

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Staff: J Johnson *for*  
Staff Report: 2/13/03  
Hearing Date: 3/4/03  
Commission Action:



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## STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-98-035  
**APPLICANT:** Alan Fox  
**AGENT:** Don Schmitz, Charles Santos, Schmitz and Associates  
**PROJECT LOCATION:** 24116 and 24132 Malibu Road, City of Malibu

**PROJECT DESCRIPTION:** Authorization of as-built repair of an existing grouted rip-rap revetment to pre-existing conditions with 110.5 tons of 1-6 ton boulders. In addition, the project also includes the new removal of approximately 14 rouge rocks on beach at 24116 Malibu Road and their disposal in an approved public disposal site located outside the coastal zone or return to a rock quarry. Construct and remove a temporary equipment access ramp to beach at 24132 Malibu Road.

Lot area

5,110 sq. ft.

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department, Approval in Concept, 6/11/1998; City of Malibu Geology Referral Sheet, dated 5/13/1998; City of Malibu Biological Review, dated 5/17/1998.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu Local Coastal Program; Coastal Development Permit No. 4-00-246, Flannery; Report on Existing Rock Revetment by David Weiss, Structural Engineering & Associates, dated April 14, 1999; Disposition of Existing Rock Revetment, by David Weiss, Structural Engineering & Associates, dated September 15, 2000 and January 3, 2001; Follow-up of Letter Requesting Disposition of Existing Rock Revetment, by David Weiss, Structural Engineering & Associates, dated January 25, 2001; Letter from State Lands Commission titled; Coastal Development Permit Review for Removal of Rogue Rocks Displaced from an existing and Permitted Rock and Cobble Seawall, 24116 Malibu Road, Malibu, dated June 11, 2002; Letter of Authorization for 24132 Malibu Road, Malibu received 2/13/03.

### Summary of Staff Recommendation

Staff recommends *approval* of the proposed project with **Six (6) special conditions** addressing (1) assumption of risk/shoreline protection, (2) generic deed restriction, (3) construction responsibilities, removal and disposal of material, (4) sign restriction, (5) condition compliance (6) rock removal deadline to bring it into conformance with the Malibu LCP.

### Staff Note

**Due to Permit Streamlining Act Requirements the Commission must act on this permit application at the March 4-7, 2003 Commission meeting.**

## I. Staff Recommendation

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 4-98-035 pursuant to the staff recommendation.*

### **Staff Recommendation of Approval:**

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

### **Resolution to Approve the Permit:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Malibu Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## 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. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Conditions

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

By acceptance of this permit, the applicant acknowledges and agrees to the following:

1. The applicant acknowledges and agrees that the site may be subject to hazards from, storm waves, surges, erosion, landslide and flooding.
2. The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
3. The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
4. The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
5. No future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to Coastal Development Permit 4-98-035 shall be undertaken if such activity extends the seaward footprint of the subject shoreline protective device. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to such activity that may exist under Public Resources Code section 30235.

#### 2. Generic Deed Restriction

**Prior to the Issuance of the Coastal Development Permit**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either

this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**3. Construction Responsibilities, Removal and Disposal of Material**

The applicant shall, by accepting this permit, agree: a) that no stockpiling of sand or soil shall occur on the beach; b) that the imported sand and or soil used for the access ramp be removed within ten days of completing the removal of the rouge rocks; c) bulldozers or heavy machinery may be allowed in the intertidal zone for the minimum time necessary to remove and transport the rouge rocks; e) all of the removed rocks, and the imported sand and soil used for the temporary construction equipment access ramp, shall be removed and disposed of at an appropriate disposal site located outside the coastal zone or a site located in the coastal zone with a valid coastal permit for the disposal of the material.

**Prior to the issuance of the coastal development permit**, the applicant shall provide evidence to the Executive Director of the location of the disposal site for the rouge rocks and fill material for temporary construction access to the site. Should the disposal be located in the Coastal Zone, a Coastal Development Permit shall be required.

**4. Sign Restriction**

No signs shall be posted on the property subject to this permit, except for those on the landward face or elevation of the structure identifying the occupant/owners' name and street address number, unless they are authorized by a coastal development permit or an amendment to this coastal development permit.

**5. Condition Compliance**

Within 120 days of Commission action on this coastal development permit application, or within such time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

**6. Rock Removal Deadline**

The applicant shall remove the rouge rocks within 60 days of the issuance of this coastal permit, or within such time as the Executive Director may grant for good cause.

**IV. Findings and Declarations**

The Commission hereby finds and declares:

**A. Project Description and Background**

The applicant is requesting authorization for as-built repair of an existing grouted rip-rap revetment to pre-existing conditions with 110.5 tons of 1-6 ton boulders. In addition, the proposed project also includes the new removal of approximately 14 rouge rocks on beach at 24116 Malibu Road and their disposal in approved public disposal site located outside the coastal zone or return them to a rock quarry. The project includes the construction and removal of a temporary equipment access ramp to the beach at 24132 Malibu Road. Authorization to use this vacant lot to construct and remove this temporary access ramp was received February 13, 2003, signed by Michael Barsocchini, agent for Ann Tranvan, the property owner.

The subject site is a 45 foot wide lot on the oceanfront side of Malibu Road where an existing single family residence is located on the former sandy beach and a rock revetment is located seaward of the residence. The subject residence is surrounded by other residences to the west and east each with a rock revetment forming a continuous line of shoreline protective devices along this stretch of Malibu Road.

On May 12, 1975 the South Coast Regional Conservation Commission approved coastal development permit P-3-13-75-4927 for the construction of a two story, single family residence with septic system and seawall (rock revetment). The Commission required a recorded lateral public access dedication five feet landward of the mean high tideline across the width of the property. On April 12, 1976, the South Coast Regional Conservation Commission approved coastal development permit amendment A-3-16-76-7394 to change the design and size of the approved residence to a larger three story residence.

On March 3, 1998, the Executive Director issued Emergency Coastal Permit No. 4-98-035-G to Norton Shane for the repair of an existing grouted rip-rap revetment to pre-existing conditions with the use of 110.5 tons of 1-6 ton boulders.

On June 11, 1998 this application for a regular coastal permit to permanently authorize the work completed pursuant to Emergency Permit No. 4-98-035-G was submitted and eventually filed as complete on October 11, 2002 and scheduled for the March 2003 agenda.

On September 13, 2002, the Commission adopted the Malibu Local Coastal Program (LCP). The subject permit application was filed prior to the date the LCP was adopted and therefore remains under the jurisdiction of the Commission. Prior to the adoption of the LCP the standard of review for permit applications in Malibu were the chapter three policies Coastal Act. After the adoption of the LCP the standard of review for permit applications is the LCP.

#### **B. Shoreline Development and Hazards**

The proposed development is located on a bluff top/ beach property along the Malibu coastline, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu/Santa

Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. 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. Coastal bluffs, such as the one located on the subject site, are unique geomorphic features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. In addition, due to their geologic structure and soil composition, these bluffs are susceptible to surficial failure, especially with excessive water infiltration.

The Malibu Local Coastal Program (LCP) contains the following development policies related to hazards and shoreline development that are applicable to the proposed development.

