITECTS
1007 COAST VIEW DRIVE
LAUREL, CA 94550



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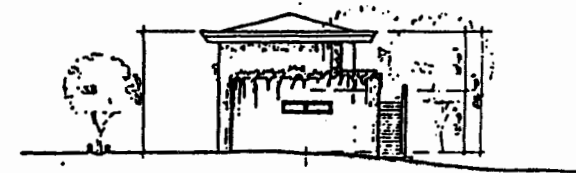
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Exhibit No. 6: (4-97-102) Elevations of Proposed Single Family Residence

CAMPBELL RESIDENCE
24734 Pacific Coast Highway
Malibu, California 90263

BARSOCCHINI & ASSOCIATES, INC.
ARCHITECTS
MICHAEL E. BARSOCCHINI, AIA, RUI AS3233
1307 COAST VIEW DRIVE MALIBU, CA 90263

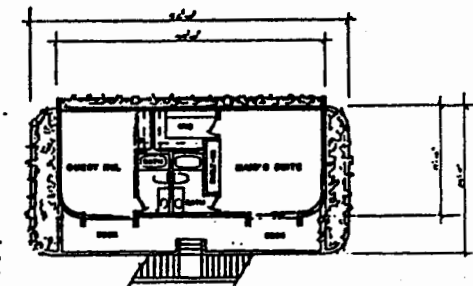
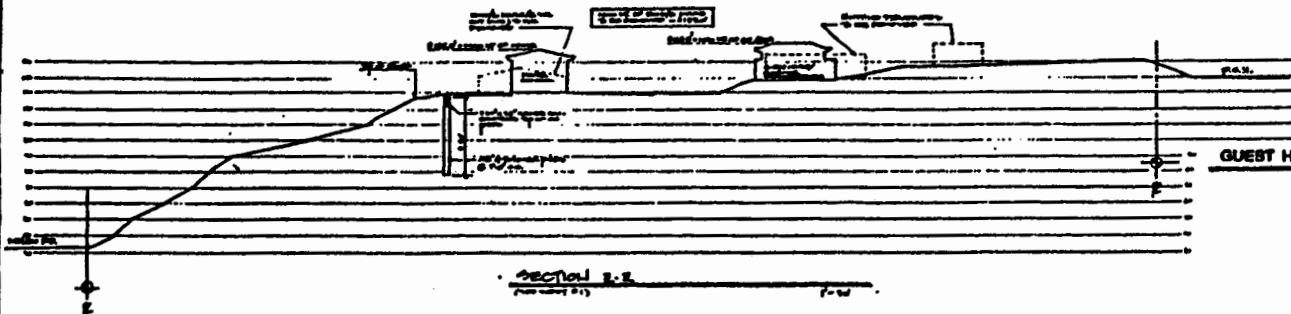
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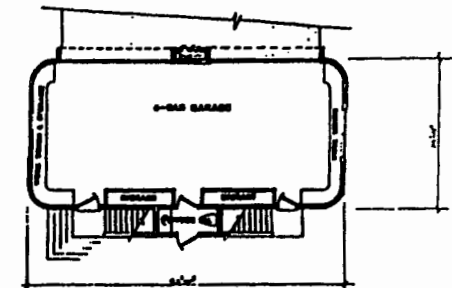
NORTHWEST ELEVATION



SOUTHEAST ELEVATION



GUEST HOUSE FLOOR PLAN



GARAGE FLOOR PLAN

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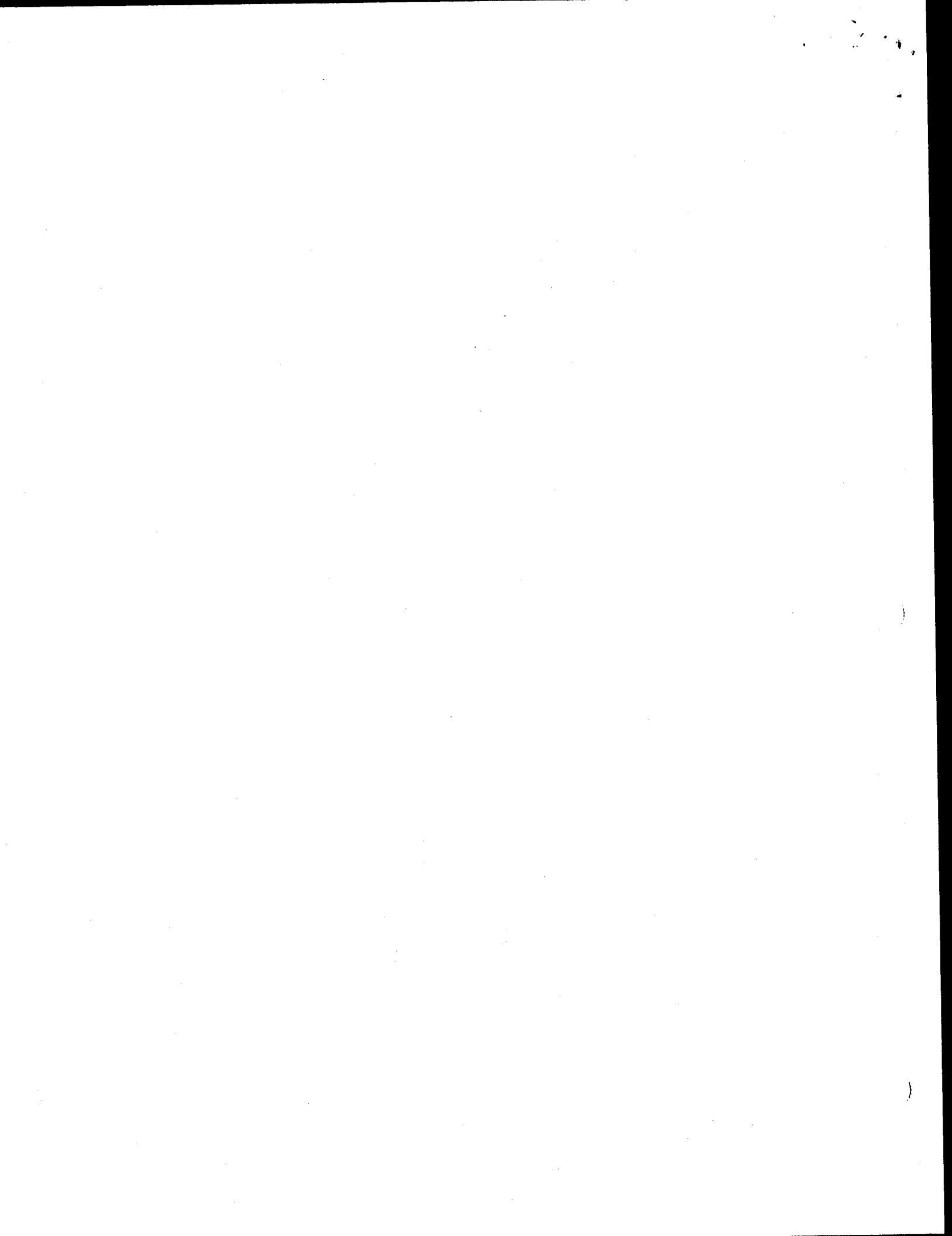
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CAMPBELL RESIDENCE
24734 Pacific Coast Highway
Malibu, California 90265

BARSOCCINI & ASSOCIATES, INC.
ARCHITECTS
MICHAEL E. BARSOCCINI, AIA
3527 COAST VIEW DRIVE
MALIBU, CA 90265

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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 SOUTH CALIFORNIA ST., SUITE 200
 SAN ANTONIO, CA 93001
 (805) 585-1800

Filed: 09/06/02
 49th Day: 10/25/02
 180th Day: 03/05/03
 270th Day: 06/03/03
 Staff: LKF-V
 Staff Report: 4/18/03
 Hearing Date: 5/09/03
 Commission Action: *[Signature]*

**STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NO.: 4-97-102-A1

APPLICANT: Rod and Sandra Campbell

PROJECT LOCATION: 24750 (formerly 24734) Pacific Coast Highway, City of Malibu (Los Angeles County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a new 8,143 sq. ft., two-story, single family residence with a 748 sq. ft. guesthouse over a 1,354 sq. ft. detached garage, soldier piles, retaining walls, hydraugers, driveway, footpath, trellis, entry gate, pitch and putt golf course area and 941 cu. yds. grading (486 cu. yds. cut and 455 cu. yds. fill) and 2,345 cu. yds. of grading for recompaction. The project also included removal of an unpermitted trailer/manufactured home, paved road, turnaround area, and concrete tiebacks on bluff face and a bluff restoration and revegetation program.

DESCRIPTION OF AMENDMENT: Request for after-the-fact approval of construction of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, associated drainage systems, and an unquantified amount of grading. The applicants also propose to restore approximately 0.62 acres of disturbed riparian and coastal sage scrub habitat.

LOCAL APPROVALS RECEIVED: Certificate of Occupancy and Final Grading Approval, City of Malibu Planning Department, dated May 19, 1999.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. 4-97-102; "General Biological Assessment, 24750 Pacific Coast Highway (formerly 24734 Pacific Coast Highway) Malibu, California 90265," prepared by TeraCor Resource Management, August 2002.

