

Item W 6b

CALIFORNIA COASTAL COMMISSION

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

Appeal Filed: 10/06/05
49th Day: 11/24/05
Staff: Carey
Staff Report: 11/2/05
Hearing Date: 11/16/05



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STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Malibu
LOCAL DECISION: Approval with Conditions
APPEAL NO.: A-4-MAL-05-164
APPLICANT: Lechuza Villas West LLC
APPELLANTS: Commissioners Caldwell and Krueger; Protection of Coastal Habitat; Patt Healy and Malibu Coalition for Slow Growth
PROJECT LOCATION: 33616 Pacific Coast Highway, Malibu, Los Angeles County
PROJECT DESCRIPTION: Construction of a 5,388 sq. ft., two-story single-family residence, with a 2,398 sq. ft. basement, a two-car garage, swimming pool, spa, gazebo, infinity pool, alternative onsite wastewater treatment system, and 989 cu. yds. of grading (847 cu. yds. cut and 142 cu. yds. fill).

SUBSTANTIVE FILE DOCUMENTS:

SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE EXISTS

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the appellants' assertions that the project is not consistent with the bluff development, visual resources, and ESHA policies and standards of the certified Local Coastal Program (LCP). Motion and resolution can be found on **Page 4**.

I. APPEAL JURISDICTION

The project site is a blufftop parcel on the seaward side of Pacific Coast Highway. (Exhibit 1). The Post LCP Certification Permit and Appeal Jurisdiction map certified for the City of Malibu (Adopted September 13, 2002) indicates that the appeal jurisdiction for this area extends to Pacific Coast Highway, which is the first public road. The proposed project site is within this appeal area. As such, the City's coastal development permit for the subject project is appealable to the Commission.

A. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

1. Appeal Areas

Developments approved by cities or counties may be appealed if they are located within the appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603[a]). Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5]).

2. Grounds for Appeal

The grounds for appeal for development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[a][4])

3. Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial

issue exists with respect to the grounds of the appeal, substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three (3) minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that substantial issue is raised by the appeal.

4. De Novo Permit Hearing

If a substantial issue is found to exist, the Commission will consider the application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

In this case, if the Commission finds substantial issue, staff anticipates de novo permit consideration by the Commission at a future Commission hearing.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On June 20, 2005, the City of Malibu Planning Commission approved Coastal Development Permit 05-041 for the single family residence project. Protection of Coastal Habitat filed a local appeal (Appeal 05-005) of the Planning Commission's action on June 29, 2005, within the City's appeal period. The City of Malibu City Council denied Appeal 05-005 on September 26, 2005, upholding the Planning Commission action.

The Notice of Final Action for the project was received by Commission staff on October 5, 2005. A ten working day appeal period was set and notice provided beginning October 6, 2005, and extending to October 20, 2005.

Appeals of the City's action were filed by Protection of Coastal Habitat (October 6, 2005); Commissioners Caldwell and Kruer (October 13, 2005), and Patt Healy and Malibu Coalition for Slow Growth (October 13, 2005), all during the appeal period. Commission staff notified the City, the applicant, and all interested parties that were listed on the appeals and requested that the City provide its administrative record for the permit. The administrative record was received on October 14, 2005.

II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-MAL-05-164 raises NO substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local actions will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-MAL-05-164 presents a substantial issue with respect to the grounds on which the appeals have been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The City of Malibu approved CDP 05-041 for the construction of a 5,388 sq. ft. single-family residence including a two-car garage, swimming pool, spa, gazebo, infinity pool, alternative onsite wastewater treatment system, and 989 cu. yds. of grading (847 cu. yds. cut and 142 cu. yds. fill). The project, as approved by the Planning Commission includes two permeable wood decks and a shallow infinity/reflection pool that all cantilever over the edge of the bluff. The approved gazebo is less than five feet from the edge of the bluff. The approved septic tank would be located approximately ten feet from the edge of the bluff. In addition to the infinity pool, the project includes a swimming pool located approximately twenty feet from the bluff edge. The central, main area of the residence would be approximately fifty feet from the bluff edge, while there are two wings on either side of the structure that extend closer to the edge (west wing approximately 40 feet from the edge, and east wing approximately 30 feet from the

edge). As described above, the project approved by the Planning Commission was appealed to the City Council. While the appeal was denied, an additional condition of approval was added to the project, which requires the applicant to redesign the infinity pool: "so that no portion of the pool extends past the edge of bluff".

The proposed project site is located in the western area of the City, adjacent to the seaward side of Pacific Coast Highway. The site is comprised of a gentle slope extending down from the highway, and a steep bluff face. Below the subject property, there is an existing private road and a row of beachfronting parcels that are developed with single family residences.

B. APPELLANTS' CONTENTIONS

As noted above, the subject CDP 05-041 was appealed by three different entities: Protection of Coastal Habitat; Commissioners Caldwell and Kruer; and Patt Healy and Malibu Coalition for Slow Growth. The contentions of each appellant are described separately below.

Protection of Coastal Habitat

The appeal filed by Protection of Coastal Habitat (signed by Paul Clark, President) is attached as Exhibit 2. The appeal states that the bluff portion of the property may likely be properly defined as a coastal bluff under the LCP; that the project is inconsistent with the standards of Chapter 10 of the LCP, and that if the property is a "coastal bluff", then the setbacks imposed by the City Council may not be sufficient to prevent environmental impacts.

Commissioners Caldwell and Kruer

The appeal of Commissioners Caldwell and Kruer is attached as Exhibit 3. This appeal contends that the approved project, as conditioned, is not consistent with Malibu LUP policies 4.27 or 4.28, or the provisions of Section 10.4 (D) of the Malibu LIP. The appellants contend that the project site should be considered to contain a coastal bluff, and that the bluff development policies and standards of the Malibu LCP should have been applied to the development.

Patt Healy and Malibu Coalition for Slow Growth

Exhibit 4 contains the appeal filed by Patt Healy and Malibu Coalition for Slow Growth. The appeal asserts that the project does not meet requirements of the Malibu LCP and gives 7 grounds for the appeal: 1) the project is development on a coastal bluff that was not required to meet the bluff setback requirements; 2) no analysis was provided as to whether scenic views to and along the ocean will be obstructed by the development; 3) no biological assessment was done and staff report indicates presence of oak trees on the site without a native tree protection plan; 4) the bluff on the site is a mapped ESHA,

but project not reviewed by ERB; 5) City doesn't define coastal bluff correctly; 6) necessary findings can't be made; 7) if applicant wants to donate a lot on Lechuza Beach as part of the project, then project must be sent back for review to the City.

C. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act. In this case, the appellants did not cite the public access policies of the Coastal Act as a ground for appeal. However, should the Commission find Substantial Issue based on the grounds that are cited, the public access of the Coastal Act would be addressed in the de novo review of the project.

A substantial issue does exist with respect to the grounds on which the appeal has been filed. The approved project is inconsistent with policies of the City of Malibu Local Coastal Program for the specific reasons discussed below.

1. Bluff Development

The primary appeal ground cited by all three appellants relates to bluff development. The City concluded that because there is a road, structures, and a seawall located seaward of the project site, it should not be considered to be "fronting the shoreline" and that the provisions of Chapter 10 should not apply to the approved development. As such, the City did not require the project to conform to the bluff setback policies and standards of the LCP. All three appellants contend that the City's determination that the project site does not contain a coastal bluff is in error and that the approved project does not comply with the applicable bluff development policies and standards of the LCP.

Policy 4.27 of the Malibu LUP requires a sufficient setback from the edge of a bluff to ensure that development will not be endangered from erosion for the life of the structures:

- 4.27 All new development located on a blufftop shall be setback from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion for a projected 100 year economic life of the structure plus an added geologic stability factor of 1.5. In no case shall the setback be less than 100 feet which may be reduced to 50 feet if recommended by the City geologist and the 100 year economic life with the geologic safety factor can be met. This requirement shall apply to the principle structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems etc. Ancillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area to a minimum distance of 15 feet from the bluff edge. Ancillary structures shall be removed or relocated landward when**

threatened by erosion. Slope stability analyses and erosion rate estimates shall be performed by a licensed Certified Engineering Geologist or Geotechnical Engineer.

The Malibu LIP contains the following definition of "coastal bluff":

COASTAL BLUFF – a high bank or bold headland, 10 feet or more in vertical extent, with a broad, precipitous, sometimes rounded cliff face overlooking a body of water.

Section 10.2 of the Malibu LIP sets forth the types and location of development that the standards of Chapter 10 (Shoreline and Bluff Development) shall be applied to:

10.2 (A). All development requiring a Coastal Development Permit, including but not limited to residential structures, commercial buildings, and shoreline protective devices (seawall, revetment, retaining wall, bulkhead, tieback anchor system, or similar structure) on any parcel of land that is located on or along the shoreline, a coastal bluff or bluff-top fronting the shoreline shall be governed by the policies, standards and provisions of this chapter in addition to any other policies or standards contained elsewhere in the certified LCP which may apply. Where any policy or standard provided in this chapter conflict with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified Local Coastal Plan, and it is not possible for the development to comply with both the LCP and other plan, resolution or ordinance, the policies, standards or provisions contained herein shall take precedence.

Section 10.4 (D) of the Malibu LIP contains the standards for the bluff setback that must be provided for new development:

10.4 (D). All new development located on a bluff top shall be setback from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion or threatened by slope instability for a projected 100 year economic life of the structure. In no case shall development be set back less than 100 feet. This distance may be reduced to 50 feet if the City geotechnical staff determines that either of the conditions below can be met with a lesser setback. This requirement shall apply to the principle structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems etc. Ancillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area but in no case shall be sited closer than 15 feet from the bluff edge. Ancillary structures shall be removed or relocated landward when threatened by erosion. Slope stability analyses and erosion rate estimates shall be performed by a licensed Certified Engineering Geologist and/or Geotechnical Engineer, or a Registered Civil Engineer with experience in soil engineering. Generally, one of two conditions will exist:

1. If the bluff exhibits a factor of safety of less than 1.5 for either gross or surficial landsliding, then the location on the bluff top at which a 1.5 factor of safety exists shall be determined. Development shall be set back a minimum distance equal to the distance from the bluff edge to the 1.5 factor-of-safety-line, plus the distance that the bluff might reasonably be expected to erode over 100 years. These determinations, to be made by a state-licensed Certified Engineer Geologist, Registered Civil Engineer, or Geotechnical Engineer, shall be based on a site-specific evaluation of the long-term bluff retreat rate at this site and shall include an allowance for possible acceleration of historic bluff retreat rates due to sea level rise.

2. If the bluff exhibits both a gross and surficial factor of safety against landsliding of greater than 1.5, then development shall be set back a minimum distance equal to the distance that the bluff might reasonably be expected to erode over 100 years plus a ten foot buffer to ensure that foundation elements are not actually undermined at the end of this period. The determination of the distance that the bluff might be expected to erode over 100 years is to be made by a state-licensed Certified Engineer Geologist, Registered Civil Engineer or Geotechnical Engineer, and shall be based on a site-specific evaluation of the long-term bluff retreat rate at the site and shall include an allowance for possible acceleration of historic bluff retreat rates due to sea level rise.

For the purpose of this section, quantitative slope stability analyses shall be undertaken as follows:

- 1. The analyses shall demonstrate a factor of safety greater than or equal to 1.5 for the static condition and greater than or equal to 1.1 for the seismic condition. Seismic analyses may be performed by the pseudostatic method, but in any case shall demonstrate a permanent displacement of less than 50 mm.**
- 2. Slope stability analyses shall be undertaken through cross-sections modeling worst case geologic and slope gradient conditions. Analyses shall include postulated failure surfaces such that both the overall stability of the slope and the stability of the surficial units is examined.**
- 3. The effects of earthquakes on slope stability (seismic stability) may be addressed through pseudostatic slope analyses assuming a horizontal seismic coefficient of 0.20g, and should be evaluated in conformance with the guidelines published by the American Society of Civil Engineers, Los Angeles Section (ASCE/SCEC), "Recommended Practices for Implementation of DMS Special Publication 117, Conditions for Analyzing and Mitigating Landslide Hazards in California."**
- 4. All slope analyses shall be performed using shear strength parameters (friction angle and cohesion), and unit weights determined from relatively undisturbed samples collected at the site. The choice of shear strength parameters shall be supported by direct shear tests, triaxial shear test, or literature references.**
- 5. All slope stability analyses shall be undertaken with water table or potentiometric surfaces for the highest potential ground water conditions.**
- 6. If anisotropic conditions are assumed for any geologic unit, strike and dip of weakness planes shall be provided, and shear strength parameters for each orientation shall be supported by reference to pertinent direct shear tests, triaxial shear test, or literature.**
- 7. When planes of weakness are oriented normal to the slope or dip into the slope, or when the strength of materials is considered homogenous, circular failure surfaces shall be sought through a search routine to analyze the factor of safety along postulated critical failure surfaces. In general, methods that satisfy both force and moment equilibrium (e.g., Spencer, Morgenstern-Price, and General Limit Equilibrium) are preferred. Methods based on moment equilibrium alone (e.g., Bishop's Method) also are acceptable. In general, methods that solve only for force**

equilibrium (e.g., Janbu's method) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices.

- 8. If anisotropic conditions are assumed for units containing critical failure surfaces determined above, and when planes of weakness are inclined at angles ranging from nearly parallel to the slope to dipping out of slope, factors of safety for translational failure surfaces shall also be calculated. The use of a block failure model shall be supported by geologic evidence for anisotropy in rock or soil strength. Shear strength parameters for such weak surfaces shall be supported through direct shear tests, triaxial shear test, or literature references.*

9. The selection of shear strength values is a critical component to the evaluation of slope stability. Reference should be made to the City of Malibu's "Guidelines for the preparation of engineering geologic and geotechnical engineering reports," dated February 2002, and to the ASCE/SCEC guidelines (see Section 9.4.D.3) when selecting shear strength parameters and the selection should be based on these guidelines.