Sections 30235 and 30253 of the Coastal Act, which are incorporated as part of the Malibu LCP, state in pertinent part that new development shall:

**Section 30235:**

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

**Section 30253 states in pertinent part::**

**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, 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.**

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

- 5.54 Existing, lawfully established structures built prior to the effective date of the Coastal Act that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below, additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the current policies and standards of the LCP. Substantial additions to non-conforming structures on a blufftop or on the beach are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance**

*with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.*

**13.5 Non-Conforming Use or Structures. (LIP)**

- A.** *This section (13.5) shall apply to the following: (1) any existing and lawfully established or lawfully authorized use of land or to any existing and lawfully established or lawfully authorized buildings and other structures that do not conform to the policies and development standards of the certified LCP, or any subsequent amendments thereto and (2) development that is not exempt from the coastal development permit requirements pursuant to Section 13.4 of the Malibu LIP (Exemptions). Development that occurred after the effective date of the Coastal Act or its predecessor, the Coastal Zone Conservation Act, if applicable, that was not authorized in a coastal development permit or otherwise authorized under the Coastal Act, is not lawfully established or lawfully authorized development, is not subject to the provisions of Section 13.5, but is subject to the provisions of Section 13.3 (F) of the Malibu LIP.*
- B.** *Non-conforming uses as defined by 13.5(A) of the Malibu LIP shall not be intensified, or expanded into additional locations or structures.*
- C.** *Non-conforming structures as defined by 13.5(A) of the Malibu LIP may be repaired and maintained if it does not result in enlargement or expansion of the structure. However, demolition and/or reconstruction that results in replacement of more than 50 percent of non-conforming structures, including all demolition and/or reconstruction that was undertaken after certification of the LCP, is not permitted unless such structures are brought into conformance with the policies and standards of the LCP.*

**4.15.** *Existing, lawfully established structures, which do not conform to the provisions of the LCP, may be maintained and/or repaired provided that such repair and maintenance do not increase the extent of nonconformity of the structure. Except as provided below, additions and improvements to such structures may be permitted provided that such additions or improvements comply with the current standards and policies of the LCP and do not increase the extent of nonconformity of the structure. Substantial additions, demolition and reconstruction, that result in demolition and/or replacement of more than 50% of the exterior walls shall not be permitted unless such structures are brought into conformance with the policies and standards of the LCP.*

**4.24** *All proposed development on a beach or along the shoreline, including a shoreline protection structure, 1) must be reviewed and evaluated in writing by the State Lands Commission and 2) may not be permitted if the State Lands Commission determines that the proposed development is located on public tidelands or would adversely impact tidelands unless State Lands Commission approval is given in writing.*

**4.16** *New development shall minimize risks to life and property from fire hazard through:*

- *Assessing site-specific characteristics such as topography, slope, vegetation type, wind patterns etc.;*
- *Siting and designing development to avoid hazardous locations;*
- *Incorporation of fuel modification and brush clearance techniques in accordance with applicable fire safety requirements and carried out in a manner which reduces impacts to environmentally sensitive habitat to the maximum feasible extent;*

- *Use of appropriate building materials and design features to insure the minimum amount of required fuel modification;*
- *Use of fire-retardant, native plant species in landscaping.*

**4.39** *All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.*

**4.42.** *As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.*

**4.43** *As a condition of approval of a shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.*

**5.54** *Existing, lawfully established structures built prior to the effective date of the Coastal Act that do not conform to the provisions of the LCP may be maintained, and repaired. ...*

## **1. Shoreline Protective Structure Repair**

The Malibu LCP policies require that new development minimize risk to life and property in areas of high geologic, flood and fire hazard and assure stability, structural integrity or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. In addition, LCP requires that revetments, seawalls and cliff retaining walls shall be permitted when required to protect existing structures in danger from erosion when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. By nature, coastal beaches are subject to erosion from wave action along the coast. The Commission has typically required that new development extend no further seaward



than the location of adjoining development. In this case, the issue is the seaward location of the rock revetment as compared to the rock revetments along adjoining properties. More specifically, is the existing rock revetment or portions of it located landward or seaward of the existing stringline of revetments along this stretch of beach? There are fourteen rocks located seaward of this stringline as identified on Exhibit 2. In response to concerns raised by staff, the applicant has amended the project description to include the removal of these fourteen rocks from the beach seaward of the toe of the revetment and dispose of them offsite.

The Malibu LCP specifically prohibits substantial additions to non-conforming structures located in the Coastal Zone. Malibu LUP policy 5.54 states in pertinent part that:

***Existing, lawfully established structures built prior to the effective date of the Coastal Act that do not conform to the provisions of the LCP may be maintained, and repaired.***

Malibu LIP policy 13.5 (B) states in pertinent part that:

***Non-conforming uses as defined by 13.5(A) of the Malibu LIP shall not be intensified, or expanded into additional locations or structures.***

In addition, Malibu LIP policy 13.5 (C) states in pertinent part that:

***Non-conforming structures as defined by 13.5(A) of the Malibu LIP may be repaired and maintained if it does not result in enlargement or expansion of the structure.***

The intent behind the "non-conforming" structure policies of the Malibu LCP is that as these non-conforming structures are either demolished and rebuilt or substantial additions are proposed for these structures (exceeding 50%) the structures are to be brought into conformance with the beach setback and shoreline development policies of the LCP to eliminate or minimize adverse impacts to shoreline processes, bluff stability and sensitive shoreline and bluff habitats. In the long term, as properties are redeveloped in Malibu, non-conforming development would be removed from the shoreline and/or bluffs in Malibu and shoreline and/or bluffs restored to a more natural condition. The elimination of these structures on the beaches and bluffs in Malibu will eliminate the adverse impacts associated with these structures on shoreline processes, public access, bluff stability and shoreline and bluff habitats. In this case, if the residential structure and septic system were relocated to a more landward location there may be no need for a rock revetment seaward of the residential structure, although a bulkhead may be needed to protect the septic system and Malibu Road. If the existing rock revetment were to be removed, the beach would be restored to a more natural condition.

In this case, the existing rock revetment protecting an existing residential structure and septic system is considered to be a "non-conforming" because the toe of the rock revetment appears to be located below the mean high tideline. Generally, the mean high tide line is located at approximately the four foot elevation above mean

sea level. The applicant submitted a site plan dated January 12, 1999 surveyed by Mario Quiros and a site plan Sheet S1 dated February 21, 2002 by David Weiss, Structural Engineer and Associates identifying that the toe of the revetment as located at and just above the 1.9 foot elevation level depending upon the specific location along the seaward side of the revetment. However, this mean high tide line has not been verified by the State Lands Commission and the measurement represents only one year measurement which does not provide adequate information for a definitive determination of the current location of the mean high tide line at the site. The location of the mean high tide line at the site is ambulatory in nature and the toe of the existing revetment, at times, may be above or below the mean high tide line. The State Lands Commission reviewed the proposed project and concluded in a letter dated June 11, 2002 that

“... the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters. This conclusion is without prejudice to any prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to our attention.”