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
- 3) The proposed amendment affects conditions required for the purpose of protecting a

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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 previously imposed special conditions required for the purpose of protecting coastal resources.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **denial** of the applicants' proposal, including after-the-fact construction of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, and associated drainage systems, an unquantified amount of grading, and restoration of approximately 0.62 acres of disturbed riparian and coastal sage scrub habitat.

As detailed below, the proposed project is inconsistent with Malibu LCP policies for the protection of visual resources, ESHA, and water quality. Furthermore, feasible alternatives exist that would be consistent with the resource protection policies of the Malibu LCP.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit Amendment No. 4-97-102-A1 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT AMENDMENT:

The Commission hereby denies a coastal development permit amendment for the proposed development on the ground that the development will not conform with the policies of the City of Malibu Local Coastal Program (LCP). Approval of the permit amendment would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

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A. Project Description and Background

The applicants seek approval for after-the-fact construction of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, and associated drainage systems, and an unquantified amount of grading. The applicants also propose to restore approximately 0.62 acres of disturbed riparian and coastal sage scrub habitat (**Exhibits 4, 6, 7, and 8**).

The project site is a 5.94-acre bluff top lot located near Pepperdine University in the City of Malibu (**Exhibit 1**). The site is located south of Pacific Coast Highway and north of Malibu Road. The site is developed with a single family residence, guesthouse, pool, driveway, soldier piles, putting green, and landscaping, approved by the Commission under Coastal Development Permit No. 4-97-102 (**Exhibits 4 and 10**). The remainder of the property consists of the southern bluff face, which contains an access road, and steep slopes that descend in an easterly direction from the developed area to Puerco Creek, which crosses the northeast corner of the property for a distance of approximately 200 feet. The bluff was the subject of a restoration plan required as a special condition of Coastal Development Permit No. 4-97-102. The restoration plan included removal of the access road and restoration of the native coastal sage scrub/saltbrush scrub plant communities. The easterly descending slopes are undeveloped, with the exception of the unpermitted development that is the subject of this application, and a drainage pipe and rip-rap energy dissipater approved under CDP No. 4-97-102. The slopes contain primarily coastal sage scrub vegetation, as well as some exotic species such as fennel and castor bean. Southern willow scrub riparian habitat is found in the canyon bottom.

The site is morphologically unique in that the bluff edge transitions from the southerly facing coastal blufftop edge (110 ft. elevation) to an easterly facing canyon blufftop edge (120 ft. elevation). The southernmost of the two proposed putting greens is located at this transition point, while the northern green is located on the canyon slopes near Pacific Coast Highway (**Exhibit 4**).

Physical relief of the site is approximately 125 feet, from 30 feet above sea level (asl) at Malibu Road, to 155 feet asl at Pacific Coast Highway. With the exception of the drainage pipe and rip-rap energy dissipater, all development previously approved under CDP No. 4-97-102 was located above the 128 foot contour line.

Puerco Creek, a United States Geological Survey (USGS) designated blue line stream, and adjacent slopes are mapped as an environmentally sensitive habitat area (ESHA) in the Malibu LCP. Puerco Creek enters a culvert downstream of the subject site and flows onto Puerco Beach approximately 75 feet downstream of the subject site. The offshore waters at Puerco Beach contain Kelp Bed ESHA, as designated in the Malibu LCP (**Exhibit 2**).

The proposed development is located on the terminal west bank of Puerco Canyon, below the 128 foot contour line. The proposed development is visible from Pacific Coast Highway, a designated Scenic Road in the Malibu LCP (**Exhibits 5 and 9**).

The current application was submitted on August 6, 2002, in part, in response to direction and several letters from the Commission's Enforcement staff to submit an application to remove the unpermitted development and restore the site. The current amendment application requesting after-the-fact approval for the construction of the unpermitted putting greens includes a

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proposal to restore 0.62 acres of coastal sage scrub habitat that has been invaded with exotic plant species. This restoration is proposed as mitigation for the estimated 0.62 acre area of similar habitat disturbed by construction of the putting greens.

B. Visual Resources and Landform Alteration

The Malibu LCP provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas. The LCP identifies Scenic Areas, which are those places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features, and that are not largely built out. The LCP policies require that new development not be visible from scenic roads or public viewing areas. Where this is not feasible, new development must minimize impacts through siting and design measures.

Section 30251 of the Coastal Act, which is incorporated as a policy of the Malibu LCP, states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

In addition, the following LCP policies are applicable in this case:

- 6.1 ***The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.***
- 6.2 ***Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.***
- 6.4 ***Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.***
- 6.5 ***New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum***

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feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

- 6.6 *Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.*
- 6.9 *All new development shall be sited and designed to minimize alteration of natural landforms by:*
- *Conforming to the natural topography.*
 - *Preventing substantial grading or reconfiguration of the project site.*
 - *Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split level or stepped-pad designs.*
 - *Requiring that man-made contours mimic the natural contours.*
 - *Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
 - *Minimizing grading permitted outside of the building footprint.*
 - *Clustering structures to minimize site disturbance and to minimize development area.*
 - *Minimizing height and length of cut and fill slopes.*
 - *Minimizing the height and length of retaining walls.*
 - *Cut and fill operations may be balanced on-site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*
- 6.10 *New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.*
- 6.12 *All new structures shall be sited and designed to minimize impacts to visual resources by:*
- *Ensuring visual compatibility with the character of surrounding areas.*
 - *Avoiding large cantilevers or understories.*
 - *Setting back higher elements of the structure toward the center or uphill portion of the building.*
- 6.13 *New development in areas visible from scenic roads or public viewing areas, shall incorporate colors and exterior materials that are compatible with the surrounding landscape. The use of highly reflective materials shall be prohibited.*
- 6.14 *The height of permitted retaining walls shall not exceed six feet. Stepped or terraced retaining walls up to twelve feet in height, with planting in between, may be permitted. Where feasible, long continuous walls shall be broken into sections*

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or shall include undulations to provide visual relief. Where feasible, retaining walls supporting a structure should be incorporated into the foundation system in a stepped or split level design. Retaining walls visible from scenic highways, trails, parks, and beaches should incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape.

The applicants seek approval for after-the-fact construction of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, and associated drainage systems, and an unquantified amount of grading. The applicants also propose to restore approximately 0.62 acres of disturbed riparian and coastal sage scrub habitat. The proposed project is located on the canyon slopes below the existing developed area of the site, which contains a single family residence, swimming pool, driveway, putting green, and landscaping. The slope forms the western terminal bank of Puerco Creek, and areas of the slope adjacent to the stream are mapped as an ESHA in the Malibu LCP.

The project site is located immediately south of Pacific Coast Highway, in the vicinity of Malibu Bluffs State Park. The proposed project is visible from Pacific Coast Highway, a designated Scenic Road. The site conforms to the definition, under Malibu LCP Policy 6.4, of a Scenic Area, in that it is visible from a scenic road that affords scenic vistas of the canyon, coastline and ocean. Therefore, this site is governed by LCP Policy 6.5, which requires that development minimize adverse impacts on scenic areas that are visible from scenic roads or public viewing areas.

The Malibu LCP requires new development to be sited and designed to minimize adverse impacts on scenic areas, through measures such as siting development in the least visible portion of the site, clustering development, minimizing grading, and blending structures into natural hillside settings. The Malibu LCP also requires new development to be sited and designed to minimize landform alteration, through measures such as conforming to natural topography, mimicking natural contours, ensuring that graded slopes blend with existing terrain, and minimizing grading outside of the building footprint.

The proposed putting greens and tees are visible from Pacific Coast Highway and Malibu Bluffs State Park. The greens and tees consist of manicured lawn and sand pits, accented with rock walls and steps. Construction of the greens requires placement of an unquantified amount of fill to soften the grade of the steep slopes. The putting greens do not mimic or conform to natural topography, but rather consist of a series of relatively flat pad areas carved into the canyon walls. The rock retaining walls and uniform appearance of the irrigated turf accentuate the contrast between the constructed greens and the surrounding hillside. The putting greens and tees are located outside of the developed portions of the site and involve significant grading, including an unquantified amount of excavation in addition to the fill noted above. In summary, the project is inconsistent with the Malibu LCP's siting and design standards for protection of visual resources.

The Commission previously approved an approximately 5,000 sq. ft. golf green and three putting tees under the original permit. This landscaped golf area was sited above the canyon (above the 128 foot contour) on a previously developed and disturbed area of the site. The applicant has expanded these golfing facilities to include portions of the canyon slopes.

Feasible alternatives exist that would minimize landform alteration and other visual impacts of the project. The existing approximately 5,000 sq. ft. green and three tees located on the

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existing flat residential pad provide recreational use of the property in addition to residential use. Moreover, the additional unpermitted greens, tees and associated structures are not necessary to provide a reasonable use of the property. Therefore, use of the existing golf facilities and elimination of the additional greens and tees is a feasible alternative to the proposed project that would minimize landform alteration and other visual impacts of the project.

Implementation of the "no construction" alternative would significantly reduce the visual impacts of the proposed project. Therefore, for the reasons discussed above, the Commission finds that the proposed development has not been sited or designed in a manner that would minimize landform alteration and adverse impacts to public views and is, therefore, not consistent with the Malibu LCP.