For the purpose of this section, the long-term average bluff retreat rate shall be determined by the examination of historic records, surveys, aerial photographs, published or unpublished studies, or other evidence that unequivocally show the location of the bluff edge, as defined in Chapter 2 of the Malibu LIP, through time. The long-term bluff retreat rate is an historic average that accounts both for periods of exceptionally high bluff retreat, such as during extreme storm events, and for long periods of relatively little or no bluff retreat. Accordingly, the time span used to calculate a site-specific long-term bluff retreat rate shall be as long as possible, but in no case less than 50 years. Further, the time interval examined shall include the strong El Niño winters of 1982-1983, 1994-1995 and 1997-1998.

The approved project, as conditioned, is not consistent with Malibu LUP policies 4.27, or the provisions of Section 10.4 (D) of the Malibu LIP. These policies and standards require a setback from the bluff edge that is sufficient to provide stability for a projected 100-year economic life of the structure plus an added geologic stability factor of 1.5, and in any case, no less than 100 feet. A reduced setback of no less than 50 feet may be implemented if one of the conditions in Section 10.4(D)(1) or (2) can be met with a setback that is less than 100 feet but no less than 50 feet. This setback applies to the primary structure and accessory structures including pool and septic systems. Ancillary structures that do not require structural foundation such as decks, patios, and walkways may be sited no closer than 15 feet from the edge of the bluff.

The project, as approved by the City, includes a residential structure and ancillary structures which extend, in part, to less than 50 feet from the edge of the bluff. The central, main area of the approved residence would be approximately fifty feet from the bluff edge, while there are two wings on either side of the structure that extend closer to the edge (west wing approximately 40 feet from the edge, and east wing approximately 30 feet from the edge). Two permeable wood decks were approved that cantilever over the edge of the bluff. A shallow infinity/reflection pool will extend to the edge of the bluff (as conditioned by the City). The approved gazebo is less than five feet from the edge of the bluff. The approved septic tank would be located approximately ten feet from the edge of the bluff. In addition to the infinity pool, the project includes a swimming pool located approximately twenty feet from the bluff edge.

There is no discussion in the staff report of the potential erosion rate of the bluff on the project site or what distance would be necessary to provide for the 100-year economic life of the structure. There is no discussion of project alternatives that could be implemented to provide the required setback. There is no discussion regarding whether the project is consistent with LUP policy 4.27.

Rather, the City concluded that the project site does not contain a "coastal bluff", per the Malibu LIP definition. In addition to the coastal bluff definition, Section 10.2 of the LIP states that: "All development requiring a Coastal Development Permit, including but not limited to residential structures, commercial buildings, and shoreline protective devices (seawall, revetment, retaining wall, bulkhead, tieback anchor system, or similar structure) on any parcel of land that is located on or along the shoreline, a coastal bluff or bluff-top fronting the shoreline shall be governed by the policies, standards and provisions of this chapter in addition to any other policies or standards contained elsewhere in the certified LCP which may apply". The City concluded that because there is a road, structures, and a seawall located landward of the project site, it should not be considered to be "fronting the shoreline" and that the provisions of Chapter 10 should not apply to the approved development.

In its denial of the appeal of the Planning Commission decision, the Malibu City Council found that according to City Local Coastal Program Interpretation No. 9 (attached as Exhibit 6), dated March 28, 2005, that the slope on the project site is not a coastal bluff because there is a road and structures located between the site and the ocean and as such, the property is not affected by coastal erosion processes related directly to wave action. Staff would note that the City staff has developed several "City Local Coastal Program Interpretation" documents that describe the way that City staff interpret policies or provisions of the certified LCP. These documents are not part of the LCP and have not been reviewed or certified by the Commission.

Chapter 2 of the LIP states that the definition of "coastal bluff" is: "a high bank or bold headland, 10 feet or more in vertical extent, with a broad, precipitous, sometimes rounded cliff face overlooking a body of water". There is no indication contained in the LCP definition of "coastal bluff" that the presence of development between the project site and the shoreline is determinative of whether the site contains a coastal bluff. In this case, the bluff on the project site is overlooking a body of water, namely the Pacific Ocean, even though it is not directly adjacent to the water. The potential of wave erosion endangering blufftop development and necessitating the construction of a shoreline protective device on the beach at the base of bluffs is one of the main reasons that bluff setbacks must be adequate to protect structures throughout the life of such structures. However, that is not the only issue. Bluffs are erosional features that can be subject not only to wave erosion, but also erosion from ground water and direct precipitation on the bluff face. Bluffs that are not exposed to wave attack at the base are still subject to erosion and failure. As such, the bluff development policies and provisions of the LCP require setbacks from the bluff edge both to prevent the future

need for shoreline protective devices, as well as to assure stability and structural integrity of new development for the anticipated life of the structures.

It is clear that the project site contains a geomorphological feature that is a coastal bluff, even though this landform has apparently been altered in the past. The Commission Geologist, Mark Johnsson has reviewed photos and other information concerning the project site and confirms that the project site should be considered to contain a coastal bluff. As such, the Commission finds that the bluff development policies and provisions of the Malibu LCP are applicable to the subject project. The City did not consider the application of these policies to the project and did not require the development to conform to the bluff policies and provisions. The approved project is inconsistent with the 100 foot required bluff setback (which can be reduced to no less than 50 feet if slope stability criteria are met) in that the residence provides a setback that ranges from approximately 30 to 50 feet. Additionally, approved accessory structures extend even closer to the bluff edge, including decks that cantilever over the edge, and an infinity pool that will extend up to the edge of the bluff.

The Commission finds that this contention does raise substantial issue with respect to the allegations that the project, as approved by the City, is not consistent with the bluff development policies and provisions of the LCP.

2. Visual Resources.

Patt Healy and the Malibu Coalition for Slow Growth assert that no analysis was provided as to whether scenic views to and along the ocean will be obstructed by the development.

The Malibu LUP contains several policies regarding visual resources on blufftop lots:

- 6.16 Blufftop development shall incorporate a setback from the edge of the bluff that avoids and minimizes visual impacts from the beach and ocean below. The blufftop setback necessary to protect visual resources may be in excess of the setback necessary to ensure that risk from geologic hazards are minimized for the life of the structure, as detailed in Policy 4.27.**
- 6.18 For parcels on the ocean side of and fronting Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive where it is not feasible to design a structure located below road grade, new development shall provide a view corridor on the project site, that meets the following criteria:**
- **Buildings shall not occupy more than 80 percent maximum of the lineal frontage of the site.**
 - **The remaining 20 percent of lineal frontage shall be maintained as one contiguous view corridor.**
 - **No portion of any structure shall extend into the view corridor.**

- **Any fencing across the view corridor shall be visually permeable and any landscaping in this area shall include only low-growing species that will not obscure or block bluewater views.**
- **In the case of development that is proposed to include two or more parcels, a structure may occupy up to 100 percent of the lineal frontage of any parcel(s) provided that the development does not occupy more than 70 percent maximum of the total lineal frontage of the overall project site and that the remaining 30 percent is maintained as one contiguous view corridor.**

Additionally, Section 6.5 (D) of the Malibu LIP

6.5 (D) Bluff Development

1. In addition to the blufftop development setback requirements necessary to ensure geologic stability contained in Chapter 10 of the certified Malibu LCP, new development proposed on blufftops shall incorporate a setback from the edge of the bluff that avoids and minimizes visual impacts from the beach and ocean below. The blufftop setback necessary to protect visual resources may be in excess of, but no less than, the setback necessary to ensure that risk from geologic hazards are minimized for the life of the structure.

2. No permanent structures shall be permitted on a bluff face, except for engineered stairways to accessways to provide public beach access. Such structures shall be designed and constructed to not contribute to further erosion of the bluff face and to be visually compatible with the surrounding area to the maximum extent feasible.

3. Landscaping permitted on a bluff face or hillside for restoration, revegetation or erosion control purposes shall consist of native, drought-tolerant plant species endemic to the area.

Given the topography and location of the project site, there is a potential for impacts to visual resources, both from the beach and ocean seaward of the site, as well as views from Pacific Coast Highway across the project site to the ocean. LUP policy 6.16 and Section 6.5 (D) of the LIP require that blufftop development provide a setback from the edge of the bluff to avoid and minimize visual impacts from the beach and ocean. As previously described, the bluff setback of the approved two-story residence is approximately 30 feet. The City staff report does not address the visibility of the proposed project from the beach below. Given the existing pattern of development along the beach, views of the proposed project would only be from between houses or possibly over the top of structures. The applicant presented slides at the City Council hearing on September 26, 2005 and there is a paper copy of that presentation in the record. The slides are taken from the beach looking upslope toward the project site. It appears that portions of the development will be visible, although it is not possible to determine if this will have significant adverse impacts on visual resources (the photos are quite small). Staff would note that any visibility of the proposed structures would be minimized both by providing a bluff setback and by requiring the use of earth-tone

colors on the exterior surfaces. The City approval did include a color restriction, but only where the development would be visible from Pacific Coast Highway.

The City did analyze the potential impact of the proposed structure on ocean views across the site from Pacific Coast Highway. The staff report states that there is a substantial berm, fence and vegetation that are higher than the level of Pacific Coast Highway and block any potential ocean views across the site. Staff would note that airphotos of the site from 1972 (just prior to the effective date of Proposition 20) and 1979 indicate that there was no development on the property. The trees and fence were not present at that time. Because of the angle of the photos, it is unclear whether there was a berm at the north side of the property in 1972 or 1979. Such development on a vacant lot would have been subject to the approval of a coastal development permit. Staff's review of Commission records does not indicate that a permit was ever issued for this project site. Since this development does not appear to have existed prior to 1973 or to have been part of an approved CDP, it cannot be considered to be "existing" on the site. As such, the analysis of whether the project would adversely impact ocean views from Pacific Coast Highway should have considered the condition of the site without the trees or fence. There is no information in the record to indicate whether there would be views across the site if the fence and trees were not present.

The Commission finds that this contention does raise substantial issue with respect to the allegations that the project, as approved by the City, is not consistent with the visual resource policies and provisions of the LCP.

3. Environmentally Sensitive Habitat

Patt Healy and the Malibu Coalition for Slow Growth contend that no biological assessment was done, the staff report indicates the presence of oak trees on the site without a native tree protection plan, and that the bluff on the site is a mapped ESHA, but the project was not reviewed by the ERB [City of Malibu Environmental Review Board].

Bluff ESHA is not shown on the Malibu LCP ESHA maps simply because of the difficulty of depicting the areal extent of such resources on a small scale map view. Nonetheless, Policy 3.1 of the Malibu LUP does state that bluffs are a type of habitat area that should be considered ESHA 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:

- 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.

- 3.63** New development shall be sited and designed to preserve oak, walnut, sycamore, alder, toyon, or other native trees that are not otherwise protected as ESHA. Removal of native trees shall be prohibited except where no other feasible alternative exists. Structures, including roads or driveways, shall be sited to prevent any encroachment into the root zone and to provide an adequate buffer outside of the root zone of individual native trees in order to allow for future growth.

The City made the finding that the subject parcel is not located in the ESHA overlay map, does not have ESHA on site, and therefore will not result in impacts to sensitive resources. A biological inventory prepared for the project site (Biological Inventory, prepared by Forde Biological Consultants, dated February 25, 2005) indicates that the bluff slope (although the report calls it a cut slope) is vegetated with a manzanita series of chaparral, and contains such native plants as chaparral yucca, giant wild rye, laurel sumac, and manzanita. The report states that this community is inundated with non-native species. The Biological Inventory concludes that the manzanita chaparral is not rare or especially valuable, that there are no special status species on the property, none are expected to occur, that fuel modification areas from surrounding houses cover the bluff slope (although it has not been modified) and on the basis of this information, the habitat on site should not be considered ESHA. Based on this information in the City's record as well as the fact that the bluff slope on the project site is surrounded by existing development and not part of a larger habitat area, it is unlikely that the resources on the site would properly be designated ESHA. Therefore, the Commission finds that this contention raises no substantial issue with regard to consistency with the policies and provisions of the certified LCP.

According to the landscape plan submitted to the City by the applicant, there are several oak trees (*Quercus agrifolia*) located along the landward boundary of the project site. These trees appear to have been planted on the site as they were not present in an aerial photo of the site from 1972. The landscape plan indicates that the trees will be transplanted on the site to accommodate the proposed driveway and other development. It does not provide any information on the size of the trees, so it is unknown whether these trees would be subject to the provisions of Chapter 5 (Native Tree) of the Malibu LIP. Although the staff report states that the project plans do not identify any native trees present on the site, the City approval did include a condition of approval (Condition 21) that requires the applicant to verify to the satisfaction of the City Biologist that the oak trees on site are not subject to the provisions of Chapter 5, or else

they shall be protected in accordance with Chapter 5 of the LIP. No details are given as to whether it is feasible to maintain each tree in its present location or what redesign of the project would be necessary. As such, it is unclear whether the identified oak trees are subject to the native tree protection provisions of the LCP, and if they are, what measures will be required to provide protection or mitigation of impacts.

The Commission finds that this contention does raise substantial issue with respect to the allegations that the project, as approved by the City, is not consistent with the native trees protection policies and provisions of the LCP.

Other Issues

Patt Healy and the Malibu Coalition for Slow Growth contend that if applicant wants to donate a lot on Lechuza Beach as part of the project, then the project must be sent back for review to the City, since a lot donation was not part of the application considered by the City.

Apparently, the agent for this project considered retiring development rights on a parcel some distance from the project site (Lechuza Beach) to provide mitigation for impacts of the subject project. However, this was not formally added to the project description for the subject CDP and was not considered by the City of Malibu in approving the CDP or in denying the appeal of the Planning Commission decision. As such, this contention raises no substantial issue with regard to consistency with the policies and provisions of the certified LCP.