Malibu LUP policy 5.54 allows that existing, lawfully established structures built prior to the effective date of the Coastal Act that do not conform to the provisions of the LCP may be maintained, and repaired. Malibu LUP policy 5.59 requires that all shoreline protective structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. Because this rock revetment is not located as far landward as feasible, it is considered a non-conforming use. In addition, as described below in the Public Access Section in this report a public lateral access area has been dedicated and recorded since 1976. This access dedication is now covered with rock along the toe of the revetment. Although it is possible to relocate this rock revetment further landward to a location above the mean high tide line, the Malibu LCP allows for the maintenance and repair of such non-conforming uses. In addition, Malibu LIP requires that Non-conforming uses not be intensified, or expanded into additional locations and that non-conforming uses be repaired and maintained if it does not result in enlargement or expansion of the structure.

The applicant provided a site plan (Exhibit 2) identifying the stringline of the rock revetment in relation to adjoining properties. A review of this site plan indicates there are fourteen rocks have migrated further seaward beyond the stringline. The applicant proposes to remove these fourteen rocks to a site located outside the coastal zone or to a rock quarry, the proposed project will be in conformance with the applicable policies of the Malibu LCP and LIP as conditioned. It is important to note that the portion of the project to add additional rock to this revetment was completed under Emergency Coastal Permit No. 4-98-035-G issued on March 4, 1998.

However, the Commission further notes that any future repairs or improvements to the existing revetment that might result in the seaward extension of the shoreline

protective device would increase the frequency with which the revetment is subject to wave action, and would result in increased beach erosion and adverse effects to shoreline sand supply and public access. In addition, Malibu LCP policy 4.43 requires that as a condition of approval for a shoreline protective device, the property owner shall be required to acknowledge, by recordation of a deed restriction, that no future repairs or maintenance, enhancement, or reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any such right to such activities that may exist under Coastal Act Section 30235. Therefore, to ensure that the proposed project does not result in new future adverse effects to the sandy beach and public access, **Special Condition One** prohibits any future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to this permit if such activity extends the seaward footprint of the subject shoreline protective device.

## 2. Shoreline Hazards

The Malibu LCP requires that new development be sited and designed to minimize risks to life and property from geologic, flood, and fire hazard. The Commission notes that the revetment is located in the wave uprush zone and therefore routinely subject to wave action during high tides, storm conditions and the winter season. Also, as detailed in the preceding discussion, the seasonal eroded beach condition can be expected to occur more frequently due to existing revetment on the site, an increase in storm frequency or an increase in sea level rise. An increased occurrence in seasonal erosion of the subject beach will exacerbate beach scour and erosion thereby altering the natural beach slope and reducing the amount of physical and transitory beach area available for public use. Thus, the existing revetment will result in adverse impacts on the beach which are also expected to increase in severity in the future.

The applicant has submitted a Report titled "Disposition of Existing Rock Revetment" dated September 15, 2000 by David Weiss, Structural Engineer & Associates. The report includes recommendations related to stability of the shoreline protective structure and the removal of the eight rock seaward of the revetment stringline. The applicant's coastal engineer has made a number of recommendations that have been incorporated into the design plans for the revetment repair plans.

As noted above, the existing residence and rock revetment as repaired, including the removal of fourteen rouge rocks is located on a beachfront lot and will be subject to some inherent potential hazards. The Commission notes that the Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the 1998 severe El Nino winter storm season. The subject site is clearly susceptible to landslides, floods and/or wave damage from storm waves, storm surges and high tides. Past occurrences have caused property damage resulting in public costs through emergency responses and low-interest, publicly-subsidized reconstruction loans in the millions of dollars in Malibu area alone from last year's storms.

In the winter of 1977-1978, storm waves, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council, damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost \$5 million to private property alone.

The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused over \$12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast.

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

The Commission finds that due to the possibility of storm waves, surges, erosion, landslide, and flooding, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. In addition, the Malibu LCP specifically requires that land owners of bluff and beachfront properties subject to wave action and erosion shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards. The applicant's assumption of risk, as required by **Special Condition No. One**, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

In addition, the Commission notes that the proposed development includes the removal of fourteen rouge rocks and the construction of a temporary equipment access ramp on a vacant lot at 24132 Malibu Road. The applicant proposes to access the beach seaward of the rock revetment via this vacant lot located about 135 feet to the east. The Commission notes that this portion of the project located on a sandy beach will result in the potential loss of the soil or sand used for the temporary access ramp and presence of equipment and materials that could be

subject to tidal action. The presence of construction equipment and the beach ramp could pose hazards to beachgoers or swimmers if construction equipment were left on the beach. Further, such discharge of soil and or sand, depending on the material's granular size and composition into the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. To ensure adverse effects to the marine environment are minimized, **Special Condition No. Three**, requires the applicant to ensure that imported sand or soil used for the access ramp be removed within ten days of completing the removal of the rogue rocks and that bulldozers or heavy machinery may be allowed in the intertidal zone for the minimum time necessary to remove and transport the rouge rocks. Furthermore, to ensure that the removal of the rogue rocks and construction access ramp material is properly removed and is disposed of off site so as not to contribute to the loss of any materials into the ocean, the Commission finds it necessary to require the applicant to dispose of the material at a appropriate disposal site or to a site that has been approved to accept the rocks and ramp fill materials located outside the coastal zone or if located within the coastal zone, a disposal site with a valid coastal permit for the disposal of the material, as specified in **Special Condition No. Three**. **Special Condition No. Six** requires the applicant to remove the rouge rocks within 60 days of the issuance of this coastal permit, or within such time as the Executive Director may grant for good cause.

Finally, **Special Condition No. Two** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with the applicable policies of the Malibu LCP.

Therefore, the Commission finds that the proposed repair of the rock revetment and removal of fourteen rouge rocks complies as conditioned with the Hazard and Shoreline Protective Device policies of the Malibu LCP.

### **C. Public Access**

The Malibu Local Coastal Program (LCP) contains the following development policies related to public access to the shoreline.

Sections 30210, 30211, 30212(a), and 30220 of the Coastal Act, which are incorporated as part of the Malibu LCP, state in pertinent part that new development shall:

*Section 30210 states that:*

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public*

*safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

**Section 30211 states:**

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Section 30212(a) provides that in new shoreline development projects, public access from the nearest public roadway to the shoreline and along the coast shall be provided except in specified circumstances, where:**

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.*
- (2) adequate access exists nearby, or,*
- (3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

**Section 30220 of the Coastal Act states that:**

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such use.*

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

- 2.63** *Consistent with the policies below, maximum public access from the nearest public roadway to the shoreline and along the shoreline shall be provided in new development. Exceptions may occur only where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as an accessway that provides for public access and use along the shoreline. Vertical access is defined as an accessway which extends to the shoreline, or perpendicular to the shoreline in order to provide access from the first public road to the shoreline.*
- 2.64** *An Offer to Dedicate (OTD) an easement for lateral public access shall be required for all new oceanfronting development causing or contributing to adverse public access impacts. Such easement shall extend from the mean high tide line landward to a point fixed at the most seaward extent of development i.e. intersection of sand with toe of revetment, vertical face of seawall, dripline of deck, or toe of bluff.*
- 2.73** *Maximum public access shall be provided in a manner which minimizes conflicts with adjacent uses.*
- 2.81** *No signs shall be posted on a beachfront property or on public beach unless authorized by a coastal development permit. Signs which purport to identify the boundary between State tidelands and private property or which indicate that public access to State tidelands or public lateral access easement areas is restricted shall not be permitted.*

Coastal Act sections 30210 and 30211, as incorporated in the Malibu LCP, reference mandate that maximum public access and recreational opportunities be provided, including use of dry sand and rocky coastal beaches, and that development not interfere with the public's right to access the coast. Likewise, section 30212 of the Coastal Act, as incorporated in the Malibu LCP, requires that adequate public access to the sea be provided except where it would be inconsistent with public safety, military security needs, protection of fragile coastal resources and agriculture, or where adequate access exists nearby.