C. Sensitive Habitat / Water Quality

The Malibu LCP provides for the protection of environmentally sensitive habitat areas (ESHA), including both terrestrial and marine habitats. It also provides for the protection of coastal waters, including streams and other surface waters, and the marine environment. The Malibu LCP requires new development to be sited and designed to protect water quality and minimize impacts to coastal waters, through measures such as limiting vegetation clearance and grading to reduce erosion and sedimentation of streams, and limiting disturbance of natural drainage features and vegetation. The Malibu LCP also requires the maintenance of natural vegetation buffers for a minimum distance of 100 feet from riparian habitat, in order to minimize impacts and provide transitional habitat.

Section 30230 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

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

Section 30240 of the Coastal Act, which is incorporated as a policy of the Malibu LCP, states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

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(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

In addition, the following LCP policies for the protection of ESHA are applicable in this case:

- 3.1 *Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.*
- 3.6 *Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.*
- 3.8 *Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- 3.14 *New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.*
- 3.18 *The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat Areas, shall be prohibited within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application.*
- 3.23 *Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.*

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- 3.25 *New development, including, but not limited to, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted in required ESHA or park buffer areas, except for that case addressed in Policy 3.27. Habitat restoration and invasive plant eradication may be permitted within required buffer areas if designed to protect and enhance habitat values.*
- 3.26 *Required buffer areas shall extend from the following points:*
- *The outer edge of the canopy of riparian vegetation for riparian ESHA*
 - *The outer edge of the tree canopy for oak or other native woodland ESHA*
 - *The top of bluff for coastal bluff ESHA*
- 3.27 *Buffers shall be provided from coastal sage scrub and chaparral ESHA that are of sufficient width to ensure that no required fuel modification (Zones A, B, or C, if required) will extend into the ESHA and that no structures will be within 100 feet of the outer edge of the plants that comprise the habitat.*
- 3.28 *Variances or modifications to buffers or other ESHA protection standards shall not be granted, except where there is no other feasible alternative for siting the development and it does not exceed the limits on allowable development pursuant to Policies 3.10-3.13.*
- 3.42 *New development shall be sited and designed to minimize impacts to ESHA by:*
- *Minimizing grading and landform alteration, consistent with Policy 6.8*
 - *Minimizing the removal of natural vegetation, both that required for the building pad and road, as well as the required fuel modification around structures.*
 - *Limiting the maximum number of structures to one main residence, one second residential structure, and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.*
 - *Minimizing the length of the access road or driveway, except where a longer roadway can be demonstrated to avoid or be more protective of resources.*
 - *Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Planning Commission, upon recommendation of the Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions.*
 - *Prohibiting earthmoving operations during the rainy season, consistent with Policy 3.47.*
 - *Minimizing impacts to water quality, consistent with Policies 3.94-3.155*
- 3.45 *All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving waterbody.*
- 3.46 *Grading or earthmoving exceeding 50 cubic yards shall require a grading permit. Grading plans shall meet the requirements of the local implementation plan with respect to maximum quantities, maximum cuts and fills, remedial grading, grading for safety purposes, and maximum heights of cut or fill. Grading proposed in or adjacent to an ESHA shall be minimized to the maximum extent feasible.*

- 3.51 *Disturbed areas ESHAs shall not be further degraded, and if feasible, restored. If new development removes or adversely impacts native vegetation, measures to restore any disturbed or degraded habitat on the property shall be included as mitigation.*
- 3.95 *New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:*
- *Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.*
 - *Limiting increases of impervious surfaces.*
 - *Limiting land disturbance activities such as clearing and grading, and cut-and-fill to reduce erosion and sediment loss.*
 - *Limiting disturbance of natural drainage features and vegetation.*

The applicants seek after-the-fact approval for after-the-fact construction of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, and associated drainage systems, and an unquantified amount of grading. The applicants also propose to restore approximately 0.62 acres of disturbed riparian and coastal sage scrub habitat. The proposed project is located on the canyon slopes below the existing developed area of the site, which contains a single family residence, swimming pool, driveway, putting green, and landscaping. The slope forms the western terminal bank of Puerco Creek, and areas of the slope adjacent to the stream are mapped as an ESHA in the Malibu LCP.

The project site is a 5.94-acre bluff top lot that includes both a southerly facing coastal blufftop and the easterly facing terminal walls of Puerco Canyon. A developed pad area, containing a 8,143 sq. ft. single family residence and associated amenities, overlooks the bluff and canyon. The bluff face is developed with an access road and contains disturbed coastal sage scrub/saltbrush scrub habitat. The canyon slopes are undeveloped, with the exception of the unpermitted development that is the subject of this application, and a drainage pipe and rip-rap energy dissipater that were approved under CDP NO. 4-97-102. The canyon slopes contain primarily coastal sage scrub vegetation, as well as some exotic species such as fennel and castor bean. Southern willow riparian habitat is found in the canyon bottom along Puerco Creek, which crosses the northeast corner of the property for a distance of approximately 200 feet.

Puerco Creek, a United States Geological Survey (USGS) designated blue line stream, and adjacent slopes are mapped as an environmentally sensitive habitat area (ESHA) in the Malibu LCP. Puerco Creek enters a culvert downstream of the subject site and flows onto Puerco Beach approximately 75 feet downstream of the subject site. The offshore waters at Puerco Beach contain Kelp Bed ESHA, as designated in the Malibu LCP.

The proposed putting greens and tees are located on the canyon slopes above Puerco Creek. The southernmost of the two unpermitted putting greens is located at the transition point between the canyon slopes and the southern bluff face, approximately 130 feet west of the stream corridor, while the northern green is located on the canyon slopes near Pacific Coast Highway, approximately 100 feet west of the stream.

The applicants have submitted a biological report that addresses habitat resources on site ("General Biological Assessment, 24750 Pacific Coast Highway (formerly 24734 Pacific Coast Highway) Malibu, California 90265," prepared by TeraCor Resource Management, August

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2002). The report includes a map, included in this report as **Exhibit 5**, delineating the location of habitat types on the subject site. The map indicates that the proposed putting greens and tees are located adjacent to coastal sage scrub and disturbed coastal sage scrub habitat.

A site survey submitted with the application for CDP No. 4-97-102 indicates that the southern green is located in an area that contained both cleared ground and tree cover contiguous with that of the canyon and bluff face, and that the southern tees are located in an area that contained vegetation contiguous with that of the canyon and bluff face. The survey indicates tree cover in the location of the northern green.

The approved fuel modification plan submitted in compliance with Special Condition One (1) of CDP No. 4-97-102 shows that the western portion of the southern green is located in an area that was to be planted with native toyon (*Heteromeles arbutifolia*), a hydroseed native wildflower mix, and some non-native ornamental plant species. Similarly, the northern tees are located in an area that was to be planted with a native wildflower mix. The eastern portion of the southern green, the southern tees, and the northern green are located within Zone C, the thinning zone, that was to consist of native drought resistant, fire tolerant species and thinned coastal sage scrub habitat.

Thus the proposed project includes the following changes to vegetation on site:

Within the thinning zone: replacement of coastal sage scrub habitat contiguous with the canyon coastal sage scrub ESHA with irrigated turf and ornamental non-native and native plants;

Within landscaped areas: replacement of landscaping consisting of native wildflower groundcover and assorted native and non-native trees and shrubs with irrigated turf and ornamental native and non-native plants.

The proposed greens and tees are located at least 100 feet from the riparian habitat on site, as delineated by the consulting biologist, with the exception of the easternmost southern tee, which is located partly within the required buffer for the riparian habitat area. Construction of this tee is therefore inconsistent with Malibu LCP Policies 3.23 and 3.26, which establishes a minimum development setback of 100 feet from the outer edge of riparian ESHA, and Malibu LCP Policy 3.25, which prohibits vegetation removal and planting of non-native vegetation within ESHA buffer areas.

Although the remainder of the proposed development is located outside of the minimum required buffer for the riparian ESHA, it is inconsistent with other Malibu LCP siting and design standards that require new development to minimize grading and landform alteration, removal of natural vegetation, and impacts to water quality.

Malibu LCP Policy 3.45, for instance, requires that new development be sited and designed to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, and adverse impacts on plant and animal life. Malibu LCP Policy 3.46 requires grading adjacent to ESHA to be minimized to the maximum extent feasible. The construction of the pads for the unpermitted greens and tees requires significant grading, alteration of the natural topography of the canyon slope and bluff edge, and significant removal of native vegetation, all within approximately 150 feet from Puerco Creek, and less than 50 feet away from the edge of the riparian ESHA buffer. Much of this grading and vegetation removal is

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on or adjacent to steep slopes (1.5:1 to 3:1) thus exacerbating the potential for erosion and siltation of the nearby stream.

Removal of vegetation can result in increased erosion. Removal of vegetation exposes soils to erosion by wind, water, and human disturbance, and removes the root network that holds surface sediments in place. This is particularly true for areas containing native plant species, which are typically characterized by well-developed and extensive root structures in comparison to their surface/foilage weight. As noted above, one of the most important ecological functions of coastal sage scrub in the City of Malibu is to protect water quality in coastal streams by reducing erosion in the watershed. Although shallow rooted, the shrubs that define coastal sage scrub have dense root masses that hold the surface soils much more effectively than irrigated turf.

Erosion adjacent to streams can result in increased sedimentation, thereby reducing the biological productivity and quality of coastal waters. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

Construction of the putting greens and associated development requires the removal of native coastal sage scrub habitat, an unquantified amount of excavation, and placement of fill on the canyon slopes. Thus the proposed project entails both grading and vegetation clearance adjacent to the riparian ESHA, inconsistent with the resource protection policies of the Malibu LCP.