D. CONCLUSION

The purpose of the substantial issue determination is to review the administrative record and establish whether a substantial question is raised with respect to the appellants' assertions that the project does not conform to the certified LCP and public access policies of the Coastal Act. As described above, the Commission finds that the appellants' contentions do raise substantial issue with regard to the consistency of the approved project with the bluff development, visual resources, and native tree protection policies and standards of the adopted City of Malibu Local Coastal Program.



626

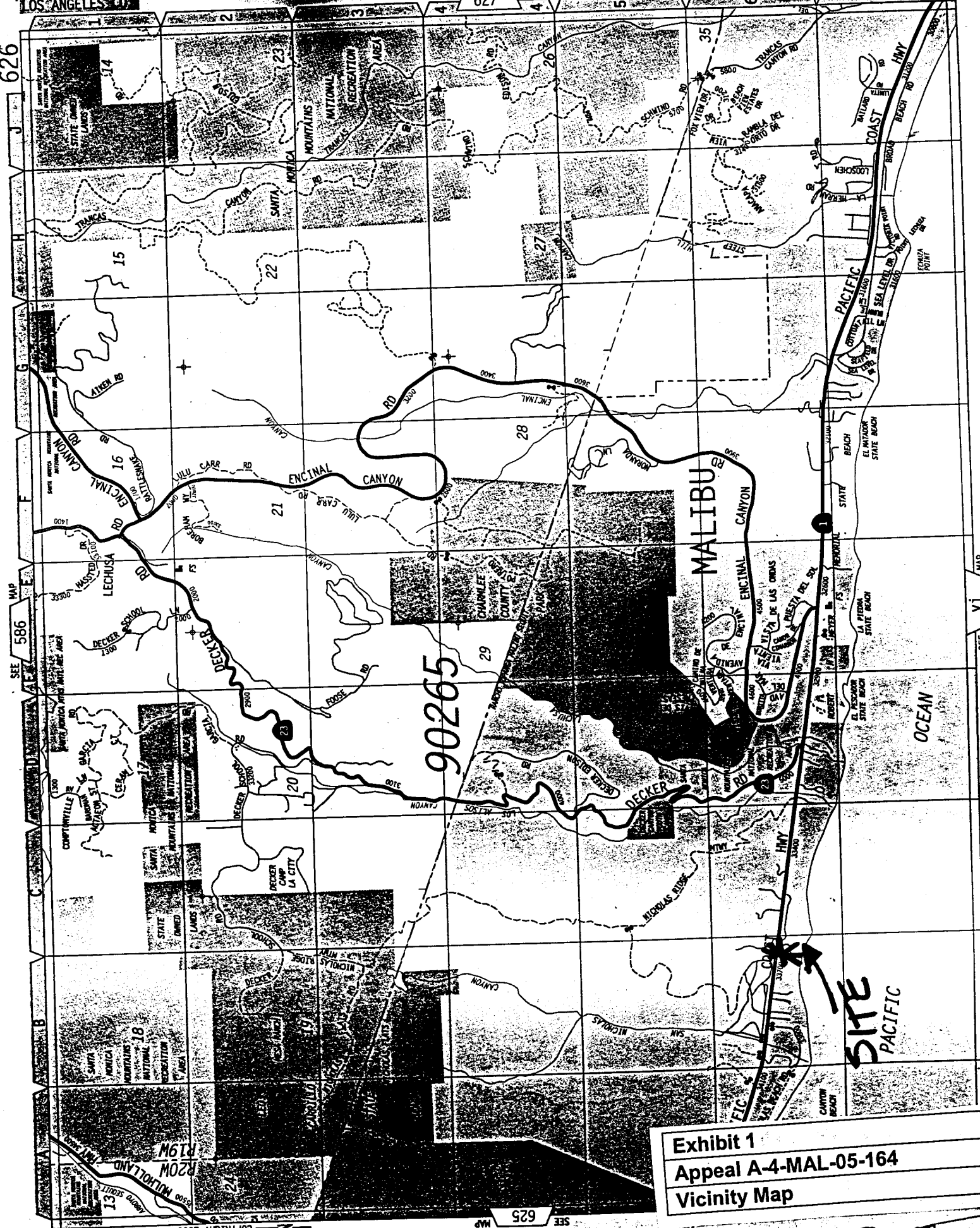


Exhibit 1
 Appeal A-4-MAL-05-164
 Vicinity Map

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
 89 SOUTH CALIFORNIA STREET, SUITE 200
 VENTURA, CA 93001-4508
 VOICE (805) 585-1800 FAX (805) 641-1732

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Protection of Coastal Habitat

Mailing Address: 621 Warwick Avenue Suite #3

City: Thousand Oaks

Zip Code: 91360

Phone: 805-494-1408

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Malibu

2. Brief description of development being appealed:

Single family home including pool and decks, garage and septic system.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

33616 Pacific Coast Highway, Malibu

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-MAL-05-164

DATE FILED: 10/6/05

DISTRICT: South Central

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OCT 06 2005

CALIFORNIA
 COASTAL COMMISSION
 SOUTH CENTRAL COAST DISTRICT

Exhibit 2

Appeal A-4-MAL-05-164

Protection of Coastal Habitat
 Appeal

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 09/26/2005

7. Local government's file number (if any): Appeal No. 05-005 (CDP 05-041)

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Norman R. Haynie
22761 Pacific Coast Highway #260
Malibu, CA 90265

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Pat Healy

(2) John Mazza

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

On Monday night, September 26, 2005, the City of Malibu reviewed the project at 33616 Pacific Coast Highway on the basis of my appeal from the City Planning Commission. The City Council reviewed the project and approved it for a Coastal Development Permit conditioned on the project being redesigned, moving the pool and decks toward Pacific Coast Highway so they will be located landward of the edge of the bluff.

I believe that the bluff portion of the property may likely be properly defined as a coastal bluff in accordance with the definition provided in Malibu's L.C.P. although the property is not adjacent to the shoreline. The parcel is seaward of Pacific Coast Highway and configured with a seaward facing downhill slope.

Chapter 10 of the L.C.P. provided development standards for properties that are located on a coastal bluff and the design of the project is inconsistent with these standards. for properties. If the property is a "coastal bluff", then the setbacks imposed by the City Council may not be sufficient to prevent environmental impacts. If there are environmental impacts associated with coastal bluffs, they must be mitigated properly. In our opinion, the Coastal Commission should review the entire project for consistency with the City's L.C.P. with respect to coastal bluff protection.

We are therefore respectfully appealing the project to the Coastal Commission.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Paul Clark

Signature of Appellant(s) or Authorized Agent

Pres. Protection of Coastal Habitat

Date: _____

10-10-2005

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Patt Healy
403 San Vicente Blvd.
Santa Monica CA 90402
(310) 393'1818

RECEIVED
OCT 13 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

October 5, 2005

California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-4508
Attention Barbara Carey

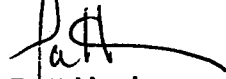
RE CDP 05-041 Malibu 33616 Pacific Coast Highway

Dear Barbara:

Here is an appeal of the Malibu City Council approval of CDP 050-41 As time goes on I may be refining it and will be submitting supplemental information.

If you need any additional information or if the appeal is incomplete, please call me at the above number. With warmest regards.

Sincerely,


Patt Healy.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: *Patt Healy + Malibu Coalition for Slow Growth*
Mailing Address: *403 San Vicente Blvd, Santa Monica CA, 90402*
City: *Santa Monica CA* Zip Code: *90402* Phone: _____

RECEIVED
OCT 13 2005

SECTION II. Decision Being Appealed

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

1. Name of local/port government:

Malibu City Council

2. Brief description of development being appealed:

*5388 sq ft 2 story residence with 2 car garage
infinity pool located on a coastal bluff.*

3. Development's location (street address, assessor's parcel no., cross street, etc.):

*33616 Pacific Coast Highway, Malibu
APN: 4473.021.011*

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-MAL-05-164

DATE FILED: _____

DISTRICT: _____

Exhibit 3
Appeal A-4-MAL-05-164
Patt Healy and Coalition for Slow Growth Appeal

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision:

September 26, 2005

7. Local government's file number (if any):

CDP-05-041

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Norm Haynie
Lechuga Villas West LLC
22761 Pacific Coast Hwy
Malibu Ca 90265

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) John Mazza
6613 Zumeriz Dr.
Malibu CA 90265

(2) Patt Healy
Malibu Coalition for Slow Growth
403 San Vicente Blvd.
Santa Monica CA 90402

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Appeal Reasons.

The project doesn't meet requirements of 2002 Malibu LCP, including following policies and implementation measures:

1. This is development on a coastal bluff
The city council approved project stating that the required setbacks do not have to be met. Pool is approved at edge of bluff + residence is less than 50 feet from bluff face. ^{applicant can meet} required setback.
2. No city analysis as to whether scenic views to and along the ocean have been obstructed by project
3. No biological assessment done. Staff report indicates oaks on property. No native tree protection plan provided. No native plants identified, No roosting areas assessed.
4. Bluff is a mapped ESHA - Project not sent to ERB as required.
5. City doesn't define coastal bluff correctly.
6. Necessary findings can't be made.
7. If applicant wants to donate a lot on Lechuya Beach (as he ^{just} suggested at hearing) in exchange for this permit, Then Coastal Commission must send this project back to the city and applicant must make a new application to the city's planning dept, since lot donation not part of this application or what was considered by City Commission or City Council.

more information to follow.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Malibu Coalition for Slow Growth
Patricia Healy

Signature of Appellant(s) or Authorized Agent

Date: 10-7-05

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

To: Members of the Coastal Commission
From: Patt Healy as an individual and on behalf of Malibu Coalition for Slow Growth
Re: Commission Appeal A-4-MAL-05-164 33616 Pacific Coast Highway
Date: October 25, 2005

Introduction

This is an appeal of a decision of the Malibu City Council approving development on a coastal bluff top and on the bluff face without the required setback contrary to the requirements of the Malibu LCP.

Donation of Beach Lot

At the city council meeting on September 16, 2005 the applicant for the first time suggested that the project be modified to include an additional lot on Sea Level Drive. The City Council rejected the revised project description and considered only the project as presented to the Planning Commission. (See City Council Resolution) The applicant wanted to make a donation of a lot on Sea Level Beach which he represented that he controls in exchange for a CDP for the project as currently designed.

If the applicant makes this offer to the Commission it must be denied since it is not part of the appeal before the Commission. If the applicant desires to incorporate this lot as part of this project, he must withdraw this application and go back to the city and amend this CDP application.

Coastal Bluff

The City of Malibu ignores the definition of a coastal bluff as set forth in the Malibu LCP and has created it own interpretation of a coastal bluff as set forth in the City Local Coastal Program Interpretation No. 9 dated March 28, 2005. (EX 1)

Under this interpretation a coastal bluff exists only if it is or can be subject to wave action. If there is a road or structure in front of the bluff and the ocean the city doesn't consider it a coastal bluff ignoring the clear meaning of the defined term in the Malibu LCP.

Under the LCP a coastal bluff is defined as "a high bank or bold headland, 10 feet or more in vertical extant with a broad precipitous, sometimes rounded cliff face overlooking a body of water." "Overlooking" does not mean that the bluff has to be in the body of water or subject to wave action as the applicant and city contend. The bluff on this property meets the LCP definition. Pictures of the site also confirm this fact. (EX 2) The city engineer also indicated that this project is on a coastal bluff. (EX3)

The applicant asserts that this is not a coastal bluff but rather a man made bluff. Other than asserting this fact with some hand drawn illustrations (the source of which we couldn't identify) there was nothing in the city file to actually prove this assertion.

The applicant has stated that he has old photo's showing this bluff was graded but they have not been produced as part of the record. Even if the applicant's assertion is correct it doesn't mean that this site is no longer a coastal bluff.

Looking at pictures of the bluff face it is clearly a coastal bluff through which a private road was graded. (EX 2) There is nothing in the definition or in the LCP that states that a coastal bluff is no longer a bluff if it has been disturbed. Coastal bluffs are geologic formations. Just because a road was

graded through the bluff it doesn't negate the fact that it is a coastal bluff.

We ask that the Commission find that this bluff is a coastal bluff.

BLUFF TOP DEVELOPMENT

A. Required Geologic Setback

The City Council in approving this project ignored LUP section 4.27 and LIP section 10.4D which state that all bluff top development must be set back no less than 100 feet from the bluff top. This requirement may be reduced to 50 feet if the city geologist says it is safe. This requirement shall apply to the principal structure and accessory or ancillary structures such as guest houses, pool, tennis courts and cabana and septic systems.

The proposed main residence, gazebo, swimming pool, septic system, reflecting pool, jacuzzi and decks all appear to be located closer than 50 feet from the bluff top. In fact, the decks and reflecting pool are according to the plans cantilevered and extend over the bluff face. We believe there is a proposed 6 to 10 foot retaining wall on the bluff face (6 ft on plans and up to 10 in geology report) and the beams that support the reflecting pool and decks are to be built on the actual bluff face itself. This is in violation of LUP 4.29 which states that no permanent structures shall be permitted on a bluff face, except for engineered stairways or access ways to provide access to a public beach.

B. Bluff is ESHA

Coastal bluffs are designated as ESHA under LUP policy C.1.a 3.i and must be treated as such. On coastal bluff ESHA there is a required minimum of a 100 ft buffer setback under 4.6.1D.

The city never considered this coastal bluff as ESHA as required under LIP 4.3. It failed to take into consideration the habitat on the bluff face which is in itself especially valuable because of the role it plays in the ecosystem from a local, regional and statewide basis.

There can be no variance from the 100 foot setback from a coastal bluff top since protection of ESHA takes priority over other development standards LIP 4.6.4.C. If the applicant can't develop outside the 100 foot ESHA buffer the maximum amount of development is limited to the lesser of 10,000 square feet or 25% of the parcel size under LIP 4.7.1.