All projects requiring a coastal development permit must be reviewed for compliance with the public access and recreation provisions of the Malibu LCP. Based on these policies the Commission has required public access to and along the shoreline in new development and has required design changes in other projects on the coast to reduce interference with access to and along the shoreline.

The State owns tidelands, which are those lands located seaward of the mean high tide line as it exists from time to time. By virtue of its admission into the Union, California became the owner of all tidelands and all lands lying beneath inland navigable waters. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The public trust doctrine restricts uses of sovereign lands to public trust purposes, such as navigation, fisheries, commerce, public access, water oriented recreation, open space, and environmental protection. The public trust doctrine also severely limits the ability of the State to alienate these sovereign lands into private ownership and use free of the public trust. Consequently, the Commission must avoid decisions that improperly compromise public ownership and use of sovereign tidelands.

Where development is proposed that may impair public use and ownership of tidelands, the Commission must consider where the development will be located in relation to tidelands. The legal boundary between public tidelands and private uplands is relative to the ordinary high water mark. In California, where the shoreline has not been affected by fill or artificial accretion, the ordinary high water mark of tidelands is determined by locating the existing "mean high tide line." The mean high tide line is the intersection of the elevation of mean high tide with the shore profile. Where the shore is composed of sandy beach in which the profile changes as a result of wave action, the location at which the elevation of the mean high tide line intersects the shore is subject to change. The result is that the mean high tide line (and therefore the boundary) is an "ambulatory" or moving line that moves seaward through the process known as accretion and landward through the process known as erosion.

Consequently, the position of the mean high tide line fluctuates seasonally as high wave energy (usually but not necessarily) in the winter months causes the mean high tide line to move landward through erosion, and as milder wave conditions (generally associated with the summer) cause the mean high tide line to move seaward through accretion. In addition to ordinary seasonal changes, the location of

the mean high tide line is affected by long term changes such as sea level rise and diminution of sand supply.

The Commission must consider a project's direct and indirect effect on public tidelands. To protect public tidelands when beachfront development is proposed, the Commission must consider (1) whether the development or some portion of it will encroach on public tidelands (i.e., will the development be located below the mean high tide line as it may exist at some point throughout the year) and (2) if not located on tidelands, whether the development will indirectly affect tidelands by causing physical impacts to tidelands. In the case of the proposed revetment, the State Lands Commission presently does not assert a claim that the project intrudes onto sovereign lands. However, it appears that the existing rock revetment is located both above and below the mean high tide line which may have an adverse effect on shoreline processes as wave energy reflected by those structures contributes to erosion and steepening of the shore profile, and ultimately to the extent and availability of tidelands. That is why the Commission also must consider whether the project will have indirect effects on public ownership and public use of shorelands. There is substantial evidence indicating that the proposed revetment will be subject to wave action which will result in adverse impacts on the shoreline processes and sand supply that maintain the beach at the subject site. Therefore the existing revetment, as repaired with 110 tons of additional rock will have both an individual and, combined with the existing shoreline protective devices, cumulative adverse impact on public use of tidelands.

Public use rights of the beach are implicated as the public walks the wet or dry sandy beach below the mean high tide plane. This area of use, in turn moves across the face of the beach as the beach changes in depth on a daily basis. The free movement of sand on the beach is an integral part of this process, and it is here that the effects of shoreline structures are of concern.

As noted above, the subject property includes a public lateral access dedication recorded in 1976. On May 12, 1975 the South Coast Regional Conservation Commission approved coastal development permit P-3-13-75-4927 for the construction of a two story, single family residence with septic system and seawall (rock revetment). The Commission required a recorded lateral public access dedication five feet landward of the mean high tideline across the width of the property. Since then it appears that the beach may have scoured over time lowering the beach profile such that this access dedication is quite narrow along the toe of the revetment, at the time of the beach survey in January 1999 (Exhibit 7).

The proposed project involves the repair of an existing rock revetment with 110.5 tons of 1-6 ton boulders that will have a number of adverse effects on the dynamic shoreline and the public's beach ownership interests. As described in detail above, the proposed shoreline protective device will individually and cumulatively affect public access by causing accelerated and increased erosion on the adjacent public beach. Adverse impacts resulting from shoreline protective devices may not become clear until such devices are constructed individually along a shoreline and they eventually affect the profile of an entire beach. Changes in the shoreline profile, particularly changes in the slope of the profile, caused by increased beach scour,



erosion and a reduced beach width, alters usable beach area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the physical area of public property available for public beach use. Additionally, through the progressive loss of sand caused by increased scour and erosion, shore material is no longer available to nourish the beach and seasonal beach accretion occurs at a much slower rate. As the natural process of beach accretion slows the beach fails to establish a sufficient beach width, which normally functions as a buffer area absorbing wave energy. The lack of an effective beach width can allow such high wave energy on the shoreline that beach material may be further eroded by wave action and lost far offshore where it is no longer available to nourish the beach. The effect of this on public access along the beach is again a loss of beach area between the mean high water line and the actual water. Furthermore, if not sited landward in a location that insures that the seawall is only acted upon during severe storm events, the seawall will experience frequent wave interaction and cause accelerated beach scour during the winter season when there is less beach area to dissipate wave energy.

Shoreline protective devices also directly interfere with public access to tidelands by impeding the ambulatory nature of the mean high tide line (the boundary between public and private lands) during high tide and severe storm events, and potentially throughout the entire winter season. The impact of a shoreline protective device on public access is most evident on a narrow and eroding beach where wave run-up and the mean high tide line are more frequently observed in an extreme landward position during storm events and the winter season. As the shoreline retreats landward due to the natural process of erosion, the boundary between public and private land also retreats landward. Construction of rock revetments and seawalls to protect private property fixes a boundary on the beach and prevents any current or future migration of the shoreline and mean high tide line landward. As the landward location of the high water mark is fixed by the presence of a shoreline protective device the low water mark continues to retreat landward, thus fixing a point on the shoreline where both tide lines intersect the beach, thereby eliminating the distance between the high water mark and low water mark and in effect eliminating accessible tidelands. As the distance between the high water mark and low water mark becomes obsolete the seawall effectively eliminates lateral access opportunities along the beach as the entire area below the fixed high tide line is inundated. Eventually the tide line migrates inland to point at which tidelands are no longer effectively usable during portions of the year. The ultimate result of a fixed shoreline and tide line, which would normally migrate and retreat landward while maintaining a passable distance between the high water mark and low water mark overtime, is a reallocation of tideland ownership from the public to the private property owner.