Construction of the greens also includes the installation of irrigated non-native turf. Irrigation increases the potential for erosion and slope destabilization, particularly on fill slopes such as used to construct the greens. Even surficial slumping or erosion could increase the transport of sediments into Puerco Creek. In addition, use of pesticides and fertilizers to maintain the manicured turf increases the likelihood of introducing chemical and biological pollutants into Puerco Creek and the kelp beds approximately 150 feet downstream. Malibu LCP Policy 3.18 prohibits the use of pesticides adjacent to ESHA.

The proposed amendment also includes a proposal to restore 0.62 acres of coastal sage scrub and riparian habitat that has been invaded with exotic plant species. This restoration is proposed as mitigation for the estimated 0.62 acres of similar coastal sage scrub habitat disturbed by construction of the putting greens. While the proposed restoration is consistent, in itself, with the resource protection policies of the Malibu LCP, it cannot be accepted as mitigation for the proposed greens and tees. The Malibu LCP allows mitigation for impacts to ESHA only when such impacts are unavoidable.

The Commission previously approved an approximately 5,000 sq. ft. golf green and three putting tees under the original permit. This landscaped golf area was sited above the canyon (above the 128 foot contour) on a previously developed and disturbed area of the site. The applicant has expanded these golfing facilities to include portions of the canyon slopes.

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Feasible alternatives exist that would minimize impacts to sensitive habitat and water quality. The existing approximately 5,000 sq. ft. green and three tees provide recreational use of the property in addition to residential use. Moreover, the additional greens, tees and associated structures are not necessary to provide a reasonable use of the property. Therefore, use of the previously approved existing golf facilities located on the existing flat residential pad and elimination of the additional greens and tees is a feasible alternative to the proposed project that would minimize the impacts of the project on coastal resources.

Therefore, for the reasons discussed above, the Commission finds that the proposed development has not been sited or designed in a manner that would minimize impacts to coastal waters, the marine environment, and adjacent ESHA and is, therefore, not consistent with the Malibu LCP.

D. Violations

Development has occurred on the subject site without the required coastal development permits, including the construction of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, and associated drainage systems, and an unquantified amount of grading. In addition, unpermitted removal of coastal sage scrub vegetation has occurred on site. The current application was submitted on August 6, 2002, in part, in response to direction and several letters from the Commission's Enforcement staff to submit an application to remove the unpermitted development and restore the site.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

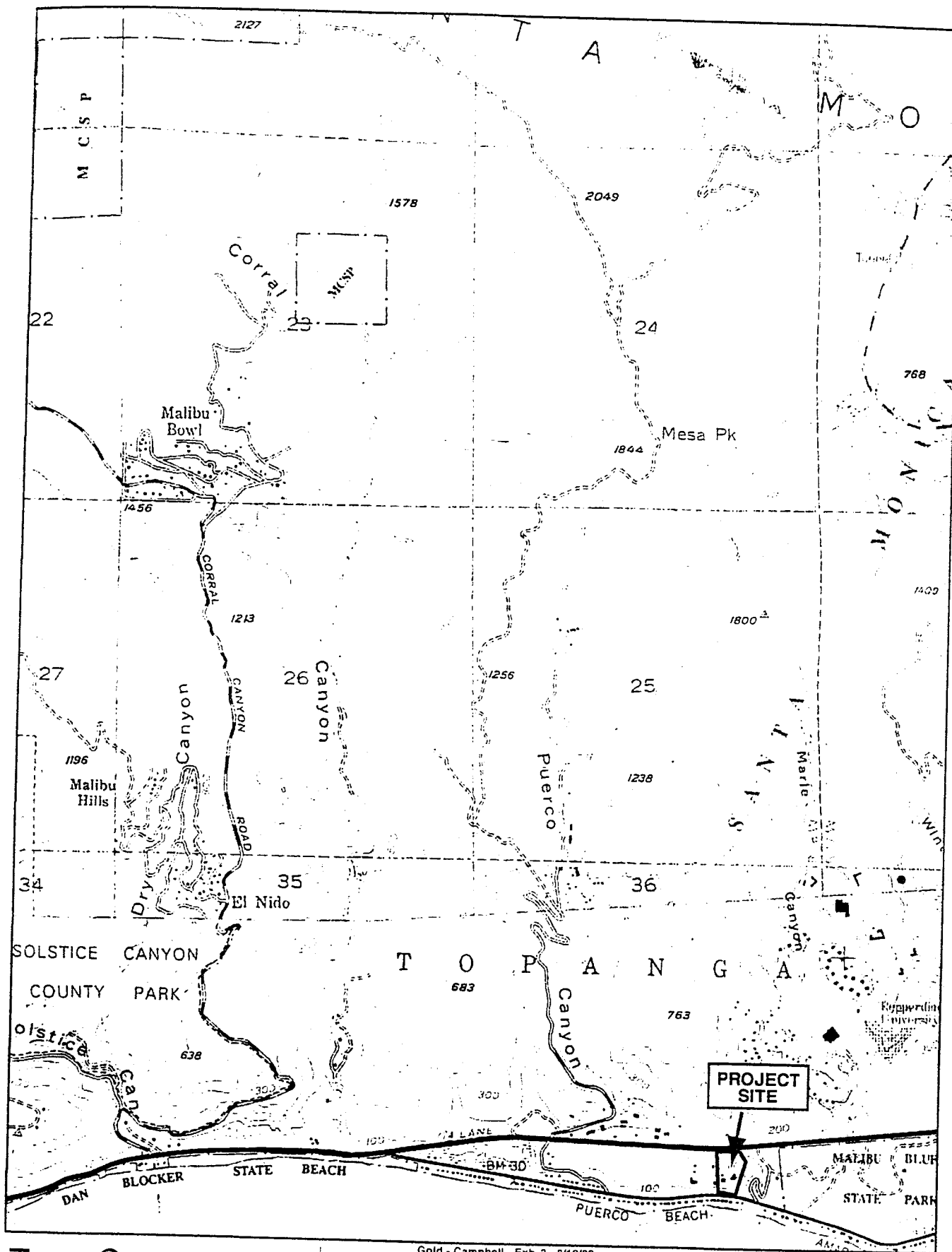
E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 that would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission finds that the proposed project would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act. As noted previously, feasible alternatives exist which would not result in the significant, avoidable adverse impacts to coastal resources and public coastal views of this portion of the applicant's proposed project.

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TERACOR
RESOURCE MANAGEMENT

North

Gold - Campbell - Exh. 2 - 8/19/02
SOURCE: MALIBU BEACH, CA QUADRANGLE
0"
1/2"
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Ext
100'

EXHIBIT NO. 1

APPLICATION NO.

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VICINITY MAP

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Environmentally Sensitive Habitat Areas

Includes areas identified as coastal sage scrub and/or chaparral, riparian areas and wetlands.*