In addition, if there is no feasible alternative that can eliminate all impacts to ESHA, then the alternative that results in the least impacts shall be selected, and residual impacts must be mitigated under LIP 4.8.

Under 4.8.1 this mitigation includes mitigation for modification of natural habitat for fuel modification. Therefore, the applicant may be required to develop a habitat mitigation plan if he is unable to get approval of a fuel modification plan from the fire department that protects the ESHA Habitat on site.

From the landscaping plan (see below) it appears that this bluff face contains native plants and seems to be a very rich plant and animal habitat.

If there are existing oaks and a sycamore on site as the landscaping plan indicates and the tree trunk diameters are large enough there may need to be a tree protection plan.

The city biologist failed to make findings as to the physical extent of the habitat meeting the

definition of ESHA for their appears to be no review by the city biologist and certainly none by Environmental Review Board (ERB) contrary to LIP 4.3.D. This project never went to the ERB so finding 13.9.D can't be met. Also, Finding 13.9.C can't be met since this project is not the least environmentally sensitive alternative.

C. Biological Inventory and Landscaping Plan

The plant habitat reports in the file are confusing.

The applicant's undated landscape plan, prepared by The Great Outdoors Landscape and Construction indicates that the dominate existing plant species on the bluff face are the following native plant species in the following proportion Encella Californica (a coastal sage sunflower species) 15%, Rhus Integrifolia (lemonade berry) 70%, Malosma Laurina (Laurel Sumac) 10%.

The applicants biological inventory prepared by Forde Biological Consultants dated 2-25-05 is very vague and is not forthcoming with needed information. In our opinion, it doesn't meet the requirements of what is to be contained in a biological study under LIP4.4.2. In fact, it fails even to specifically identify by name any of the native plant species on bluff face. It rather shows a photograph of the native plant species on the bluff face stating it is outside the development area (which is inaccurate because of the canterlevered structures and retaining wall on the bluff face).

The Biological inventory on page 5 and 6 blithely dismisses all the existing native plant species by stating that they are either not subject to the Tree Protection Ordinance or are within the fuel modification area and therefore do not meet the status of ESHA. This report can hardly be considered as the required biological survey that needs to be submitted with an application for a CDP since it is so deficient.

Bluff faces are very popular habitat for birds and other small animal species. The Biological report doesn't even address the possibility of nesting birds and raptors on site but ridiculously states that birds wouldn't nest in the area because of the cat population in the vicinity. No inventory was ever done of the bird population or the cat population to support this contention. (EX 4)

The residence is not set back the required 100 feet from the bluff face in order to protect the ESHA. It must be required to do so to protect the native habitat species and the birds and animals who rely on this native habitat. Also, LUP 6.27 states that new development shall minimize the removal of natural vegetation.

LUP section 4.46 states that New development within ESHA and habitat buffers shall be sized, sited and designed to minimize impacts of fuel modification and brush clearance on habitat. The applicant should be not only be required to be set back as required from the bluff top but also directed to work with the fire department for ESHA protection that the only clearance required from the bluff face is the dead wood. We don't believe that the fire department would require the removal of bluff face ESHA habitat. If they do, the applicant must provide a mitigation plan for the unavoidable impacts to the ESHA.

In addition, LCP development standards dictate under LIP 3.10 that all new development shall minimize the removal of natural vegetation including native trees and plants in order to minimize erosion and sedimentation, impacts to scenic and visual resources, and impacts to sensitive resources. This is particularly important in this case since this is a fragile coastal bluff that is subject to erosion. LIP 3.10.2A goes on to say that all new development shall be sited and designed to minimize habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, while providing for fire safety.

However the landscaping plan note 5 states that "slope planting measures such as contour planting and terracing and other techniques shall be incorporated on slopes to interrupt the flow and rate of surface runoff to prevent soil erosion." This note was made a condition of approval by the city biologist. (EX5) We believe that this note on the landscaping plan forebodes possible grading on the actual bluff face contrary to the LCP. To date there is no grading plan on file (EX6) so there is no way of knowing the extent and cubic yards of bluff face grading and alteration. The application requires under 13.6.4.D4 the site plan to show major man made and natural landscape features... and modification by the proposed project including building pad and road, driveway areas. This was not done on the bluff face. Any grading or alteration of the bluff face should be clear to the decision maker prior to acting on the project.

It is interesting to note that both the landscaping plan and the fuel modification plan indicate oaks on the site. The biological assessment report mentions one oak on the property while the landscape plan says that there is a sycamore and 6 oaks. The fuel modification mentions that the "portion of the site designated as a significant oak woodland, if any, per Malibu Santa Monica Mountains Land use plan shall be protected. The proposed development should not result in the removal of any habitat or any individual oak trees."

VIEW PROTECTION

Whether or not you determine this is a coastal bluff or not this project as designed does not meet the view protection policies of the LCP.

Walking this particular beach at low tide is part of a very popular walk along the shoreline by the public between the public beaches east of the site (Zuma, Lechuza, the 3 state owned pocket beaches) and Nicholas and Leo Carillo public beaches west of the site.

The proposed canterlevering over the bluff face, the residence and gazebo do not meet the setback requirement of development standard 6.5D1 i.e. no less than 50 feet to avoid and minimize visual impacts to the beach below.

In addition, both the applicant and the city failed to perform the required analysis from the shoreline at low tide to determine whether the canterlevered reflecting pond, pool and decks did protect public views from the beach (LIP6.7). Before the city council the applicant provided photo's indicating that allegedly only a small portion of the main residence was visible from the shoreline. However, no mention was ever made of the visual impact of the proposed gazebo near the edge of the bluff top, the retaining wall and beams built into the bluff face and the canterlevered reflecting pond and decks extending over the bluff top and face will have on the public views.

There were no visual indicators such as story poles to determine whether any of the visual impacts mentioned above (other than residence) were put in place as required by 6.3. Hence the required findings pursuant to 6.4 cannot be made.

In driving by the property traveling westbound along PCH it appears that possibly ocean views are visible through the site. This should be further analyzed .

Conclusion

Please deny this project as proposed for it fails to conform to the Malibu LCP for the reasons stated above.



LCP Interpretation

Number: 9

Dated: March 28, 2005

Amended: n/a

Planning Manager: Michael M. Teruya

LCP Section: LIP references to Coastal Bluffs

Title: Coastal Bluffs

Issue: What is the definition of a coastal bluff? The LIP provides the following definitions:

BLUFF EDGE - for coastal and canyon bluffs, the bluff edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff, the bluff edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the bluff edge. Where a coastal bluff curves landward to become a canyon bluff, the termini of the coastal bluff edge, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the coastal bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the canyon facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

CLIFF – any high, very steep to perpendicular or overhanging face of rock, a precipice.

COASTAL BLUFF – a high bank or bold headland, 10 feet or more in vertical extent, with a broad, precipitous, sometimes rounded cliff face overlooking a body of water.

SEA CLIFF – a cliff or slope produced by wave action, situated at the seaward edge of the coast or the landward side of the wave-cut platform, and marking the inner limit of beach erosion.

Interpretation: Any cliff, sea cliff, bluff, or bluff edge that is directly affected by wave action is a "coastal bluff". If there is a road or structures that require, or use, coastal protection, between the "bluff" and the "body of water" then it is not considered a coastal bluff, because at that point it is no longer affected by coastal erosion processes related directly to wave action.



SITE
BWFF
+
BWFF
FACE

Ex 2

2



City of Malibu

23555 Civic Center Way, Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-3356

COASTAL ENGINEERING REVIEW REFERRAL SHEET

CDP 05-041

TO: City of Malibu Coastal Engineer

DATE: 3/11/2005

FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 05-041

JOB ADDRESS: 33616 PACIFIC COAST HIGHWAY

APPLICANT / CONTACT: Norm Haynie, Blue Onyx Design & Engine

APPLICANT ADDRESS: 22761 Pacific Coast Highway
Malibu, CA 90265

APPLICANT PHONE #: (310)456-5515

APPLICANT FAX #: (310) 456-9821

PROJECT DESCRIPTION: NSFR

on top of coastal bluff -
no protective structures,
no drainage allowed
structures allowed over bluff.

Planner PH

TO: Malibu Planning Department and/or Applicant

FROM: Lauren Doyel, Coastal Engineering Reviewer

The project is consistent with Coastal Engineering aspects of the General Plan shoreline protection policies and CAN proceed through the Planning process.

The project **CANNOT** proceed through Planning until Coastal Engineering feasibility is determined. Depending upon the nature of the project, this may require Coastal Engineering reports which evaluate the stability of proposed improvements and shoreline processes. The following item is required to begin the review process:
Coastal Geotechnical Report, plus Review Deposit (\$525)

Lauren Doyel
SIGNATURE

4/5/05
DATE

Determination of Coastal Engineering feasibility is not approval of building and/or grading plans. Plans and/or reports must be submitted for Building Department approval, and may require approval of both the City Geologist, City Geotechnical Engineer, and City Coastal Engineer. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review. Geology and geotechnical reports may also be required.

Lauren Doyel, Coastal Engineering Reviewer, may be contacted at the Building & Safety Counter Thursdays between 8:00 AM and 12:30 PM or leave a message at (310) 456-2489, extension 306 or (805) 383-0064.

Originated: 11/29/04 (gs)

all structures above 100ft. elevation.

Ex 3

Biological Inventory

33616 Pacific Coast Highway

Prepared by:

Andrew McGinn Forde
Forde Biological Consultants
2836 Acacia Street
Camarillo, CA 93012

Prepared for:

Norm Haynie
22761 Pacific Coast Highway, Suite 260
Malibu, CA 90265

February 25, 2005

EX 4
1 of 2
8

05-041

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PLANNING DEPT.

Birds with potential to occur at the property include, but are not limited to, American crow (*Corvus brachyrhynchos*), California towhee (*Pipilo crissalis*), common bushtit (*Psaltriparus minimus*), house finch (*Carpodacus mexicanus*), and northern mockingbird (*Mimus polyglottos*). Mammals with potential to occur at the property include Virginia opossum (*Didelphis virginiana*), raccoon (*Procyon lotor*), and striped skunk (*Mephitis mephitis*). Mammals that may forage over the property include big brown bat (*Eptesicus fuscus*) and Mexican free-tailed bat (*Tadarida brasiliensis*). Reptiles with potential to occur at the property include side-blotched lizard (*Uta stansburiana hesperis*) and western fence lizard (*Sceloporus occidentalis longipes*). No amphibians are expected to occur at the property.

The species listed above do not appear on the "Fully Protected Animals" list, the "State and Federally Endangered and Threatened Animals of California" list, or the "Special Animals" list; all produced and maintained by the California Department of Fish and Game Wildlife and Habitat Data Analysis Branch.⁷ Furthermore, the species do not appear on the "Proposed and Candidate Species" list on the Threatened and Endangered Species System.⁸

Breeding Birds

The Migratory Bird Treaty Act protects the majority of migratory birds breeding in the US regardless of their official status. The Act specifically states that it is illegal "... for anyone to take ... any migratory bird ... nests, or eggs."⁹ The California Fish & Game Code protects the nest and eggs of all birds and specifically states "that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird."¹⁰

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."¹¹ Although, there are suitable nesting locations on the property, it is unlikely that birds would nest there given the number of cats within the immediate vicinity of the property.

⁷ CAL. Fish & Game, Fully Protected Animals, May 2003. CAL. Fish & Game, State & Federally Endangered & Threatened Species of California, November 2004. CAL. Fish & Game, Special Animals, August 2004.

⁸ Sacramento Fish & Wildlife Office, Threatened & Endangered Species System, Proposed & Candidate Species, February 2005.

⁹ 16 U.S.C § 703-712. Migratory Bird Treaty Act of 1918 as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989.

¹⁰ CAL. Fish & Game Code § 3503.

¹¹ 50 C.F.R. § 10.12. CAL. Fish & Game Code § 86.

EXH 202

City of Malibu

23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-2489 Fax (310) 456-7650

Planning Department

BIOLOGICAL REVIEW

Site Address: 33616 Pacific Coast Highway
Applicant/Phone: Norm Haynie/ 310.456.5515
Project Type: NSFR
Project Number: CDP 05-041
Project Planner: Paul

RECOMMENDATIONS:

1. The project is APPROVED with the following conditions:
 - A. The Biological Inventory indicates that one small native oak tree – not meeting the criteria as a protected tree – occurs on the subject property. The landscape plan indicates the presence of at least 6 oak trees that will either remain in place or be transplanted. However, no indication of the actual species or size of these trees is provided. Prior to initiation of any vegetation removal or other site preparation activities, please provide verification that the trees indicated on the landscape plan are not native oak trees that are covered under the native tree protection chapter of the LIP.
 - B. All landscaping notes identified on the approved landscape plan shall be adhered to and are considered conditions of approval. *
2. PRIOR TO ISSUING A CERTIFICATE OF OCCUPANCY, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

Reviewed By: [Signature]
Dave Crawford, City Biologist

Date: 4/28/05

310-456-2489 ext.227 (City of Malibu); e-mail dcrawford@ci.malibu.ca.us
Available at Planning Counter Mondays and Thursdays 8:30 a.m. to 12:30 p.m.

EX 5



City of Malibu

MEMORANDUM

To: Planning Department
From: Public Works Department
Date: April 5, 2005
Re: Proposed Conditions of Approval for CDP 05-041, 33616 Pacific Coast Highway

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan and the City's Municipal Code can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

- The project proposes grading. Sections 8.3 of the LIP allows up to 1,000 cubic yards of combined cut and fill on a residential lot or 1,000 cubic yards of combined cut and fill per acre on a commercial Development. The "grading plan" is of little value for reviewing this project. When the real grading plan is submitted the volume limits will be verified.
- Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with section 8.3.
- Permission to grade or build within the existing power line easement will be required prior to the issuance of grading or building permits.
- A Grading and Drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project:
 - o Public Works Department General Notes
 - o The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
 - o The limits of land to be disturbed during project development shall be delineated on the Grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment or shoring beyond the limits of grading shall be included within the area delineated.
 - o If the property contains trees that are to be protected they shall be highlighted on the grading plan.
 - o If the property contains rare and endangered species as identified in the Resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.