The Commission finds that the proposed revetment repair will result in an adverse impact on shoreline processes and existing rights to access tidelands. The Commission further finds that the adverse impacts on existing rights to access public tidelands can not be eliminated, and therefore, the Commission requires mitigation for the loss public access opportunities to tidelands at the site. Therefore,

the applicant's proposal to remove fourteen rouge rocks that may have moved seaward of the toe of the rock revetment will provide partial mitigation for interfering with lateral public access and the dedicated lateral public accessway located between the ambulatory mean high tide line and five feet landward that is used by the public for access along the beach. In addition, the Malibu LCP policy 2.64 requires an offer to dedicate a lateral access easement for all new oceanfronting development causing or contributing adverse public access impacts. Because the subject site already includes a dedicated public lateral accessway, it is not necessary to require a new accessway as part of this revetment repair

The Commission must also consider whether a project affects any public right to use shorelands that exist independently of the public's ownership of tidelands. In addition to a new development's effects on tidelands and on public rights protected by the common law public trust doctrine, the Commission must consider whether the project will affect a public right to use beachfront property, independent of who owns the underlying land on which the public use takes place. Generally, there are three additional types of public uses identified as: (1) the public's recreational rights in navigable waters guaranteed to the public under the California Constitution and state common law, (2) any rights that the public might have acquired under the doctrine of implied dedication based on continuous public use over a five-year period; and (3) any additional rights that the public might have acquired through public purchase or offers to dedicate.

In the case of the proposed project, the State Lands Commission presently does not assert claims that the project would extend into an area that is subject to the public trust easement in navigable waters as noted in their letter dated June 11, 2002.

The beaches of Malibu are extensively used by both local and non-local visitors. Most planning and demographic studies indicate that attendance of recreational sites in Southern California will continue to increase significantly over the coming years. The public has a right to use the shoreline under the public trust doctrine, the California Constitution and California common law. The Commission must protect public access rights by assuring that any proposed shoreline development does not interfere with those rights. In the case of the proposed project, there is a potential for the permanent loss of sandy beach used by the public as a result of a change in the beach profile, or steepening of the beach, from scour effects and erosion caused by existing revetment as repaired at the site.

In addition to the adverse impacts of the existing seawall which can not be totally avoided given it's location in an area subject to wave action, any future improvements to the proposed seawall that might result in the seaward extension of the shoreline protection device, thereby subjecting the wall to increased wave action, would result in increased adverse effects to coastal processes, shoreline sand supply and public beach access. Therefore, to ensure that the proposed project does not result in new future adverse effects on public access, **Special Condition No. One** requires the applicant to acknowledge and agree as recorded through the generic deed restriction required by **Special Condition No. Two** that would prohibit any future repair or maintenance, enhancement, reinforcement, or

any other activity affecting the shoreline protective device if such activity extends the seaward footprint of the subject shoreline protective device.

Finally, many homes and properties in Malibu post signage which indicates that at least a portion of the beach is "private". A majority of the signs indicate that the subject beach is private property up to the mean high tide line, which the signs then define a certain distance from the structure to the sea. No legal verification of the accuracy of the signs is available. Chronic unauthorized postings of signs illegally attempting to limit, or erroneously noticing restrictions on, public access have occurred on many beachfront private properties in the Malibu area. These signs have an adverse effect on the ability of the public to access public trust lands as well as existing lateral access easements. In addition, Policy 2.81 of the Malibu LCP prohibits signs on beachfront properties unless authorized by a coastal development permit. The Commission has determined, therefore, that to ensure that applicants clearly understand that such postings are not permitted without a separate coastal development permit, it is necessary to impose **Special Condition No. Four** to ensure that similar signs are not posted on or near the proposed project site. The Commission finds that when implemented, **Special Condition No. Four** will protect the public's right of access to the sandy beach below the mean high tide line, as well as access to several lateral access easements recorded along the beach.

For the reasons discussed above, the Commission finds that, as conditioned, the proposed project is consistent with the Public Access Policies of the Malibu LCP.

#### D. Violation

The proposed emergency repair of the rock revetment was completed by a previous property owner in March 1998 pursuant to Emergency Coastal Permit No. 4-98-035. The emergency approval was temporary for 60 days and the previous property owner was required to remove the temporary rock within 150 days of the date of the emergency coastal permit unless a complete application for a coastal permit to authorize the emergency work as permanent development was submitted within 60 days of the date of the issuance of the emergency permit by no later than May 3, 1998 (Condition No. Four). In this case, in violation of Condition No. Four, the previous property owner did not submit the required follow-up regular permit application until after the 60 day deadline on June 11, 1998. In addition, the application was determined by staff to be incomplete and the necessary materials to review the proposed development and to file a complete application were not submitted by the applicant until October 11, 2002. Because the prior property owner failed to either: (1) submit a complete application and obtain a follow-up regular coastal development permit authorizing the temporary emergency work as permanent development within the specified timeframe or (2) remove the temporary emergency work by the required deadline specified by Condition No. Four of the emergency coastal permit, the temporary authorization for the rock revetment repair has expired. The subject permit application addresses all unauthorized development that was previously completed pursuant to Emergency Coastal Permit No. 4-98-035, as well as the new development proposed in the subject application including the removal of fourteen rouge rocks from the beach. In order to ensure

that the matter of unauthorized development is now resolved in a timely manner, **Special Condition No. Five** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 120 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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.

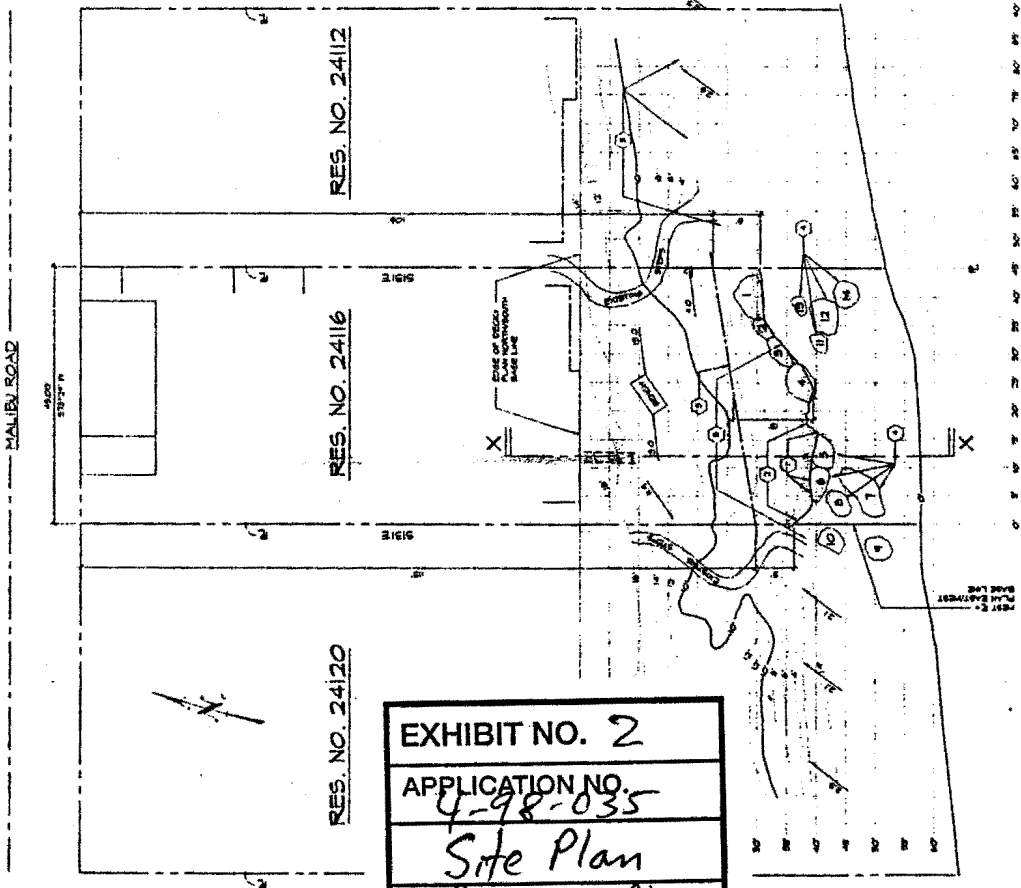
#### **E. California Environmental Quality Act**

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

The Commission finds that the repair of an existing rock revetment with 110.5 tone of 1-6 ton boulders, the removal of fourteen rouge rocks seaward of the revetment, and the construction and removal of the temporary construction equipment access ramp would not result in 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 Malibu LCP.