Kelp Beds



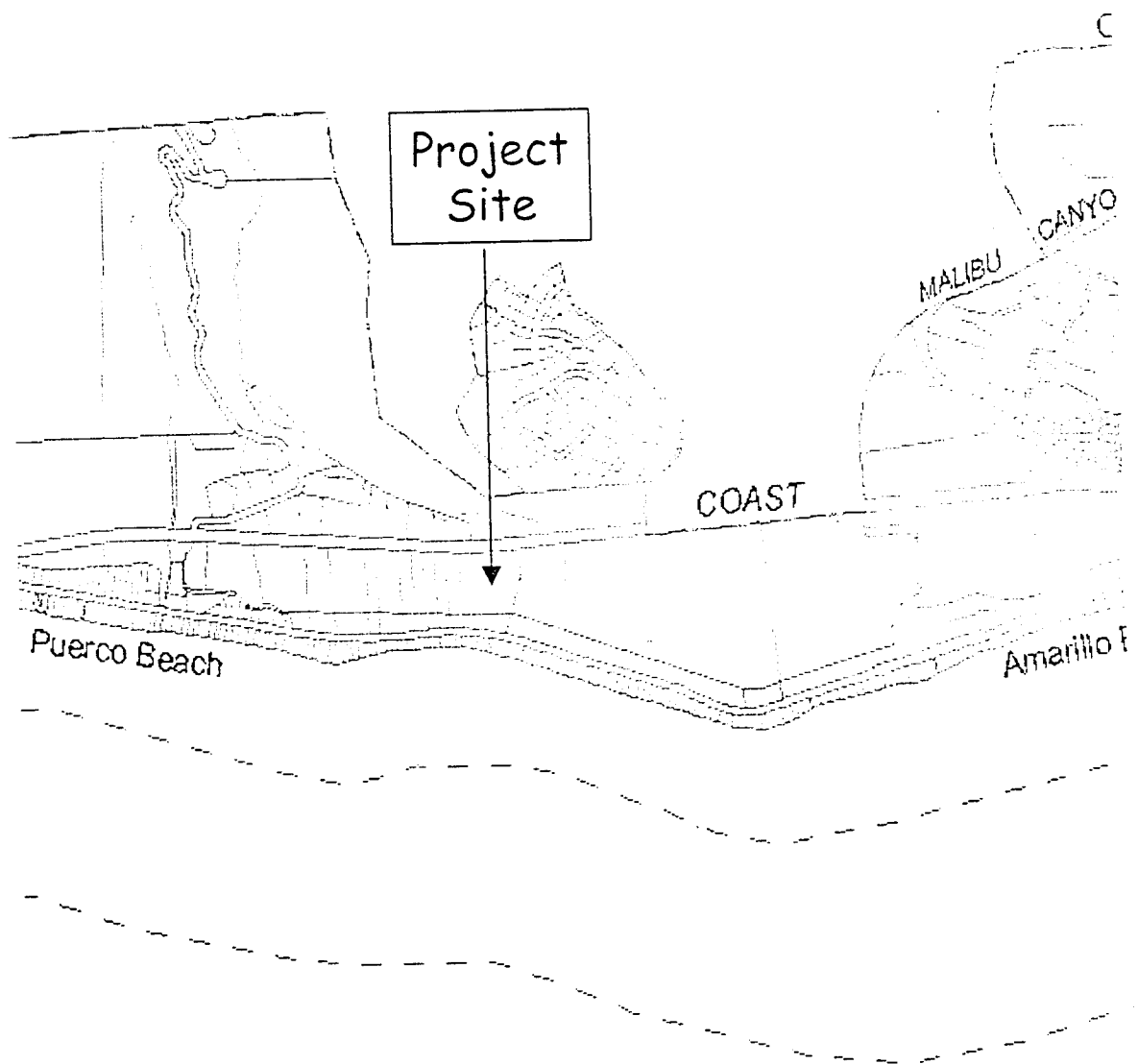
Near Shore Shallow-w



Streams



Clam Habitat



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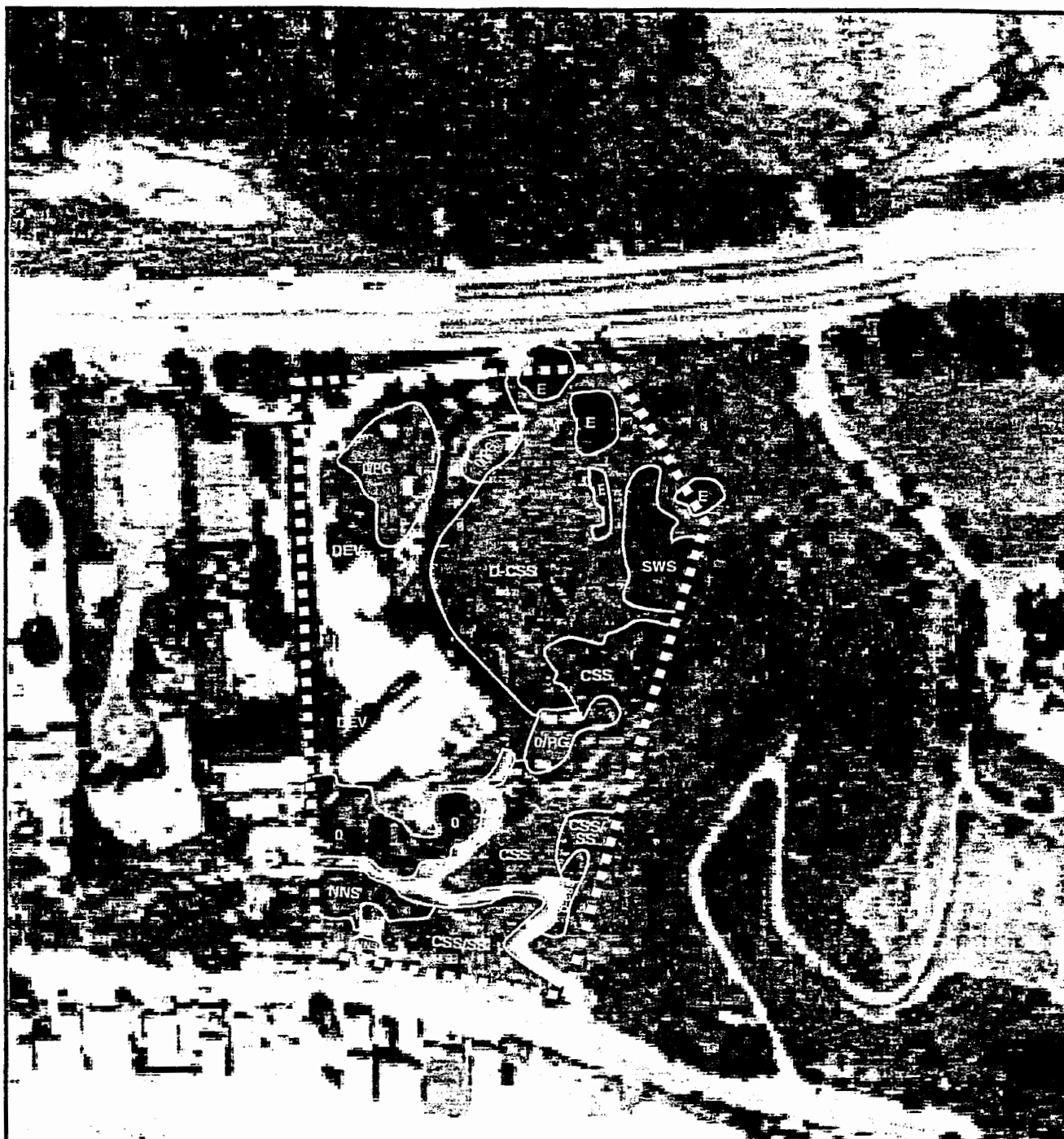
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EXHIBIT NO. 2

APPLICATION NO.

4-97-102-A

ESHA MAP



LEGEND

VEGETATION COMMUNITIES

Property	SWS	Southern Willow Scrub	D-CSS	Degraded Venturan Coastal
Boundary	NNS	Non-Native Shrub		Sage Scrub
	CSS/SS	Venturan Coastal Sage Scrub/	DEV	Developed
		Saltbush Scrub	O/PG	Ornamental/Putting Green
	CSS	Venturan Coastal Sage Scrub	R	Ruderal/Road
	E	Eucalyptus Trees		

TERACOR
 RESOURCE MANAGEMENT

North

GOLD - CAMPBELL - 8/22/02



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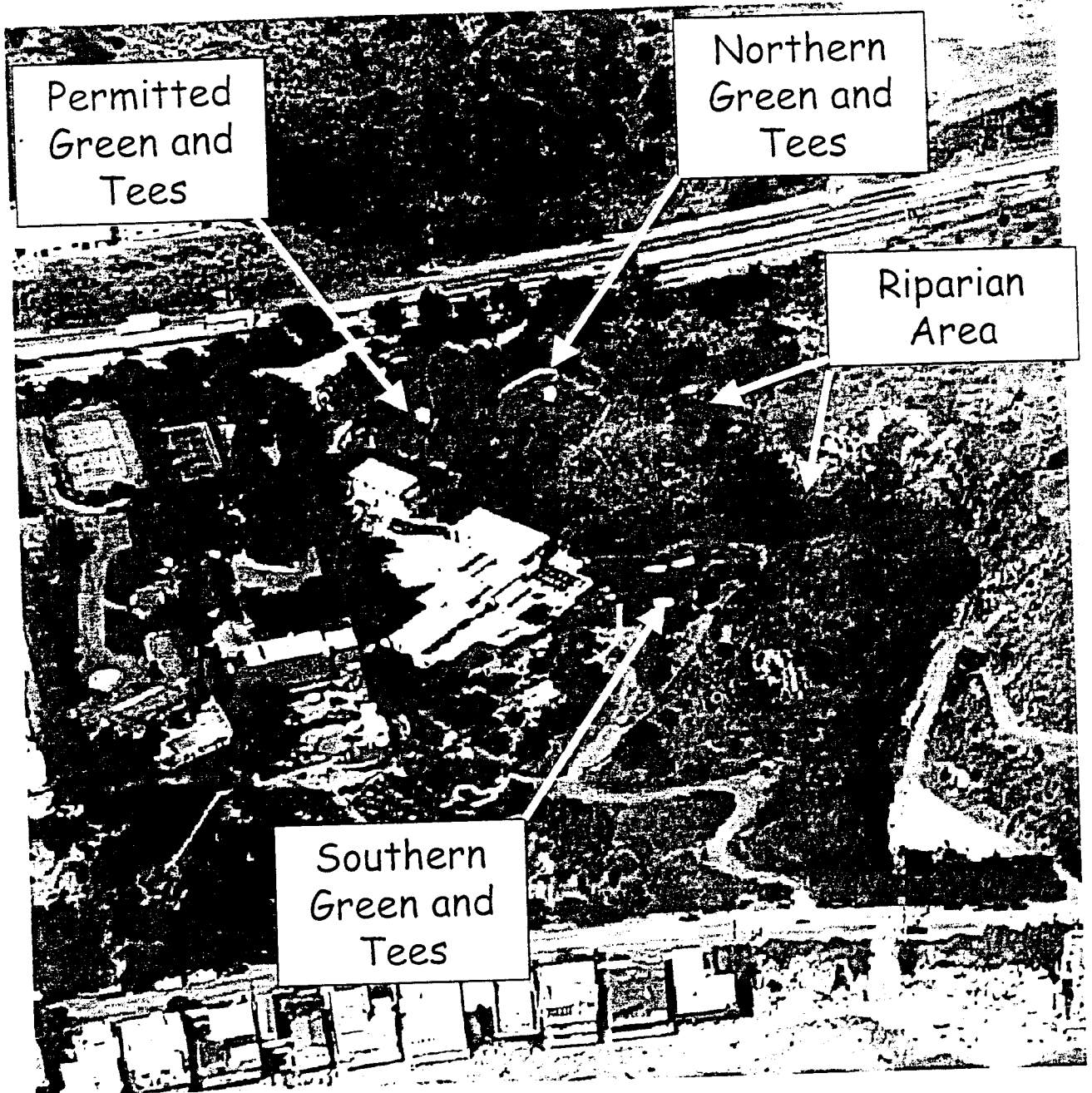
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EXHIBIT NO. 3
 APPLICATION NO.
 4-97-102-A1
 HABITAT MAP