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EX 6
11

April 5, 2005

- o Private storm drain systems shall be shown on the Grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
- A Wet Weather Erosion and Sediment control plan is required for this project (grading or construction activity is anticipated to occur during the rainy season). The following elements shall be included:
 - o Locations where concentrated runoff will occur.
 - o Plans for the stabilization of disturbed areas of the property, landscaping and hardscape, along with the proposed schedule for the installation of protective measures.
 - o Location and sizing criteria for silt basins, sandbag barriers, and silt fencing.
 - o Stabilized construction entrance and a monitoring program for the sweeping of material tracked off site.
- A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading permits for the project. This plan shall include:
 - o Dust Control Plan for the management of fugitive dust during extended periods without rain.
 - o Designated areas for the storage of construction materials that do not disrupt drainage patterns or subject the material to erosion by site runoff.
 - o Designated area for the construction portable toilets that separates them from storm water runoff and limits the potential for upset.
 - o Designated areas for disposal and recycling facilities for solid waste separated from the site drainage system to prevent the discharge of runoff through the waste.
- A Storm Water Management Plan (SWMP) is required for this project. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design (page 283-4 LCP) and Source control (PAGE 284 LCP) Best Management Practices (BMP's) that have been implemented in the design of the project.
- Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within section 174.252.
- Geology and Geotechnical reports shall be submitted with all applications for plan review to the Public Works Department. Approval by Geology and Geotechnical Engineering shall be provided prior to the issuance of any permit for the project. The Developers Consulting Engineer shall sign the final plans prior to the issuance of permits.

The Planning Department is notified that the project could:

1. result in increased impervious surfaces and associated increased runoff.
2. result in increased erosion downstream.

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EX6

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April 5, 2005

• POOLS AND SPAS:

- Alternative sanitation methods are required for all pools and spas. This may include no chlorine or low chlorine sanitation methods.
- Prohibit the discharge of chlorinated pool water.
- Prohibit discharge of non-chlorinated pool water into streets, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters.

3 of 3
EX 6

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OCT 13 2005

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732



CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Coastal Commission

Mailing Address: C/O South Central Coast District, 89 South California Street

City: Ventura

Zip Code: 93001

Phone: 805 585-1800

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Malibu

2. Brief description of development being appealed:

Construction of a 5,388 sq. ft. single family residence, garage, alternative onsite wastewater treatment system, swimming pool, jacuzzi, gazebo, decks, fencing, and infinity reflecting pool.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

33616 Pacific Coast Highway, City of Malibu, Los Angeles County (Assessor's Parcel Number 4473-021-011)

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	A-4-MAL-05-164
DATE FILED:	
DISTRICT:	

Exhibit 4
Appeal A-4-MAL-05-164
Commissioner Appeal

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: September 26, 2005

7. Local government's file number (if any): CDP 05-041, Appeal 05-005

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Lechuza Villas West, LLC
C/O Norman Haynie
Blue Onyx Design and Engineering
22761 Pacific Coast Highway #260
Malibu, CA 90265

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Paul Clark
Protection of Coastal Habitat
605 Warwick Avenue, # 6
Thousand Oaks, CA 91360

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

This project was approved by the Malibu Planning Commission on June 20, 2005. That decision was appealed to the Malibu City Council by Paul Clark of Protection of Coastal Habitat. The City Council denied that appeal and upheld the Planning Commission decision on September 26, 2005. As part of the City Council's denial of the appeal, an additional condition was added to require revised plans such that no portion of the reflecting pool may extend past the edge of the bluff.

The approved project, as conditioned, is not consistent with Malibu LUP policies 4.27 or 4.28, or the provisions of Section 10.4 (D) of the Malibu LIP. These policies and standards require a setback from the bluff edge that is sufficient to provide stability for a projected 100-year economic life of the structure plus an added geologic stability factor of 1.5, and in any case, no less than 100 feet. A reduced setback of no less than 50 feet may be implemented if one of the conditions in Section 10.4(D)(1) or (2) (these two conditions concern the factor of safety present in the bluff slope) can be met with a setback that is less than 100 feet but no less than 50 feet. This setback applies to the primary structure and accessory structures including pool and septic systems. Ancillary structures that do not require structural foundation such as decks, patios, and walkways may be sited no closer than 15 feet from the edge of the bluff.

The project, as approved by the City, includes a residential structure and swimming pool which extend, in part, to less than 50 feet from the edge of the bluff. The project includes an ancillary gazebo that is closer than 15 feet from the edge of the bluff. The septic tank would be located within the 50 foot bluff setback area. Finally, a reflecting pool was approved as part of the project that extends up to the edge of the bluff. There is no discussion in the staff report of the potential erosion rate of the bluff on the project site or what distance would be necessary to provide for the 100-year economic life of the structure. There is no discussion of project alternatives that could be implemented to provide the required setback. There is no discussion regarding whether the project is consistent with LUP policies 4.27 and 4.28.

Rather, the City concluded that the project site does not contain a "coastal bluff", per the Malibu LIP definition. The definition of coastal bluff contained in the Malibu LIP is as follows: "a high bank or bold headland, 10 feet or more in vertical extent, with a broad, precipitous, sometimes rounded cliff face overlooking a body of water". In addition, Section 10.2 of the LIP states that: "All development requiring a Coastal Development Permit, including but not limited to residential structures, commercial buildings, and shoreline protective devices (seawall, revetment, retaining wall, bulkhead, tieback anchor system, or similar structure) on any parcel of land that is located on or along the shoreline, a coastal bluff or bluff-top fronting the shoreline shall be governed by the policies, standards and provisions of this chapter in addition to any other policies or standards contained elsewhere in the certified LCP which

may apply". The City concluded that because there is a road, structures, and a seawall located landward of the project site, it should not be considered to be "fronting the shoreline" and that the provisions of Chapter 10 should not apply to the approved development.

However, the presence of development between the project site and the shoreline is not determinative of whether the site contains a coastal bluff. The project site contains a geomorphological feature that is a coastal bluff, even though this landform has apparently been altered in the past. The Commission Geologist, Mark Johnsson has reviewed photos and other information concerning the project site and confirms that the project site should be considered to contain a coastal bluff.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: _____

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

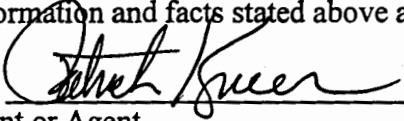
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 
Appellant or Agent

Date: 10/13/05

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

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OCT 13 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Meg Caldwell
Appellant or Agent

Date: 10/13/05

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

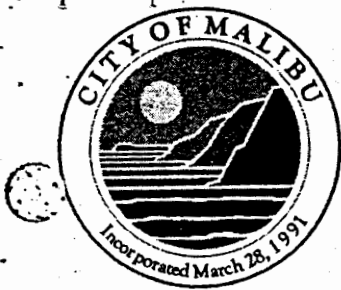
Signed: _____

Date: _____

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OCT 13 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



Planning Commission
Meeting
06/20/05

Item
6.B.

Commission Agenda Report

To: Chair Sibert and Honorable Planning Commission Members

Prepared by: Paul Huckabee, Senior Planning Consultant *PH*

Reviewed by: Victor Peterson, Environmental and Community Development Director *VP*

Approved by: Vincent P. Bertoni, AICP, Interim Planning Division Manager *B*

Date prepared: June 7, 2005 Meeting date: June 20, 2005

Subject: Coastal Development Permit No. 05-041 - An application within the coastal zone to allow the construction of a new 5,388 square-foot, two-story, single-family residence with an attached two-car garage and a new alternative onsite wastewater treatment system.

Application Number: Coastal Development Permit No. 05-041
Application Filing Date: March 11, 2005
Applicant: Norman Haynie
Owner: Lechuza Villas West LLC
Location: 33616 Pacific Coast Highway within the coastal zone (APN: 4473-021-011)
Zoning: Rural Residential - 2 (RR-2)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 05-30 (Attachment 1) approving Coastal Development Permit (CDP) No. 05-041 for the construction of a new 5,388 square-foot, two-story, single-family residence with attached two-car garage and a new alternative onsite wastewater treatment system in the Rural Residential - 2 (RR-2) zoning district located at 33616 Pacific Coast Highway.

DISCUSSION: Prior to the scheduled public hearing on June 6, 2005, the applicant requested that the project be continued to June 20, 2005 to allow additional time to work with neighbors. The Planning Commission granted the request.

A letter via e-mail was received from the California Coastal Commission late on the morning of June 6, 2005. California Coastal Commission staff disagrees with the City's analysis of the project under Chapter 10 of the Local Implementation Plan (LIP). City staff recommends no changes to the findings or conditions, because as indicated in the

Exhibit 5

Appeal A-4-MAL-05-164

Planning Commission Staff
Report and Resolution

June 6, 2005 staff report, the proposed project is not subject to Chapter 10. Section 10.2 of the LIP provides that Chapter 10 only applies to shorelines and coastal bluffs/bluff-tops fronting the shoreline. The subject site is separated from the shoreline by property developed with a seawall and single-family residence, and a private road. Please see the June 6, 2005 staff report for further discussion.

ATTACHMENTS:

1. Planning Commission Resolution 05-30
2. Correspondence from California Coastal Commission (6/6/2005)
3. June 6, 2005 Planning Commission staff report

**CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 05-30**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING COASTAL DEVELOPMENT PERMIT NO. 05-041 TO ALLOW FOR CONSTRUCTION OF AN NEW 5,388 SQUARE-FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH ATTACHED TWO-CAR GARAGE AND A NEW ALTERNATIVE ONSITE WASTEWATER TREATMENT IN A RURAL RESIDENTIAL (RR-2) ZONING DISTRICT LOCATED AT 33616 PACIFIC COAST HIGHWAY (LECHUZA VILLAS WEST LLC)

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

- A. On October 26, 2003, Plot Plan Review No. 03-079 was approved for a two-story single-family residence with approximately the same floor plan as the proposed project.
- B. On December 24, 2003, Plot Plan Review No. 03-152 and Site Plan Review No. 03-052 were approved for a two-story residence with substantially the same floor plan and elevations as the proposed project.
- C. On March 11, 2005, an application was submitted by Norman Haynie on behalf of property owner Lechuza Villas West LLC for Coastal Development Permit (CDP) No. 05-048 to the Planning Division for processing.
- D. On May 2, 2005, the CDP application was deemed complete for processing.
- E. On May 4, 2005, a Notice of CDP was posted on the subject property.
- F. On May 26, 2005, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on May 26, 2005 a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property
- G. On June 6, 2005, the Planning Commission granted a request by the applicant to continue the project to June 20, 2005, in order for the applicant to work with neighbors.
- H. On June 20, 2005, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Commission has analyzed the proposal as described above. The Planning Commission has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and therefore, exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION (Class 3) will be prepared and issued pursuant to CEQA Guidelines Section 15303(a) – New Construction or Conversion of Small Structures. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines, Section 15300.2).

Section 3. Coastal Development Permit Approval and Findings.

Based on substantial evidence contained within the record and pursuant to Sections 13.7.B and 13.9 of the City Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP), the Planning Commission adopts the findings in the staff report, the findings of fact below, and approves Coastal Development Permit No. 05-041 for a new 5,388 square-foot single-family residence and new alternative onsite wastewater treatment system.

The proposed project has been reviewed by the City Geologist, City Environmental Health Specialist, City Biologist, and City of Malibu Public Works Department, as well as the Los Angeles County Fire Department. According to the City's archaeological resource maps, the subject site has a low potential to contain archaeological resources. The project is consistent with the LCP's zoning, grading, water quality, and onsite wastewater treatment requirements. The project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies.

A. General Coastal Development Permit (LIP Chapter 13)

Finding A. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The project has been reviewed for conformance with the LCP. As discussed herein, and as indicated in Table 2 of the associated staff report, the project, as proposed and/or conditioned, conforms to the certified City of Malibu LCP.

Finding B. If the project is located between the first public road and the sea, that the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road (Pacific Coast Highway) and the sea. However, the project does not have direct access to the shoreline. There is a private road and existing single-family residences between this parcel and the shoreline. The location of the proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast since the project is not on the shoreline and a private road exists between the project site and the shoreline. Therefore the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Finding C. The project is the least environmentally damaging alternative.

Pursuant to the California Environmentally Quality Act (CEQA), this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and is categorically exempt from CEQA under CEQA Section 15303(a). The proposed project would result in less than significant adverse effects on the environment, within the meaning of CEQA and there are no further feasible alternatives that would further reduce any impacts on the environment. The project complies with the size and height requirements of the LCP and the M.M.C. The project will result in less than significant impacts on the physical environment. Due to topographical constraints on the subject property, the proposed location is the least environmentally damaging feasible alternative.

The project consists of a new two-story 5,388 square-foot single-family residence with an attached two-car garage, landscaping and hardscape improvements, a jacuzzi, swimming pool, gazebo, two permeable wood decks, partial perimeter fencing, an infinity pool and a new alternative onsite wastewater treatment system on an approximate 0.65-acre parcel. The rear of the lot drops off sharply and limits the options available for feasible alternatives to the proposed project, except for minor alterations in layout that would not result in any environmental advantage. The project will not result in potentially significant impacts because the proposed project will generally be below the crest of the existing berm located adjacent to Pacific Coast Highway; and the project does not have any elements that will result in any potentially significantly impacts the environment. For the reasons stated above, the project is the least environmentally damaging alternative.