**EXHIBIT NO. 2**  
**APPLICATION NO.**  
*4-98-035*  
**Site Plan**  
**& Removal Plan**

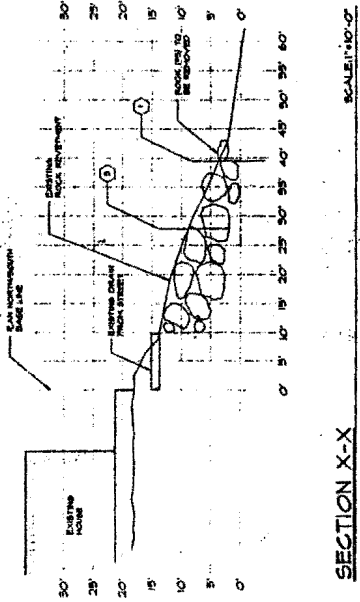


**ROCK REMOVAL PLAN - 24116 MALIBU ROAD**  
 SCALE 1"=10'-0"  
 PREPARED BY: [Signature]  
 DATE: [Date]

- SPECIFIC NOTES:**
- 1. BREAK IN TOP OF EXISTING BLUETO
  - 2. FINAL TOP OF EXISTING ROCK REMOVAL AS APPROVED IN PER
  - 3. LOWER ROCKS TO BE REMOVED FROM THE BEACH
  - 4. EXISTING TOP OF ROCK REMOVAL PER BEACH BY SANDY POINT



**VICINITY MAP**



**SECTION X-X'**  
 SCALE 1"=10'-0"

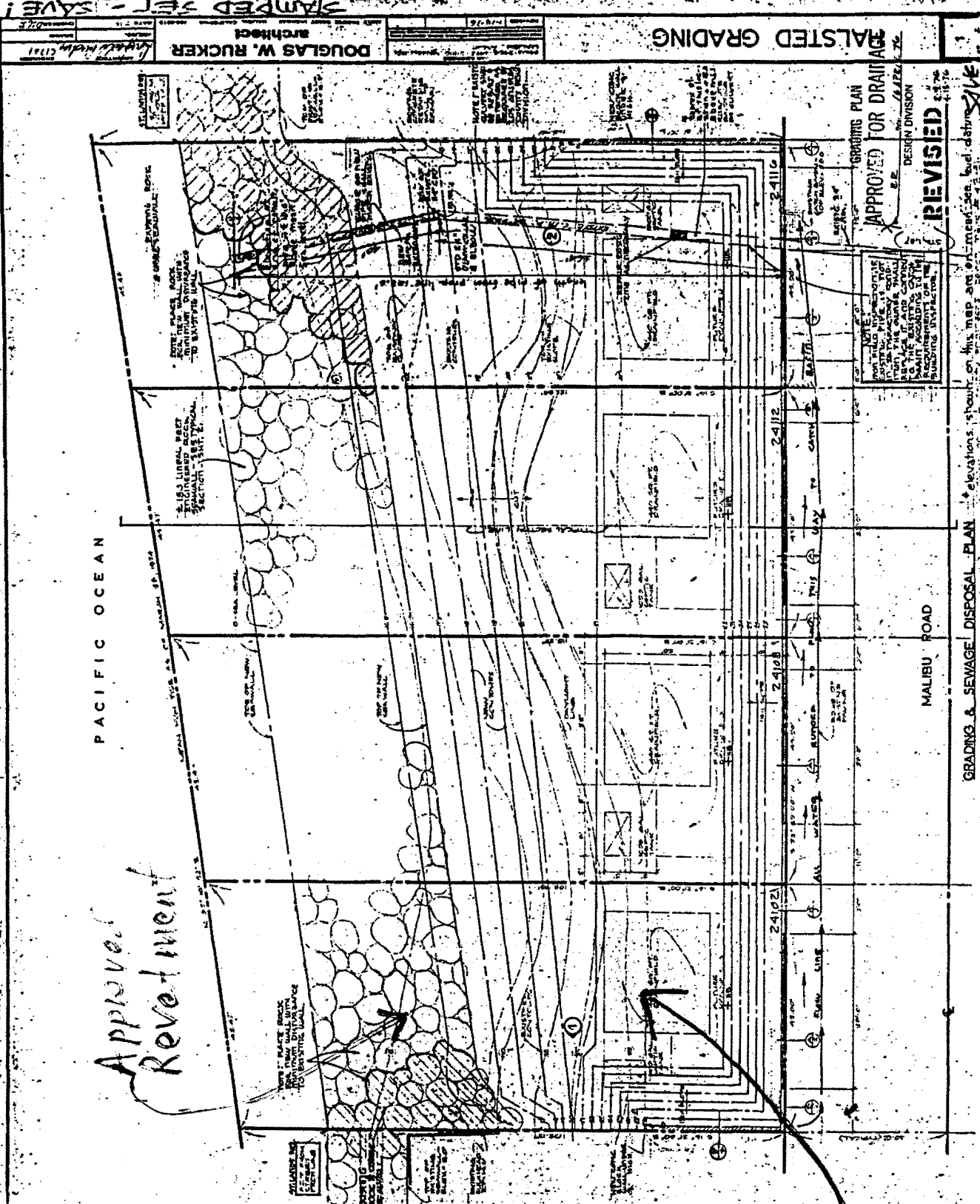
- Rock Removal Operations**
1. Contractor shall obtain permission from owner of property lot between 24102 and 24114 Malibu Road (over the rock) to be removed beach area.
  2. Contractor shall maintain an earth cover as necessary for adjacent to the rock removal area. The earth cover shall be maintained for the entire duration of the rock removal operation. The earth cover shall be maintained for the entire duration of the rock removal operation.
  3. Contractor shall maintain an earth cover as necessary for adjacent to the rock removal area. The earth cover shall be maintained for the entire duration of the rock removal operation. The earth cover shall be maintained for the entire duration of the rock removal operation.
  4. Contractor shall maintain an earth cover as necessary for adjacent to the rock removal area. The earth cover shall be maintained for the entire duration of the rock removal operation. The earth cover shall be maintained for the entire duration of the rock removal operation.
  5. Contractor shall maintain an earth cover as necessary for adjacent to the rock removal area. The earth cover shall be maintained for the entire duration of the rock removal operation. The earth cover shall be maintained for the entire duration of the rock removal operation.