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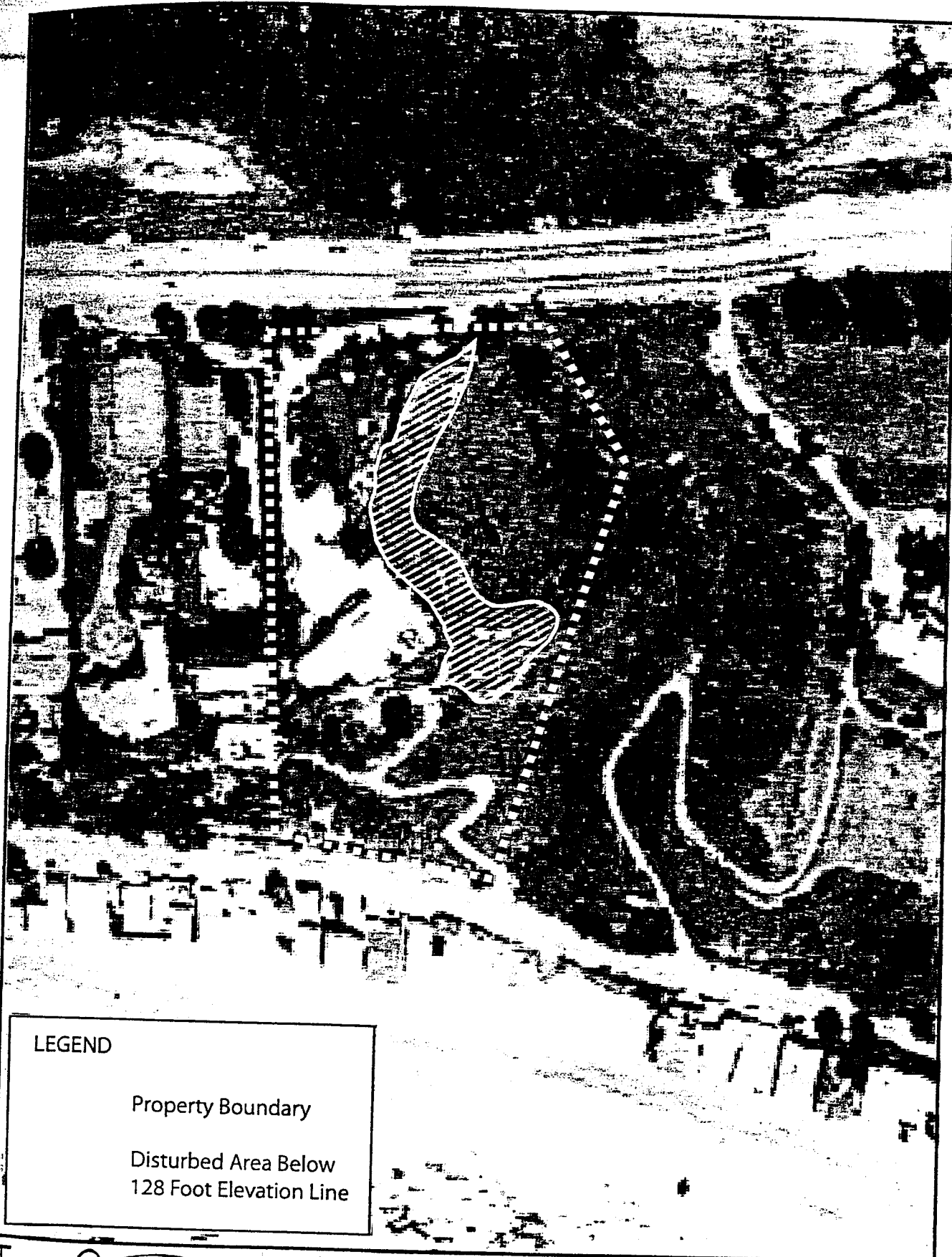
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EXHIBIT NO. 4

APPLICATION NO.

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AERIAL VIEW



LEGEND

Property Boundary

Disturbed Area Below
128 Foot Elevation Line

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RESOURCE MANAGEMENT

North
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GOLD - CAMPBELL - 8/22/02

Exhibit
Aerial P
3e

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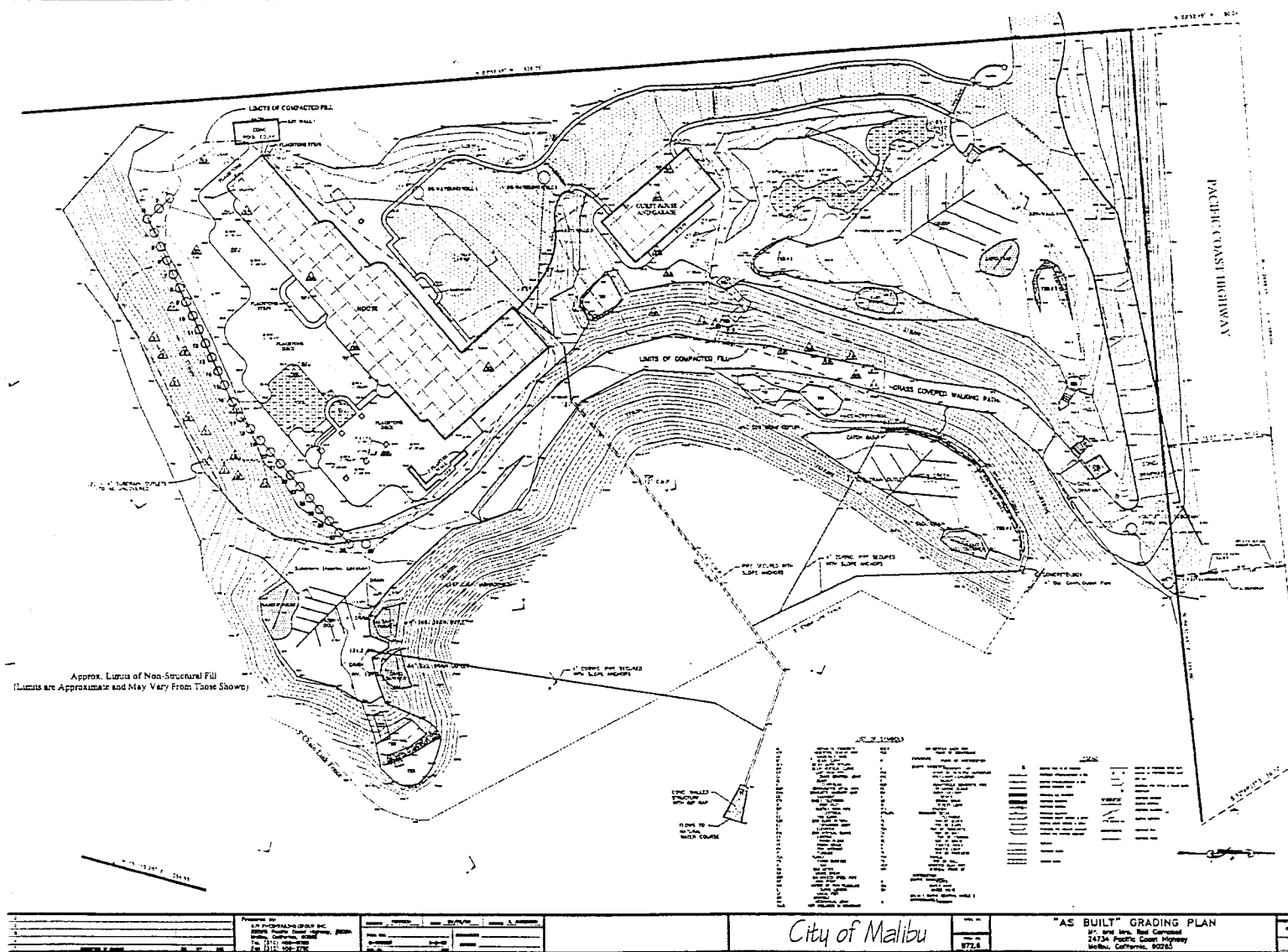
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EXHIBIT NO. 5

APPLICATION NO.

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DISTURBED AREA MAP



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EXHIBIT NO. 6

APPLICATION NO.

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SITE PLAN





Photo 1: Southern Green with northern green and Pacific Coast Highway in background.
View is to the northeast.