Finding D. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

The subject parcel is not located in or adjacent to an ESHA, ESHA buffer zone or any streams as designated in the Malibu Local Coastal Program, Local Implementation Plan (LIP) and is not subject to review by the Environmental Review Board. In addition, the City Biologist has determined that the project is not expected to result in any new biological impacts.

B. Environmentally Sensitive Habitat Area (LIP Chapter 4)

The subject parcel is not located in the ESHA Overlay Map and does not have any Environmentally Sensitive Habitat located on the site. Therefore, the project will not result in impacts to sensitive resources, significant loss of vegetation or wildlife, or encroachments into ESHA and the supplemental ESHA findings are not applicable in accordance with LIP Section 4.7.6(C).

C. Native Tree Protection Ordinance (LIP Chapter 5)

The project plans do not identify any native trees present on the site. Should any native trees subject to protection be identified, the project will be required to comply with Chapter 5 of the LIP.

D. Scenic, Visual and Hillside Resource Protection Ordinance (LIP Chapter 6)

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road, or public viewing area. Story poles were placed on the site prior to the City approval of Site Plan Review No. 03-052. Story poles indicating the front of the proposed residence were again erected for this application. Staff visited the site to determine if any public views would be blocked, and found that no ocean views will be blocked by the proposed project. Any potential views from Pacific Coast Highway are blocked by the existing berm, fence and vegetation at the northern property line of the project site such that there are currently no views of the ocean from the highway.

Finding A. The project, as proposed will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

LIP Section 6.5(E) requires a view corridor for new development located on the ocean side of public roads. The proposed plans do not show the required view corridor; however, there is a mitigating factor that makes imposition of a view corridor irrelevant. There is a substantial berm, fence and vegetation located adjacent to Pacific Coast Highway that is higher than the right-of-way that blocks any potential ocean views from the street. Therefore, the proposed development does not have the potential to block any view corridors that currently exist on the site.

Finding B. The project, as conditioned will not have significant adverse scenic or visual impacts due to required project modifications, landscaping and other conditions.

As previously stated, there are no public views currently available at the project site. The conditions of approval include restrictions on materials and plantings that can be used at the site to prevent any future impacts and/or maintain the existing conditions as they pertain to public views. Therefore, the project will not have any significant adverse scenic or visual impacts due to project modifications, new landscaping or other conditions.

Finding C. The project, as proposed or conditioned, is the least environmentally damaging alternative.

As previously discussed under A. General Coastal Development Permit, Finding C, the project is the least environmentally damaging alternative.

Finding D. There are no feasible alternatives that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

As previously discussed in D. Scenic, Visual and Hillside Resource Protection, there are no significant scenic or visual resources currently available on the site and the project does not create any new impacts.

Finding E. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As previously discussed in D. Scenic, Visual and Hillside Resource Protection, there are no significant

scenic or visual resources currently available on the site and the project does not create any new impacts.

E. Transfer Development Credits (LIP Chapter 7)

Pursuant to LIP Section 7.2, transfers of development credits only apply to land division and/or new multi-family development in specified zoning districts. The proposed CDP does not involve land division or multi-family development. Therefore, LIP Chapter 7 does not apply to the proposed project.

F. Hazards (LIP Chapter 9)

The proposed project is not anticipated to result in the potential to create adverse impacts on site stability or structural integrity. The project has been reviewed by the City Geologist, City Coastal Engineer, and City of Malibu Public Works Department, and has been determined to be consistent with all relevant policies and regulations regarding potential hazards. The geotechnical reports dated February 4, 2003 and August 15, 2003 indicate that the project will not result in potentially significant adverse impacts on site stability or structural integrity. Therefore, in accordance with LIP Section 9.3, LCP hazard findings need not be made.

G. Shoreline and Bluff Development (LIP Chapter 10)

LIP Section 10.3 requires that shoreline and bluff development findings be made if the proposed project is anticipated to result in potentially significant adverse impacts on coastal resources, including public access and shoreline sand supply. Staff has determined that the project is not anticipated to result in such impacts; and therefore, the findings from LIP Section 10.3 need not be made in order to issue a coastal development permit for this project. However, the project site does include a man-made slope that might be considered a coastal bluff under the imprecise definition contained in the LIP. Although the findings are not applicable since there is no impact on public access and shoreline sand supply, the findings from LIP Section 10.3 can be made for the reasons stated below:

Finding A. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

The project is a new single-family residence and associated improvements on a constrained lot. The project is not subject to Chapter 10 per Section 10.2. Section 10.2 provides that Chapter 10 only applies to shorelines and coastal bluffs/bluff-tops fronting the shoreline. The subject site is separated from the shoreline by property developed with a seawall, single-family residence, and a private road; and therefore, is not subject to Chapter 10. In any case, the project has been evaluated and determined to provide adequate structural stability, not create or contribute to shoreline erosion, or have an impact on local shoreline sand supply. Therefore, the project is not anticipated to result in any new significant adverse impacts on public access, shoreline sand supply, or other resources as conditioned.

Finding B. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

The project is a new single-family residence on a constrained lot. As indicated above, the project will not have an impact on public access, shoreline sand supply or other resources because the project is separated

from the shoreline by other development. Therefore, the project is not anticipated to result in any new significant adverse impacts on public access, shoreline sand supply, or other resources.

Finding C. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As previously discussed under A. General Coastal Development Permit, Finding C, the project is the least environmentally damaging alternative.

Finding D. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

The project will not result in potentially significant impacts as conditioned. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

Finding E. In addition, if the development includes a shoreline protective device, that it is designed or conditioned to be sited as far landward as feasible, to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and is the least environmentally damaging alternative.

The development does not include modifications to, or a new shoreline protective device. Therefore, this finding is not applicable.

H. Public Access (LIP Chapter 12)

Vertical Access

Finding A. The type of access potentially applicable to the site involved (vertical, lateral, blufftop, etc.) and its location in relation to the fragile coastal resource to be protected, the public safety concern, or the military facility which is the basis for the exception, as applicable.

Access to the seaward side of the subject site is available from the private road that is located approximately 40 feet to the east of the project site, which is within the desired 1,000 foot standard established by the LCP. Therefore, no impacts to vertical access are anticipated and no a vertical access easement is not required.

Finding B. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that fragile coastal resources, public safety, or military security, as applicable, are protected.

No mitigation measures to manage the type, character, intensity, hours, season or location of lateral access are necessary to mitigate vertical access because adequate access is available within 40 feet of the project site. Therefore, no potential project-related or cumulative impact on public vertical access is anticipated.

Finding C. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

Access to the Pacific Ocean is available approximately 40 feet to the east of the project site, which is within the desired 1,000 foot standard established by the LCP. Existing access to coastal resources is adequate and no legitimate governmental or public interest would be furthered by requiring access at the project site.

Lateral Access

The project is not located on a beach; therefore, no conditions or findings for lateral access are required.

Bluff Top Access

The project is not located on a bluff top per the applicability standards of Chapter 10 of the LIP; therefore, no conditions or findings for bluff top access are required.

Trail Access

The project site does not include any existing or planned trails as indicated in the LCP, the General Plan, or the Trails Master Plan. Therefore, no conditions or findings for trail access are required.

Recreational Access

The project site is not adjacent to, does not include, nor has any access ways to existing or planned public recreational areas. Therefore, no conditions or findings for recreational access are required.

I. Land Division (LIP Chapter 15)

This project does not involve a division of land as defined in LIP Section 15.1; therefore, this section does not apply.

Section 4. Conditions of Approval

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves Coastal Development Permit No. 05-041, subject to the conditions listed below:

Standard Conditions

1. The applicants and property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this

project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. Approval of this application is to allow for the construction of a new two-story 5,388 square-foot single-family residence with attached two-car garage, landscaping and hardscape improvements, a jacuzzi, swimming pool, gazebo, two permeable wood decks, partial perimeter fencing, an infinity pool and a new alternative onsite wastewater treatment system. Subsequent submittals for this project shall be in substantial compliance with the plans date-stamped received by the Planning Division on March 11, 2005. In the event the project plans conflict with any condition of approval, this condition shall take precedence.
3. This permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes, and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Division within 30 days of this decision and prior to the issuance of any development permits.
4. These Conditions of Approval shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental and Building Safety Division for plan check and the City of Malibu Public Works/Engineering Services Department for an encroachment permit (as applicable).
5. The coastal development permit shall be null and void if the project has not commenced within two (2) years after issuance of the permit. Extension to the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent at least two weeks prior to expiration of the two-year period and shall set forth the reasons for the request.
6. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Division Manager upon written request of such interpretation.
7. All structures shall conform to the requirements of the City of Malibu Environmental and Building Safety Division, and to all City Geologist, City Environmental Health Specialist, City Biologist, and Los Angeles County Fire Department requirements, as applicable. Notwithstanding this review, all required permits shall be secured.
8. The applicant shall submit three complete sets of plans to the Planning Division for consistency review and approval prior to the issuance of any building or development permit.
9. The applicant shall request a final planning inspection prior to final inspection by the City of Malibu Environmental and Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Division has determined that the project complies with this CDP. A temporary certificate of occupancy may be granted at the discretion of the

Planning Division Manager, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

10. In the event that potentially important cultural resources are found in the course of geologic testing, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Division Manager can review this information. Thereafter, the procedures contained in Chapter 11 of the LCP and those in Section 17.54.040(D)(4)(b) of the City of Malibu Municipal Code shall be followed.
11. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.
12. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Division Manager, provided such changes achieve substantially the same results and the project is still in compliance with the Municipal Code and the Local Coastal Program. An application with all required materials and fees shall be required.
13. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights thereunder.
14. The CDP runs with the land and binds all future owners of the property.
15. All conditions of approval for Plot Plan Review No. 03-152 and Site Plan Review No. 03-052 shall remain in effect. If there is a conflict between conditions, these conditions shall take precedence.

Special Conditions

16. Three (3) sets of revised plans showing compliance with all conditions of approval shall be submitted for review and approval prior to the issuance of a building permit.

Biology/Landscaping

17. Vegetation shall be situated on the property so as not to obstruct significantly the primary view from private property at any time (given consideration of its future growth).

18. Native species of the Santa Monica Mountains, characteristic of the local habitat, shall be used on graded slopes or where slope plantings are required for slope stabilization, erosion control, and watershed protection. Plants should be selected to have a variety of rooting depths. A spacing of 15 feet between large, woody shrubs is recommended by the Los Angeles County Fire Department. No lawns are permitted on slopes greater than 5 percent.
19. Slope planting measures such as contour planting and terracing or other techniques shall be incorporated on slopes to interrupt the flow and rate of surface runoff in order to prevent surface soil erosion.
20. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as, but not limited to, copper arsenate.
21. Prior to the initiation of any vegetation removal or other site preparation activities, the applicant shall verify to the satisfaction of the City Biologist that the trees located on the landscape plan are not native oak trees that are subject to native tree protection under the Local Coastal Program. Should any trees be identified as being subject to protection, they shall be protected in accordance with Chapter 5 of the Local Implementation Plan.
22. All landscaping and notes identified on the approved landscape plan shall be adhered to and are considered conditions of approval by reference.

Site Conditions

23. Where visible from Pacific Coast Highway, the development shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
 - a. Colors shall be compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.

Lighting

24. Exterior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas, including Pacific Coast Highway, public beaches, and/or the Pacific Ocean. Permitted lighting shall conform to the following standards:

- a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height that are directed downward, and use bulbs that do not exceed 60 watts or the equivalent.
- b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 60 watts or the equivalent.
- c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 60 watts or the equivalent.
- d. Lights at entrances in accordance with Building Codes shall be permitted provided that such lighting does not exceed 60 watts or the equivalent.
- e. Site perimeter lighting shall be prohibited.
- f. Outdoor decorative lighting for aesthetic purposes is prohibited.
- g. Night lighting for sports courts or other private recreational facilities shall be prohibited.
- h. Prior to issuance of the CDP, the applicant shall be required to execute and record a deed restriction reflecting the above restrictions.

Geology

25. All recommendations of the consulting Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
26. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the Coastal Development Permit or a new Coastal Development Permit

Public Works

27. Permission to grade or build within the existing power line easement shall be required prior to the issuance of grading or building permits.
28. Any work in Pacific Coast Highway will require a permit from the California Department of Transportation (Caltrans).
29. Grading shall not exceed a total of 1,000 cubic yards of non-exempt grading.

30. Exported soil from the site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP section 8.3.
31. Permission to grade or build within the existing power line easement shall be obtained prior to the issuance of grading or building permits.
32. A grading and drainage plan shall be reviewed and approved by the Public Works Department prior to the issuance of grading permits. The plan shall include the following:
 - a. Public Works Department "General Notes"
 - b. The existing and proposed square-footage of impervious coverage on the property, including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks.
 - c. The limits of land to be disturbed during project development shall be delineated and a total area shown. Areas disturbed by grading equipment or shoring beyond the limits of grading shall be shown.
 - d. Any tree requiring protection shall be shown.
 - e. Private storm drain systems shall be shown. Systems with greater than a 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
33. A Wet Weather Erosion and Sediment Control Plan shall be reviewed and approved by the Public Works Department. The following elements shall be included:
 - a. Locations where concentrated runoff will occur.
 - b. Plans for the stabilization of disturbed areas of the property, landscaping and hardscape, along with the proposed schedule for installation of the protective measures.
 - c. Location and sizing criteria for silt basins, sandbag barriers, and silt fencing.
 - d. Stabilized construction entrance and a monitoring program for the sweeping of material tracked off-site.
34. A Storm Water Management Plan (SWMP) is required for this project. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the site design and source control best management practices that have been implemented in the design of the project.