**Notes and Procedures**

ROCK REMOVAL PLAN  
 ROCK REMOVAL SECTION  
 ROCK REMOVAL NOTES

DATE: [Date]  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Signature]





**GENERAL NOTES**

1. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
2. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
3. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
4. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
5. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
6. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
7. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
8. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
9. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.
10. THE GRADING AND SEWAGE DISPOSAL PLAN IS SUBJECT TO THE APPROVAL OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES.

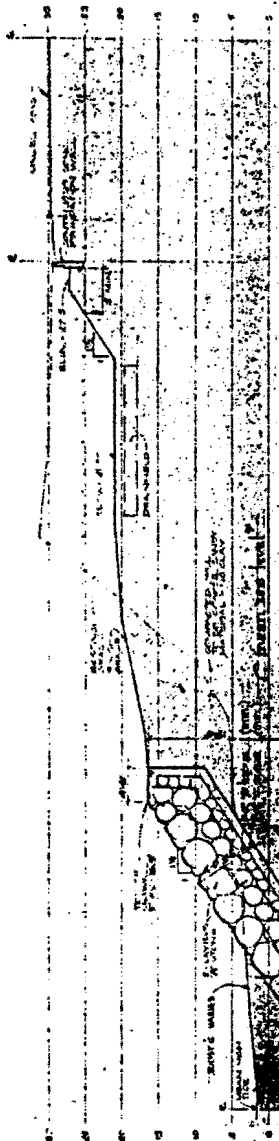
**EXHIBIT NO. 3**  
**APPLICATION NO.**  
 4-98-835  
**P-3-13-75-4927**  
**Site Plan**

Proposed starting date: MAY 1, 76  
 Proposed completion date: AUG 1, 76

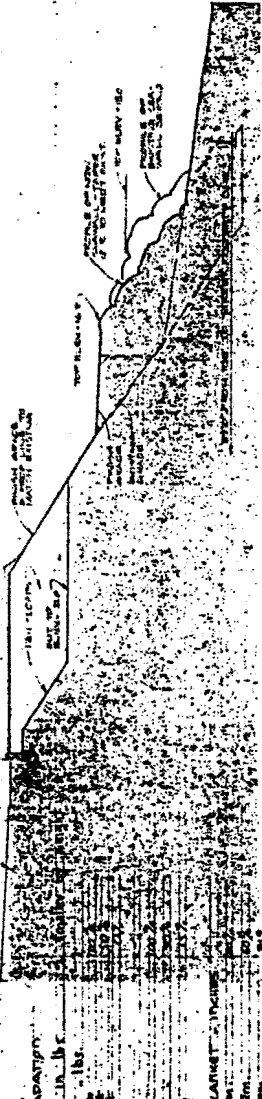
**Subject Property**



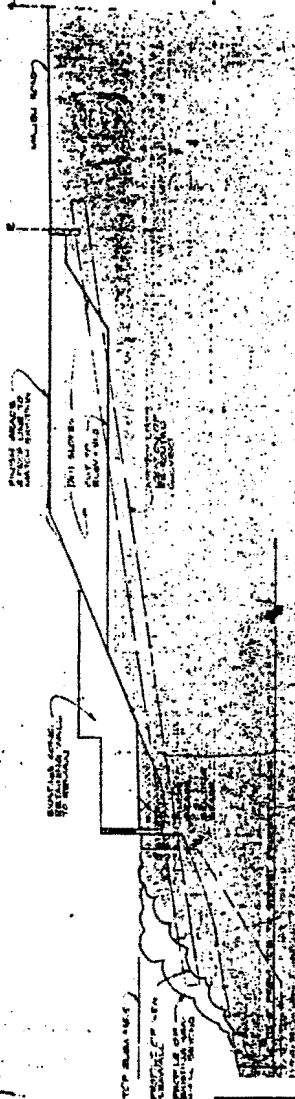
GRADING PLAN  
APP. FOR DRAINAGE  
DESIGN DIVISION  
REVISI...  
DATE: 12/17/64



TYPICAL SECTION



ELEVATION 1



ELEVATION 2

1. If during road placement, the concrete filter blanket is damaged, the filter blanket can be replaced. The concrete must be placed under the same conditions as the original concrete. THE COUNTY ENGINEER.