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EXHIBIT NO. 9
APPLICATION NO.
4-97-102-A1
PHOTOS (2pp)

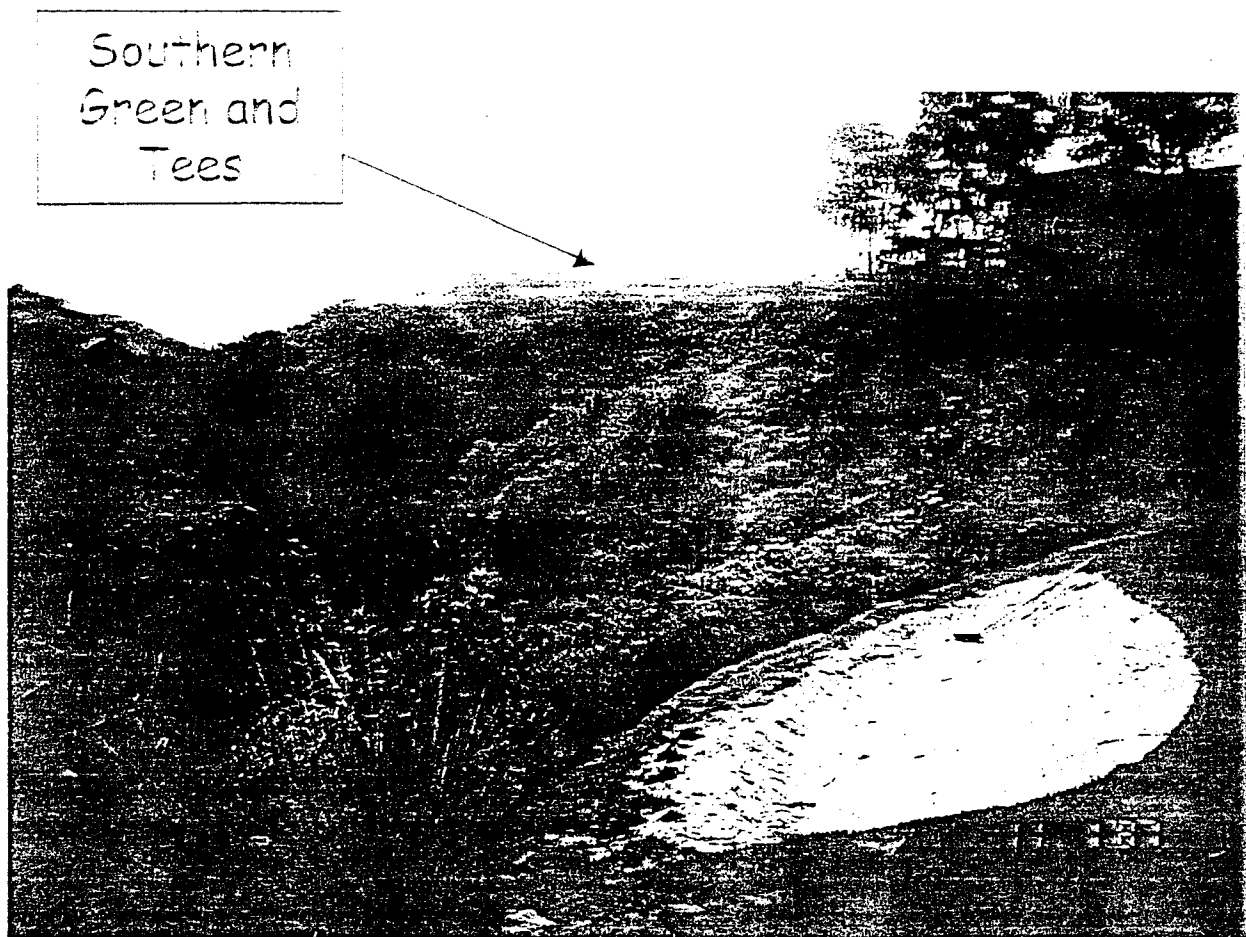


Photo 2: Northern Green adjacent to canyon, with southern green in background. View is to the south.

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CCC-03-RO-08 (Campbell)

The second attachment to the Staff Report for CDP No. 4-97-102-A1 is the same as Exhibit B of this Staff Report and therefore is not included again.

CALIFORNIA COASTAL COMMISSION

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



VIA REGULAR AND CERTIFIED MAIL

July 16, 2003

**NOTICE OF INTENT TO ISSUE CEASE AND DESIST
AND RESTORATION ORDER**

Rod and Sandra Campbell
24750 Pacific Coast Highway
Malibu, CA 90265

Subject: Coastal Act Violation File No. V-6-01-023

Property: 24750 (formerly 24734) Pacific Coast Highway, City of Malibu, Los Angeles County, APN 4458-016-021

Coastal Act Violation: Non-compliance with Coastal Development Permit No. 4-97-102 involving removal of native vegetation and grading in an ESHA, and expansion of the pitch and putt golf facilities.

Dear Mr. and Mrs. Campbell:

Pursuant to the requirements of California Code of Regulations Title 14, Division 5.5, Section 13181(a), I am writing to you, as the legal owners of the subject property, to inform you of my intent to commence Commission Cease and Desist Order (CDO) and Restoration Order (RO) proceedings against you to resolve the Coastal Act violation referenced above.

Coastal Act Violation

As I explained in my letter to you dated November 8, 2001, Standard Condition No. 3 attached to Coastal Development Permit (CDP) No. 4-97-102 issued to you in August 1997 specifically provided that

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.

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CCC-03-CD-10 (Campbell)
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EXHIBIT D

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The approved project plans (including the Landscaping and Erosion Control Plan and Grading Plans), did not authorize any development on the canyon slope above Puerco Creek other than minimal drainage system improvements. The approved development (including the approved golf facilities) was limited to the existing pad area located on top of the bluff. The plans show that no development of any kind is allowed below the 128 ft. elevation line (top of the bluff slope) on the east facing slopes above Puerco Creek. According to the As Built Grading Plan completed by RJR Engineering Group, Inc., you performed development (including an expansion of the golf facilities, grading, and landscaping) below the 128 ft. elevation line. The development below the 128 ft. elevation line is not in compliance with the approved project plans and is a violation of the term of the CDP.

The unauthorized development on your property that is below the 128 ft. elevation line consists of the construction of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, associated drainage systems, and an undetermined amount of grading. In August 2002, you applied for a CDP amendment to authorize the unpermitted development after-the-fact. As you know, on May 9, 2003, the Commission denied CDP No. 4-97-102-A1, based on a finding that the proposed development was not consistent with the Chapter Three policies of the Coastal Act.

Commission Cease and Desist and Restoration Order

Pursuant to Sections 30810 and 30811 of the Coastal Act, the Commission, after a public hearing, has the authority to issue a CDO to any person who performed development inconsistent with a permit or the Chapter 3 policies of the Coastal Act and an RO to any person that it determines has conducted unauthorized development that is causing continuing resource damage. In addition to requiring you to refrain from conducting any further development on your property without a CDP, the CDO and RO would require you to remediate the site by removing the unpermitted development and restore the property to its pre-violation condition according to a plan approved by the Executive Director. The CDO and RO would provide you with the authority to implement the remediation plan and avoid the necessity for you to apply for another CDP for the remedial work.

The Commission may issue either a unilateral order or a consent order. Under both types of order you would be required to remediate the property and the Commission would seek a monetary penalty. A consent order is similar to a settlement agreement. A consent order would provide you with an opportunity to have input into the process and timing of the implementation of the remediation plan and would allow you to negotiate a penalty amount with Commission staff.

Please be advised that Coastal Act Section 30820 authorizes the Commission to seek penalties for violations of the Coastal Act and daily penalties for knowing

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CCC-03-CD-10 (Campbell)
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EXHIBIT D

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and intentional violations of the Coastal Act. Section 30820(a) provides that a penalty of up to \$30,000 may be imposed on any person who undertakes development without a permit or development inconsistent with a permit previously issued by the Commission. Section 30820(b) provides that a penalty of up to \$15,000 per day may be imposed on any person for knowing and intentional violation of the Coastal Act. Section 3021.6 provides that a penalty of up to \$6,000 per day may be imposed on any person for knowing and intentional violation of a cease and desist or restoration order for as long as the violation persists. Also, Section 30822 enables the Commission to bring an action, for exemplary damages where it can be shown that a person has knowingly and intentionally violated the Coastal Act or any order issued by the Commission.

In accordance with the California Code of Regulations, Title 14, Section 13181(a), you have the opportunity to respond to Commission staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. The regulations require that you be provided at least 20 days from the date of this notice to return the completed State of Defense to the Commission staff. Please return the completed Statement of Defense by no later than August 5, 2003. If you decide that you would prefer to negotiate a consent order your completion of the Statement of Defense form is unnecessary since you would be required to stipulate to the facts. Regardless of which option you choose, Commission staff will schedule a public hearing on the CDO and RO at the Commission meeting to be held September 9-12, 2003 in Eureka.

If you have any questions regarding this letter or would like to discuss a consent order, please contact Headquarters Enforcement Officer Chris Darnell at 415-904-5294.

Sincerely,



Peter M. Douglas
Executive Director

cc: Lisa Haage, Chief of Enforcement
Steve Hudson, Southern California Enforcement Supervisor
Chris Darnell, Headquarters Enforcement Officer
Tom Sinclair, South Central District Enforcement Officer
Richard N. Scott, Attorney

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CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
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CONSENT CEASE AND DESIST ORDER NO. CCC-03-CD-10
AND CONSENT RESTORATION ORDER NO. CCC-03-RO-08

Pursuant to its authority under Public Resources Code Sections 30810 and 30811 the California Coastal Commission hereby orders and authorizes Roderick and Sandra Campbell ("Campbells"), as the owners of the property (hereafter "Subject Property") identified in Section 3.0 of this Consent Cease and Desist Order and Consent Restoration Order (hereafter "Consent Orders") and all other persons identified in Section 4.0 herein, to: cease and desist from maintaining unauthorized development on the Subject Property in violation of Coastal Development Permit (CDP) No. CCC-4-97-102, refrain from conducting any future development at the site not authorized by a CDP or these Consent Orders, remove the unauthorized development described in Section 5.0 herein, and restore the site to its natural condition in accordance with the following terms and conditions.