35. Storm drainage improvements are required to mitigate increased runoff generated by development of the property consistent with LIP section 17.4.2.B.2.
36. The following shall apply to all pools and spas:
 - a. Alternative sanitation methods are required. This may include no chlorine or low chlorine sanitation methods.
 - b. Discharge of chlorinated pool water is prohibited.
 - c. Discharge of non-chlorinated pool water into streets, storm drains, creeks, canyons, drainage channels, or other locations where it could enter receiving waters is prohibited.

Water Quality

37. The revised site plans shall show all easements affecting both private and public properties. The revised site plans shall clearly show the proposed drainage system and any pipes proposed to protect the home from storm runoff.
38. A plan clearly identifying any proposed changes within the Pacific Coast Highway right-of-way shall be submitted. The plan shall identify all proposed improvements, including drainage and other structures in the right-of-way, and the standards to which they will be constructed. If no improvements are proposed, a statement indicating such shall be included on the revised site plans.
39. A SWPPP shall be submitted for review and approval prior to final Public Works approval.
40. A Storm Water Management Plan shall be submitted for review and approval prior to final Public Works approval.
41. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in Chapter 17 of the Malibu LIP.
42. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but not be limited to: Asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.
43. Prior to the issuance of the Certificate of Occupancy, the applicant shall provide the City Public Works Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into

material types. The final report shall be approved by the City Public Works Department.

Solid Waste

44. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but not be limited to: Asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.
45. Prior to the issuance of the Certificate of Occupancy, the applicant shall provide the City Public Works Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into material types. The final report shall be approved by the City Public Works Department.

Section 5. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 20th day of June 2005.

JOHN W. SIBERT, Planning Commission Chair

ATTEST:

LISA A. TENT, Planning Commission Secretary

LOCAL APPEAL – Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by the filing fees as specified by the City Council (\$600.00 for the first finding and \$159.00 for each additional finding thereafter). Appeal forms may be found online at www.ci.malibu.ca.us or in person at City Hall, or by calling (310) 456-2489 ext. 245.

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the Planning Commission's decision to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling 805-585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 05-30 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 20th day of June 2005, by the following vote:

AYES:	0	Commissioners:
NOES:	0	
ABSTAIN:	0	
ABSENT:	0	Commissioners:

LISA A. TENT, Planning Commission Secretary

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
585-1800



June 6, 2005

Vincent Bertoni, AICP
Interim Planning Division Manager
City of Malibu
23815 Stuart Ranch Road
Malibu, CA 90265

Dear Mr. Bertoni:

We have reviewed the staff reports for the coastal development permits that will be considered by the City of Malibu Planning Commission on June 6, 2005. We would like to offer the following comments regarding two of these projects.

Coastal Development Permit No. 04-071 at 32506 Pacific Coast Highway (Kinsella)

The staff report does not address the presence of a rock revetment on the seaward side of property, although it is clearly visible on the photos that are included. There is no discussion of whether the revetment is needed to protect or provide stability for the proposed structure or wastewater treatment system. Our preliminary research indicates that this revetment is likely unpermitted. Airphotos of the area show that the revetment was not present in 1972, prior to the effective date of the Coastal Act. Similarly, the revetment is not shown in a photo from 1979. The revetment is visible in photos from 1987 and later. Our permit records indicate that no coastal development permit was ever issued for this project site.

With regard to the issue of public access, we agree that the proposed small additions are unlikely to have significant adverse impacts on public access. However, the revetment has likely had impacts on public access by occupying sandy beach area. Further, we do not agree that: "lateral access is not appropriate because of safety concerns present on the subject property". While access along the beach in front of this property may be restricted when sand levels are low and/or when tides are particularly high, safe access can clearly be provided at other times.

Coastal Development Permit No. 05-041 at 33616 Pacific Coast Highway (Lechuza Villas West LLC)

The staff report states that the proposed project site is not located on a coastal bluff and is therefore not subject to the provisions of Chapter 10 of the Malibu LIP. The report states that: "...the project site does include a man-made slope that might be considered a coastal bluff under the imprecise definition contained in the LIP". We do agree that the slope on the proposed project site should be considered a coastal bluff, both because this geomorphological feature is a coastal bluff as well as the fact that it meets the

definition of coastal bluff. We do not agree that the presence of development between the project site and the shoreline is determinative of whether the site contains a coastal bluff. As such, the provisions of Chapter 10 of the LIP should be applied to the proposed development. In particular, the bluff top setbacks should be applied.

Thank you for your consideration of these comments. If you have questions, please feel free to contact me.

Very Truly Yours,

Barbara J. Carey
Supervisor, Planning and Regulation



Planning Commission
Meeting
06/06/05
**Item
6.B.**

Commission Agenda Report

To: Chair Sibert and Honorable Planning Commission Members

Prepared by: Paul Huckabee, Senior Planning Consultant *PH*

Reviewed by: Victor Peterson, Environmental and Community Development Director *VP*

Approved by: Vincent P. Bertoni, AICP, Interim Planning Division Manager *VB*

Date prepared: May 10, 2005 Meeting date: June 6, 2005

Subject: Coastal Development Permit No. 05-041 - An application within the coastal zone to allow the construction of a new 5,388 square-foot, two-story, single-family residence with an attached two-car garage and a new alternative onsite wastewater treatment system.

Application Number: Coastal Development Permit No. 05-041
Application Filing Date: March 11, 2005
Applicant: Norman Haynie
Owner: Lechuza Villas West LLC
Location: 33616 Pacific Coast Highway within the coastal zone (APN: 4473-021-011)
Zoning: Rural Residential - 2 (RR-2)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 05-30 (Attachment 1) approving Coastal Development Permit (CDP) No. 05-041 for the construction of a new 5,388 square-foot, two-story, single-family residence with attached two-car garage and a new alternative on site wastewater treatment system in the Rural Residential – 2 (RR-2) zoning district located at 33616 Pacific Coast Highway.

DISCUSSION: The issue before the Planning Commission tonight is whether to adopt Planning Commission Resolution No. 05-30 approving Coastal Development Permit No. 05-041. The project proposes the construction of a new 5,388 square-foot residence located on the south side of Pacific Coast Highway approximately 4,000 feet west of Decker Canyon Road on an existing 0.65 acre parcel zoned RR-2. Attachment 2 (Vicinity Map) and Attachment 3 (Aerial Map)

Chronology of Project

On November 26, 2003, Plot Plan Review No. 03-079 was approved for a 5,349 square-foot single-family residence. The application proposed a structure similar to the current request, except that the residence was designed in a different architectural style and did not exceed 18 feet in height.

On December 24, 2003, the applicant submitted an application for a Plot Plan Review (PPR 03-152) and Site Plan Review (SPR 03-052). The proposal was similar to the plan approved on November 26, 2003, except that the architectural style was changed, necessitating an increase in the roof height to 28 feet for a pitched roof. PPR 03-152 and SPR 03-052 were approved on May 5, 2004. The property owner at 33608 Pacific Coast Highway, due to geology concerns, filed an appeal on May 11, 2004. The appeal was withdrawn on June 4, 2004.

On March 11, 2005, an application for Coastal Development Permit No. 05-041 was submitted by Norman Haynie on behalf of the property owner, Lechuza Villas West LLC, to the Planning Division for processing.

On May 4, 2005, a Notice of Coastal Development Permit was posted on the subject property. The application was reviewed by the City Biologist, City Geologist, City Environmental Health Specialist, City Coastal Engineer, and the Los Angeles County Fire Department. On May 2, 2005, the application was deemed complete for processing.

On May 26, 2005, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. On May 26, 2005, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

Surrounding Land Use and Setting

The subject property is a 28,342 square-foot (gross) parcel and zoned RR-2 (Rural Residential, 2 acre minimum lot size). The subject property is within the California Coastal Commission Appealable Zone and is not designated Environmentally Sensitive Habitat Area (ESHA). Properties in the immediate vicinity are generally developed with single-family residences. The subject site is bordered to the west and south by existing single-family residential development. Pacific Coast Highway borders the site to the north, and the property to the east is undeveloped.

Project Description

The proposed project consists of a new two-story 5,388 square-foot single-family residence with attached two-car garage, landscaping and hardscape improvements, a jacuzzi, swimming pool, gazebo, two permeable wood decks, partial perimeter fencing,

an infinity pool and a new alternative onsite wastewater treatment system on an approximate 0.65 acre parcel zoned RR-2. Attachment 4 (Project Plans). Approximately 847 cubic yards of cut and 142 cubic yards of fill are proposed. The site is currently undeveloped.

Existing Planning Approvals

The applicant has certified that no previous Coastal Development Permits have been issued for this address and no Coastal Development Permits were identified in the California Coastal Commission project database.

Local Coastal Program

The Malibu Local Coastal Program (LCP) consists of a Land Use Plan (LUP) and a Local Implementation Plan (LIP). The LUP contains programs and policies to implement the California Coastal Act in Malibu. The LIP, which carries out the policies of the LUP, contains specific regulations that projects requiring a coastal development permit must adhere.

There are 12 sections within the LIP that potentially require specified findings to be made, depending on the nature and location of the proposed project. Of these 12, three are for conformance review only and require no findings. These three sections, which include Zoning, Grading and Archaeological/Cultural Resources, are discussed under the "Conformance Analysis" section below.

There are nine remaining sections that potentially require specific findings to be made. These findings are found in the following LIP sections: (1) General Coastal Development Permit Findings; (2) Environmentally Sensitive Habitat Area (ESHA); (3) Native Tree Protection; (4) Scenic Visual and Hillside Protection (5) Transfer of Development Credits; (6) Hazards; (7) Shoreline and Bluff Development; (8) Public Access; and (9) Land Division. Of these nine, for the reasons discussed below, only four (i.e., General Coastal Development Permit, Scenic Visual and Hillside Protection, Shoreline and Bluff Development, and Public Access findings) warrant further discussion.

Conformance Analysis

The proposed project has been reviewed by the City Geologist, City Environmental Health Specialist, City Biologist, City of Malibu Public Works Department, and the Los Angeles County Fire Department. The project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. Attachment 5 (Department Review Sheets).

Story poles were placed on the subject property by May 9, 2005 showing the proposed height of the project. There are no significant changes to the proposed project since the story poles were erected for Site Plan Review No. 03-052. No comments from the public have been received regarding the project height.

Zoning

Development standards are contained in LIP Chapter 3. These standards are similar to those required by the M.M.C. Table 1 below provides a summary of the lot dimensions and lot area of the subject parcel.

Table 1 – Property Data	
Lot Depth	231'
Lot Width	125'
Gross Lot Area	28,342 sq. ft.
*Net Lot Area	27,728 sq. ft.

*Net Lot Area = Gross Lot Area minus the area of public or private easements and 1:1 slopes.

Table 2 below provides a summary and indicates that the proposed project meets the property development and design standards set under LIP Section 3.5, 3.6, and 8.3. As shown, the project complies with the relevant development standards.

Table 2 – LCP Zoning Conformance			
Development Requirement	Allowed	Proposed	Comments
SETBACKS			
Front Yard (North)	20% (46'-2") or 65', whichever is less	56'-0"	Complies
Rear Yard (South)	15% (34'-8") or 15 feet, whichever is greater	86'-0"	Complies
Side Yard 10% minimum, combined 25% (East)	12'-6" minimum	12'-6"	Complies
Side Yard 10% minimum, combined 25% (West)	18'-9" minimum	19'-0"	Complies
PARKING	2 enclosed 2 unenclosed	2 enclosed 6 unenclosed	Complies

Table 2 – LCP Zoning Conformance

Development Requirement	Allowed	Proposed	Comments
TOTAL DEVELOPMENT SQUARE-FOOTAGE	5,449 sq ft maximum	5,388 sq ft	Complies
2/3RDS RULE/2 nd floor sq. ft.	2,156 sq ft maximum	2,155 sq ft	Complies
HEIGHT (SPR for height previously approved)	28'-0" (pitched)	28'-0" (pitched)	Complies
IMPERMEABLE COVERAGE	8,318 sq ft maximum	8,269 sq ft	Complies
NON-EXEMPT GRADING	1,000 cu. yds.	989 cu yds total (cut 847, fill 142)	Complies
CONSTRUCTION ON SLOPES	3:1	None	Complies
Fence/Wall Height			
Front	42" impermeable 30" permeable	42" block with 30" chain link on top	Complies
Side(s)	6'-0"	6' block	Complies
Rear	6'-0"	None	Complies

Archaeological/Cultural Resources

The City's archaeological resource maps show that the subject site has a low potential to contain archaeological resources. An initial evaluation of the property for archaeological resources was completed in 2002 by C.A. Singer & Associate, Inc. No cultural resources were observed and the staff archaeologist indicated that no impacts to cultural resources were anticipated.

Findings

A. General Coastal Development Permit (LIP Chapter 13)

Pursuant to LIP Section 13.9 the following four findings need to be made on all coastal development permits.

Finding A. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The project has been reviewed for conformance with the LCP (see Table 2). As discussed throughout this report, the project, as proposed and/or conditioned, conforms to the certified City of Malibu LCP.

Finding B. If the project is located between the first public road and the sea, that the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road (Pacific Coast Highway) and the sea. However, the project does not have direct access to the shoreline. There is a private road and existing single-family residences between this parcel and the shoreline. The location of the proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast since the project is not on the shoreline and a private road exists between the project site and the shoreline. Therefore the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Finding C. The project is the least environmentally damaging alternative.

Pursuant to the California Environmentally Quality Act (CEQA), this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and is categorically exempt from CEQA under CEQA Section 15303(a) – New Construction or Conversion of Small Structures. The proposed project would result in less than significant adverse effects on the environment, within the meaning of CEQA and there are no further feasible alternatives that would further reduce any impacts on the environment. The project complies with the size and height requirements of the LCP and the M.M.C. The project will result in less than significant impacts on the physical environment. Due to topographical constraints on the subject property, the proposed location is the least environmentally damaging feasible alternative.