1. ROCK GRADATION  
A. 1/2" - 3/4" dia. 10%  
B. 3/4" - 1 1/2" dia. 10%  
C. 1 1/2" - 2 1/2" dia. 10%  
D. 2 1/2" - 4 1/2" dia. 10%  
E. 4 1/2" - 6 1/2" dia. 10%  
F. 6 1/2" - 12" dia. 10%  
G. 12" - 18" dia. 10%  
H. 18" - 24" dia. 10%  
I. 24" - 30" dia. 10%  
J. 30" - 36" dia. 10%  
K. 36" - 42" dia. 10%  
L. 42" - 48" dia. 10%  
M. 48" - 54" dia. 10%  
N. 54" - 60" dia. 10%  
O. 60" - 66" dia. 10%  
P. 66" - 72" dia. 10%  
Q. 72" - 78" dia. 10%  
R. 78" - 84" dia. 10%  
S. 84" - 90" dia. 10%  
T. 90" - 96" dia. 10%  
U. 96" - 102" dia. 10%  
V. 102" - 108" dia. 10%  
W. 108" - 114" dia. 10%  
X. 114" - 120" dia. 10%  
Y. 120" - 126" dia. 10%  
Z. 126" - 132" dia. 10%  
AA. 132" - 138" dia. 10%  
AB. 138" - 144" dia. 10%  
AC. 144" - 150" dia. 10%  
AD. 150" - 156" dia. 10%  
AE. 156" - 162" dia. 10%  
AF. 162" - 168" dia. 10%  
AG. 168" - 174" dia. 10%  
AH. 174" - 180" dia. 10%  
AI. 180" - 186" dia. 10%  
AJ. 186" - 192" dia. 10%  
AK. 192" - 198" dia. 10%  
AL. 198" - 204" dia. 10%  
AM. 204" - 210" dia. 10%  
AN. 210" - 216" dia. 10%  
AO. 216" - 222" dia. 10%  
AP. 222" - 228" dia. 10%  
AQ. 228" - 234" dia. 10%  
AR. 234" - 240" dia. 10%  
AS. 240" - 246" dia. 10%  
AT. 246" - 252" dia. 10%  
AU. 252" - 258" dia. 10%  
AV. 258" - 264" dia. 10%  
AW. 264" - 270" dia. 10%  
AX. 270" - 276" dia. 10%  
AY. 276" - 282" dia. 10%  
AZ. 282" - 288" dia. 10%  
BA. 288" - 294" dia. 10%  
BB. 294" - 300" dia. 10%  
BC. 300" - 306" dia. 10%  
BD. 306" - 312" dia. 10%  
BE. 312" - 318" dia. 10%  
BF. 318" - 324" dia. 10%  
BG. 324" - 330" dia. 10%  
BH. 330" - 336" dia. 10%  
BI. 336" - 342" dia. 10%  
BJ. 342" - 348" dia. 10%  
BK. 348" - 354" dia. 10%  
BL. 354" - 360" dia. 10%  
BM. 360" - 366" dia. 10%  
BN. 366" - 372" dia. 10%  
BO. 372" - 378" dia. 10%  
BP. 378" - 384" dia. 10%  
BQ. 384" - 390" dia. 10%  
BR. 390" - 396" dia. 10%  
BS. 396" - 402" dia. 10%  
BT. 402" - 408" dia. 10%  
BU. 408" - 414" dia. 10%  
BV. 414" - 420" dia. 10%  
BW. 420" - 426" dia. 10%  
BX. 426" - 432" dia. 10%  
BY. 432" - 438" dia. 10%  
BZ. 438" - 444" dia. 10%  
CA. 444" - 450" dia. 10%  
CB. 450" - 456" dia. 10%  
CC. 456" - 462" dia. 10%  
CD. 462" - 468" dia. 10%  
CE. 468" - 474" dia. 10%  
CF. 474" - 480" dia. 10%  
CG. 480" - 486" dia. 10%  
CH. 486" - 492" dia. 10%  
CI. 492" - 498" dia. 10%  
CJ. 498" - 504" dia. 10%  
CK. 504" - 510" dia. 10%  
CL. 510" - 516" dia. 10%  
CM. 516" - 522" dia. 10%  
CN. 522" - 528" dia. 10%  
CO. 528" - 534" dia. 10%  
CP. 534" - 540" dia. 10%  
CQ. 540" - 546" dia. 10%  
CR. 546" - 552" dia. 10%  
CS. 552" - 558" dia. 10%  
CT. 558" - 564" dia. 10%  
CU. 564" - 570" dia. 10%  
CV. 570" - 576" dia. 10%  
CW. 576" - 582" dia. 10%  
CX. 582" - 588" dia. 10%  
CY. 588" - 594" dia. 10%  
CZ. 594" - 600" dia. 10%  
DA. 600" - 606" dia. 10%  
DB. 606" - 612" dia. 10%  
DC. 612" - 618" dia. 10%  
DD. 618" - 624" dia. 10%  
DE. 624" - 630" dia. 10%  
DF. 630" - 636" dia. 10%  
DG. 636" - 642" dia. 10%  
DH. 642" - 648" dia. 10%  
DI. 648" - 654" dia. 10%  
DJ. 654" - 660" dia. 10%  
DK. 660" - 666" dia. 10%  
DL. 666" - 672" dia. 10%  
DM. 672" - 678" dia. 10%  
DN. 678" - 684" dia. 10%  
DO. 684" - 690" dia. 10%  
DP. 690" - 696" dia. 10%  
DQ. 696" - 702" dia. 10%  
DR. 702" - 708" dia. 10%  
DS. 708" - 714" dia. 10%  
DT. 714" - 720" dia. 10%  
DU. 720" - 726" dia. 10%  
DV. 726" - 732" dia. 10%  
DW. 732" - 738" dia. 10%  
DX. 738" - 744" dia. 10%  
DY. 744" - 750" dia. 10%  
DZ. 750" - 756" dia. 10%  
EA. 756" - 762" dia. 10%  
EB. 762" - 768" dia. 10%  
EC. 768" - 774" dia. 10%  
ED. 774" - 780" dia. 10%  
EE. 780" - 786" dia. 10%  
EF. 786" - 792" dia. 10%  
EG. 792" - 798" dia. 10%  
EH. 798" - 804" dia. 10%  
EI. 804" - 810" dia. 10%  
EJ. 810" - 816" dia. 10%  
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## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA  
 1000 SOUTH CALIFORNIA ST., SUITE 200  
 SANTA ANA, CA 92701  
 (805) 641-0142



## EMERGENCY PERMIT

March 3, 1998

Applicant: Norton Shane (Agent: Jack Kelly)

Permit No.: 4-98-035-G

Project Location: 24116 Malibu Road; Los Angeles County

Work Proposed: Repair of an existing grouted rip-rap revetment to pre-existing conditions. The project will use 110.5 tons of 1-6 ton boulders.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from the information submitted that an unexpected occurrence in the form of wave erosion resulting in damage to an existing rip-rap revetment requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

(a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;

(b) Public comment on the proposed emergency action has been reviewed if time allows; and

(c) As conditioned the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the reverse.

Very Truly Yours,

Peter M. Douglas  
 Executive Director

*Gary J. Damm*  
 By: Chuck Damm  
 Title: Senior Deputy Director

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OCT 01 2002

CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO. 5
APPLICATION NO. 4-98-035
Emergency CDP
4-98-035-G

**CONDITIONS OF APPROVAL:**

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date of this permit.
- 4. Within 60 days of the date of this permit, the permittee shall apply for a regular Coastal Permit to have the emergency work be considered permanent. If no such application is received, the emergency work shall be removed in its entirety within 150 days of the date of this permit unless waived by the Director.
5. In exercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
7. The applicant shall ensure that the project contractor: (a) not store any construction/demolition materials or waste where it may be subject to wave erosion and dispersion; (b) not allow any machinery in the intertidal zone at any time; and (c) remove promptly from the beach any and all debris that results from the construction/demolition activities.

**IMPORTANT**

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

If you have any questions about the provisions of this emergency permit, please call the Commission Area office.

Enclosures: 1) Acceptance Form; 2) Regular Permit Application Form

cc: Local Planning Department

File: gm/98-035g

CALIFORNIA STATE LANDS COMMISSION  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer  
(916) 574-1800 FAX (916) 574-1811  
Relay Service From TDD Phone 1-800-735-2922  
from Voice Phone 1-800-735-2929

**RECEIVED**  
JUN 13 2002  
SCHMITZ &  
ASSOCIATES

Contact Phone: (916) 574-1865  
Contact FAX: (916) 574-1925

JUN 11 2002

File Ref: SD 2002-03-13.3

Ms. Stephanie Dreckmann, Esq.  
Schmitz & Associates  
29350 West Pacific Coast Highway, Unit 12  
Malibu, CA 90265

**RECEIVED**  
OCT 01 2002

Dear Ms. Dreckmann:

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**SUBJECT: Coastal Development Project Review for Removal of Rogue Rocks  
Displaced from an Existing and Permitted Rock and Cobble  
Seawall, 24116 Malibu Road, Malibu**

This is in response to your request on behalf of your client, Edward Delava, for a determination by the California State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your client's project, as we understand them, are these:

Your client proposes to remove rogue rocks displaced from an existing and permitted rock and cobble seawall at 24116 Malibu Road, Malibu. Based on the plans you provided, the project appears to be landward of the 1928 MHTL.

We do not at this time have sufficient information to determine whether this project will intrude upon state sovereign lands. Development of information sufficient to make such a determination would be expensive and time-consuming. We do not think such an expenditure of time, effort and money is warranted in this situation, given the limited resources of this agency and the circumstances set forth above.

EXHIBIT NO. 6
APPLICATION NO. 4-98-035
State Lands
Comm Letter

Ms. Stephanie Dreckmann, Esq.

2

This conclusion is based on the location of the property, the character and history of the adjacent development, and the minimal potential benefit to the public, even if such an inquiry were to reveal the basis for the assertion of public claims and those claims were to be pursued to an ultimate resolution in the state's favor through litigation or otherwise.

Accordingly, the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters. This conclusion is without prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to our attention.

If you have any questions, please contact Jim Porter, Public Land Management Specialist, at (916) 574-1865.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert E. Lynch", written over a circular scribble.

Robert E. Lynch, Chief  
Division of Land Management

cc: Barry Hogan, City of Malibu