1.0 RESTORATION PLAN

- (a) Within 60 days of the Commission's issuance of these Consent Orders, the Campbells shall submit for the Executive Director's review and approval a plan (hereafter "Restoration Plan"), prepared by a qualified restoration specialist, for the complete removal of the unauthorized development and restoration of the site to make it consistent with the plans approved by Coastal Development Permit No. 4-97-102. The Restoration Plan shall include:
 - (i) A description of the removal of the unauthorized development described in Section 5.0 herein.
 - (ii) A description of the manner in which the site is to be restored, including any restorative grading and revegetation with species native to the southern California coastal sage scrub community, irrigation and fertilizer application. The Restoration Plan shall provide for 90 percent vegetative coverage of the impacted area within 5 years of implementation of the plan. The criteria for measuring the success of the restoration program shall consist of complete removal of the unauthorized development described in Section 5.0 herein, restoration of the natural topography of the canyon slope, 90 percent vegetative coverage of the impacted area within 5 years, and the ability of the plantings to survive without irrigation or fertilizer. Once the

plantings are established and no longer require irrigation, any temporary irrigation system shall be removed.

- (iii) A schedule that provides for implementation of the Restoration Plan within 60 days of approval by the Executive Director. The Restoration Plan shall also provide for, within 90 days of approval by the Executive Director, the complete removal of the unauthorized development described in Section 5.0 herein, grading to restore the natural topography of the canyon slope, revegetation of the site, and installation of a temporary system to irrigate the new plantings. The parties agree that no mechanical grading of the southeastern outcropping below the single-family residence will be required by the terms of these Consent Orders. Some hand grading and soil mounding of the outcropping prior to revegetation may be necessary to restore the slope to an approximation of its natural topography. The parties further agree that the restoration grading of the canyon slope will not require preparation of a geotechnical grading plan.
- (iv) A five year monitoring program that provides for annual written reports prepared by the restoration specialist to be submitted for the review and approval of the Executive Director no later than December 31 of each year. The reports shall evaluate the success of the restoration project and include recommendations and requirements for additional restoration activities necessary for the project to meet the goals and performance standards specified in subsection (ii). The reports shall include photographs of the site showing the progress of the restoration project. If the final report indicates that the project has in part, or in whole, been unsuccessful, based on the success criteria in subsection (ii), the Campbells shall submit a supplemental Restoration Plan to address those portions of the project that were not successful.
- (v) A description of interim erosion control measures to minimize erosion of the slope and protect the water quality of Puerco Canyon Creek.

The Restoration Plan, annual reports, and photographs of the site shall be sent to the attention of Steve Hudson, California Commission South Central District, 89 S. California Street, Suite 300, Ventura, CA 93001-2801. If the Executive Director determines that any modifications or additions to the Plan are necessary, he/she shall notify the Campbells, and the Campbells shall modify the Plan and resubmit the Plan with 10 days of such notification.

- (b) Within 10 days of completing the removal of the unauthorized development and revegetation of the site, the Campbells shall provide photographic documentation of the completed project. These photographs shall be sent to the attention of Steve Hudson, at the address in Section 1.0(a) herein.

2.0 PENALTY

Within 30 days of the issuance of these Consent Orders by the Commission, the Campbells shall pay a penalty in the amount of \$10,000 to the "California Coastal Commission." Payment of the penalty should be mailed to the attention of Chris Darnell, California Coastal Commission, 45 Fremont Street, Suite 2000, San Francisco, CA 94105

3.0 IDENTIFICATION OF THE PROPERTY

The property that is the subject of these Consent Orders is 24750 Pacific Coast Highway, Malibu, Los Angeles County (formerly 24734 Pacific Coast Highway), APN 4458-016-021.

4.0 PERSONS SUBJECT TO THESE CONSENT ORDERS

Persons subject to these Consent Orders are Roderick and Sandra Campbell, their agents and employees, and contractors, and any persons acting in concert with any of the foregoing.

5.0 DESCRIPTION OF ALLEGED COASTAL ACT VIOLATION

The Campbells violated the terms of CDP No. 4-97-102, approved by the Commission on August 14, 1997 by performing unauthorized development. The unauthorized development consists of grading on the canyon slope, removal of native coastal sage scrub vegetation adjacent to environmentally sensitive riparian habitat, and construction below the 128 ft. elevation of two putting greens, four sand bunkers, five tee areas, three rock retaining walls, rock steps, and associated drainage systems.

6.0 COMMISSION AUTHORITY TO ACT

The Commission is issuing this Consent Cease and Desist Order pursuant its authority under Section 30810 of the Public Resources Code. The Commission is issuing this Consent Restoration Order pursuant to its authority under Section 30811 of the Public Resources Code. The Campbells agree that they will not contest the Commission's authority to issue or enforce said Consent Orders.

7.0 WAIVER OF STATEMENT OF DEFENSE

In light of the intent of the parties to resolve these Coastal Act violations through settlement, the Campbells agree to waive their right to submit a statement of defense pursuant to California Code of Regulations, Title 14, Section 13181.

8.0 HEARING

In light of the intent of the parties to resolve these Coastal Act violations through settlement, the Campbells agree to waive their right to a public hearing before the Commission under California Code of Regulations Title 14, Section 13185 for the purpose of contesting the legal and factual basis, terms and issuance of these Consent Orders, including the allegations of Coastal Act violations contained in the Notice of Intent to issue a Cease and Desist Order dated July 16, 2003.

9.0 FINDINGS

These Consent Orders are being issued on the basis of the findings adopted by the Commission on October 10, 2003, as set forth in the attached document entitled Staff Report for Consent Cease and Desist Order No. CCC-03-CD-10 and Restoration Order No. CCC-03-RO-08, and the Staff Report for CDP No. 4-97-102, adopted by the Commission on August 14, 1997.

10.0 EFFECTIVE DATE

These Consent Orders shall become effective as of the date of issuance by the Commission and shall remain in effect permanently unless and until rescinded by the Commission.

11.0 COMPLIANCE OBLIGATION

The Campbells agree to comply with the terms and conditions of these Consent Orders. Parties agree that if the Campbells fail to comply with the requirements of these Consent Orders, including any deadlines contained herein, the Campbells shall pay stipulated penalties in the amount of \$100 per day for each day in which such compliance failure persists. The Campbells shall pay stipulated penalties within 15 days of receipt of a written demand by Commission staff for such penalties. Nothing in this section or these Consent Orders shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek other remedies available, including imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with these Consent Orders and for the underlying Coastal Act violation described herein.

12.0 EXTENSIONS

Notwithstanding Section 11.0 of these Consent Orders, if the Campbells are unable to comply with the deadlines contained in Section 1.0 of these Consent Orders, the Campbells may request from the Executive Director in writing an extension of said deadlines. Upon determining that the Campbells have made a showing of good cause, the Executive Director shall grant extensions of the deadlines. Any extension requests must be made in writing to the Executive Director and received by the Commission staff at least 10 days prior to the expiration of the subject deadline.

13.0 SITE ACCESS

The Campbells agree to provide full access to the portion of the Subject Property containing the unauthorized development at all reasonable times to Commission staff for the purpose of inspecting the progress of work being carried in compliance with the terms of these Consent Orders.

14.0 WAIVER OF APPEAL AND STAY RESOLUTION

Pursuant to the agreement of the parties set forth in these Consent Orders and in light of the fact that this matter is being settled, Respondents agree to waive whatever right they might have exercised to challenge the issuance and enforceability of these Consent Orders, or to seek a stay under Public Resources Code Section 30083(b).

15.0 GOVERNMENT LIABILITY

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by the Campbells in carrying out activities authorized under these Consent Orders, nor shall the State of California be held as a party to any contract entered into by the Campbells or their agents in carrying out activities pursuant to these Consent Orders.

16.0 SUCCESSORS AND ASSIGNS

These Consent Orders shall run with the land, binding all successors in interest, future owners of the Subject Property, heirs and assigns of the Campbells. Notice shall be provided to all successors, heirs and assigns of any remaining obligations under these Consent Orders.

17.0 GOVERNING LAW

These Consent Orders shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California, which apply in all respects.

17.0 GOVERNING LAW

These Consent Orders shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California, which apply in all respects.

18.0 NO LIMITATION OF AUTHORITY

Except as expressly provided herein, nothing herein shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Consent Orders.

19.0 INTEGRATION

These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in this section 13188(b) of the Commission's regulations.

20.0 STIPULATION

The Campbells attest that they have reviewed the terms of these Consent Orders, understand that their consent is final and stipulate to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:

Roderick Campbell

9.24-03

Dated


Sandra Campbell

9-24-03.
Dated


Richard Scott, Attorney

9/24/03

**Peter M. Douglas, Executive Director
California Coastal Commission**

Dated _____