The project consists of a new two-story 5,388 square-foot single-family residence with an attached two-car garage, landscaping and hardscape improvements, a jacuzzi, swimming pool, gazebo, two permeable wood decks, partial perimeter fencing, an infinity pool and a new alternative onsite wastewater treatment system on an approximate 0.65-acre parcel. The rear of the lot drops off sharply and limits the options available for feasible alternatives to the proposed project, except for minor alterations in layout that would not result in any environmental advantage. The project will not result in potentially significant impacts because the proposed project will generally be below the crest of the existing berm located adjacent to Pacific Coast Highway; and the project does not have any elements that will result in any potentially significantly impacts the environment. For the reasons stated above, the project is the least environmentally damaging alternative.

Finding D. *If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.*

The subject parcel is not located in or adjacent to an ESHA, ESHA buffer zone or any streams as designated in the Malibu Local Coastal Program (LIP) and is not subject to review by the Environmental Review Board. In addition, the City Biologist has determined that the project is not expected to result in any significant biological impacts (see Attachment 5).

B. Environmentally Sensitive Habitat Area (ESHA) Overlay (LIP Chapter 4)

The subject parcel is not located in the ESHA Overlay Map and does not have any Environmentally Sensitive Habitat located on the site. Therefore, the project will not result in impacts to sensitive resources, significant loss of vegetation or wildlife, or encroachments into ESHA and the supplemental ESHA findings are not applicable in accordance with LIP Section 4.7.6(C).

C. Native Tree Protection Ordinance (LIP Chapter 5)

The project plans do not identify any native trees present on the site. Should any native trees subject to protection be identified, the project will be required to comply with Chapter 5 of the LIP.

D. Scenic Visual and Hillside Resource Protection Ordinance (LIP Chapter 6)

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road, or public viewing area. Story poles were placed on the site prior to the City approval of Site Plan Review No. 03-052. Story poles indicating the front of the proposed residence were again erected for this application. Staff visited the site to determine if any public views would be blocked, and found that no ocean views will be blocked by the proposed project. Any potential views from Pacific Coast Highway are blocked by the existing berm, fence and vegetation at the northern property line of the project site such that there are currently no views of the ocean from the highway.

Finding 1. *The project, as proposed will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.*

LIP Section 6.5(E) requires a view corridor for new development located on the ocean side of public roads. The proposed plans do not show the required view corridor; however, there is a mitigating factor that makes imposition of a view corridor irrelevant. There is a substantial berm, fence and vegetation located adjacent to Pacific Coast Highway that is higher than the right-of-way that blocks any potential ocean views from the street. Therefore, the proposed development does not have the potential to block any view corridors that currently exist on the site.

Finding 2. The project, as conditioned will not have significant adverse scenic or visual impacts due to required project modifications, landscaping and other conditions.

As previously stated, there are no public views currently available at the project site. The conditions of approval include restrictions on materials and plantings that can be used at the site to prevent any future impacts and/or maintain the existing conditions as they pertain to public views. Therefore, the project will not have any significant adverse scenic or visual impacts due to project modifications, new landscaping or other conditions.

Finding 3. The project, as proposed or conditioned, is the least environmentally damaging alternative.

As previously discussed under A. General Coastal Development Permit, Finding C, the project is the least environmentally damaging alternative.

Finding 4. There are no feasible alternatives that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

As previously discussed in D. Scenic, Visual and Hillside Resource Protection, there are no significant scenic or visual resources currently available on the site and the project does not create any new impacts.

Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As previously discussed in D. Scenic, Visual and Hillside Resource Protection, there are no significant scenic or visual resources currently available on the site and the project does not create any new impacts.

E. Transfer Development Credits (LIP Chapter 7)

Pursuant to LIP Section 7.2, transfers of development credits only apply to land division and/or new multi-family development in specified zoning districts. The proposed CDP does not involve land division or multi-family development. Therefore, LIP Chapter 7 does not apply to the proposed project.

F. Hazards (LIP Chapter 9)

The proposed project is not anticipated to result in the potential to create adverse impacts on site stability or structural integrity. The project has been reviewed by the City Geologist, City Coastal Engineer, and City of Malibu Public Works Department, and has been determined to be consistent with all relevant policies and regulations regarding potential hazards. The geotechnical engineering reports dated February 4, 2003 and August 15, 2003 indicate that the project will not result in potentially significant adverse impacts on site stability or structural integrity. Therefore, in accordance with LIP Section 9.3, LCP hazard findings need not be made.

G. Shoreline and Bluff Development (LIP Chapter 10)

LIP Section 10.3 requires that shoreline and bluff development findings be made if the proposed project is anticipated to result in potentially significant adverse impacts on coastal resources, including public access and shoreline sand supply. Staff has determined that the project is not anticipated to result in such impacts; and therefore; the findings from LIP Section 10.3 need not be made in order to issue a coastal development permit for this project. However, the project site does include a man-made slope that might be considered a coastal bluff under the imprecise definition contained in the LIP. Although the findings are not applicable since there is no impact on public access and shoreline sand supply, the findings from LIP Section 10.3 can be made for the reasons stated below:

Finding 1. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

The proposed project is a new single-family residence and associated improvements on a constrained lot. The project is not subject to Chapter 10 per Section 10.2. Section 10.2 provides that Chapter 10 only applies to shorelines and coastal bluffs/bluff-tops fronting the shoreline. The subject site is separated from the shoreline by property developed with a seawall and single-family residence, and a private road; and therefore, is not subject to Chapter 10. In any case, the project has been evaluated and determined to provide adequate structural stability, not create or contribute to shoreline erosion, or have an impact on local shoreline sand supply. Therefore, the project is not anticipated to result in

any new significant adverse impacts on public access, shoreline sand supply, or other resources as conditioned.

Finding 2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

The proposed project is a new single-family residence on a constrained lot. As indicated above, the project will not have an impact on public access, shoreline sand supply or other resources because the project is separated from the shoreline by other development. Therefore, the project is not anticipated to result in any new significant adverse impacts on public access, shoreline sand supply, or other resources.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As previously discussed under A. General Coastal Development Permit, Finding C, the project is the least environmentally damaging alternative.

Finding 4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

The project will not result in potentially significant impacts as conditioned. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

Finding 5. In addition, if the development includes a shoreline protective device, that it is designed or conditioned to be sited as far landward as feasible, to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and is the least environmentally damaging alternative.

The development does not include modifications to, or a new shoreline protective device. Therefore, this finding is not applicable.

H. Public Access (LIP Chapter 12)

The subject parcel is not located on a public beach, but is located between the first public road and the Pacific Ocean.

The project does not meet the definitions of exceptions to public access requirements identified in LIP Section 12.2.2; specifically, the project is considered "new development". Therefore, public access findings for vertical access are appropriate. Analyses required by LIP Section 12.8.2 are provided herein. Lateral, bluff top, trail, and recreational accesses are not applicable. No issue of public prescriptive rights has been raised.

Vertical Access. The project site is not adjacent to the Pacific Ocean and access to the Pacific Ocean directly from the project site is not possible. There is an existing private road and single-family home between the subject site and the ocean. Access to the seaward side of the subject site is available from the private road that intersects Pacific Coast Highway approximately 40 feet to the east, which is within the desired 1,000 foot standard established by the LCP. Therefore, no impacts to vertical access are anticipated and a vertical access easement is not required in accordance to LIP Section 12.8.

Finding A. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the public safety concern, or the military facility which is the basis for the exception, as applicable.

Access to the seaward side of the subject site is available from the private road that is located approximately 40 feet to the east of the project site, which is within the desired 1,000 foot standard established by the LCP. Therefore, no impacts to vertical access are anticipated and no a vertical access easement is not required.

Finding B. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that fragile coastal resources, public safety, or military security, as applicable, are protected.

No mitigation measures to manage the type, character, intensity, hours, season or location of lateral access are necessary to mitigate vertical access because adequate access is available within 40 feet of the project site. Therefore, no potential project-related or cumulative impact on public vertical access is anticipated.

Finding C. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

Access to the Pacific Ocean is available approximately 40 feet to the east of the project site, which is within the desired 1,000 foot standard established by the LCP. Existing access to coastal resources is adequate and no legitimate

governmental or public interest would be furthered by requiring access at the project site.

Lateral Access. The project is not located on a beach; therefore, no conditions or findings for lateral access are required.

Bluff Top Access. The project is not located on a bluff top per the applicability standards of Chapter 10 of the LIP; therefore, no conditions or findings for bluff top access are required.

Trail Access. The project site does not include any existing or planned trails as indicated in the LCP, the General Plan, or the Trails Master Plan. Therefore, no conditions or findings for trail access are required.

Recreational Access. The project site is not adjacent to, does not include, nor has any access ways to existing or planned public recreational areas. Therefore, no conditions or findings for recreational access are required.

I. Land Division (LIP - Chapter 15)

This project does not involve a division of land as defined in LIP Section 15.1; therefore, this section does not apply.

Environmental Review Board

The project is not within or adjacent to an area identified as ESHA on the LCP ESHA Overlay Map. The proposed project will occur on portions of the site that have been previously disturbed and will have no potential to impact biological resources. Therefore, the Environmental Review Board (ERB) was not required to evaluate this project.

CORRESPONDENCE: No correspondence has been received regarding this project.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Division has analyzed the proposal as described above. The Planning Division has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and therefore, exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION (Class 3) will be prepared and issued pursuant to CEQA Guidelines Section 15303(a) – New Construction or Conversion of Small Structures. The Planning Division has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines, Section 15300.2).

PUBLIC NOTICE: Pursuant to Malibu Local Coastal Program LIP Section 13.12.1, staff published the required 10-day Notice of Public Hearing in the Malibu Surfside News on May 26, 2005. In addition, a Notice of Public Hearing was mailed to property owners and occupants within a 500-foot radius of the subject property on May 26, 2005. Attachment 6. In addition, a Notice of Coastal Development was posted on the site on May 4, 2005.

SUMMARY: The required findings can be made that the project complies with the LCP. Further, the Planning Division's findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report, staff is recommending approval of this project subject to the conditions of approval contained in Section 4 of Planning Commission Resolution No. 05-30. The project has been reviewed and conditionally approved for conformance with the LCP by staff and appropriate City departments as well as the Los Angeles County Fire Department.

ATTACHMENTS:

1. Planning Commission Resolution No. 05-30
2. Vicinity Map
3. Aerial Site Photo
4. Project Plans
5. Department Review Sheets
6. Public Hearing/Mailing Notice

**CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 05-30**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING COASTAL DEVELOPMENT PERMIT NO. 05-041 TO ALLOW FOR CONSTRUCTION OF AN NEW 5,388 SQUARE-FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH ATTACHED TWO-CAR GARAGE AND A NEW ALTERNATIVE ONSITE WASTEWATER TREATMENT IN A RURAL RESIDENTIAL (RR-2) ZONING DISTRICT LOCATED AT 33616 PACIFIC COAST HIGHWAY (LECHUZA VILLAS WEST LLC)

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

- A. On October 26, 2003, Plot Plan Review No. 03-079 was approved for a two-story single-family residence with approximately the same floor plan as the proposed project.
- B. On December 24, 2003, Plot Plan Review No. 03-152 and Site Plan Review No. 03-052 were approved for a two-story residence with substantially the same floor plan and elevations as the proposed project.
- C. On March 11, 2005, an application was submitted by Norman Haynie on behalf of property owner Lechuza Villas West LLC for Coastal Development Permit (CDP) No. 05-048 to the Planning Division for processing.
- D. On May 2, 2005, the CDP application was deemed complete for processing.
- E. On May 4, 2005, a Notice of CDP was posted on the subject property.
- F. On May 26, 2005, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on May 26, 2005 a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.
- G. On June 6, 2005, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Commission has analyzed the proposal as described above. The Planning Commission has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and therefore, exempt from the provisions of CEQA.

Accordingly, a CATEGORICAL EXEMPTION (Class 3) will be prepared and issued pursuant to CEQA Guidelines Section 15303(a) – New Construction or Conversion of Small Structures. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines, Section 15300.2).

Section 3. Coastal Development Permit Approval and Findings.

Based on substantial evidence contained within the record and pursuant to Sections 13.7.B and 13.9 of the City Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP), the Planning Commission adopts the findings in the staff report, the findings of fact below, and approves Coastal Development Permit No. 05-041 for a new 5,388 square-foot single-family residence and new alternative onsite wastewater treatment system.

The proposed project has been reviewed by the City Geologist, City Environmental Health Specialist, City Biologist, and City of Malibu Public Works Department, as well as the Los Angeles County Fire Department. According to the City's archaeological resource maps, the subject site has a low potential to contain archaeological resources. The project is consistent with the LCP's zoning, grading, water quality, and onsite wastewater treatment requirements. The project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies.

A. General Coastal Development Permit (LIP Chapter 13)

Finding A. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The project has been reviewed for conformance with the LCP. As discussed herein, and as indicated in Table 2 of the associated staff report, the project, as proposed and/or conditioned, conforms to the certified City of Malibu LCP.

Finding B. If the project is located between the first public road and the sea, that the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is located between the first public road (Pacific Coast Highway) and the sea. However, the project does not have direct access to the shoreline. There is a private road and existing single-family residences between this parcel and the shoreline. The location of the proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast since the project is not on the shoreline and a private road exists between the project site and the shoreline. Therefore the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

Finding C. The project is the least environmentally damaging alternative.

Pursuant to the California Environmentally Quality Act (CEQA), this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and is categorically exempt from CEQA under CEQA Section 15303(a). The proposed project would result in

less than significant adverse effects on the environment, within the meaning of CEQA and there are no further feasible alternatives that would further reduce any impacts on the environment. The project complies with the size and height requirements of the LCP and the M.M.C. The project will result in less than significant impacts on the physical environment. Due to topographical constraints on the subject property, the proposed location is the least environmentally damaging feasible alternative.

The project consists of a new two-story 5,388 square-foot single-family residence with an attached two-car garage, landscaping and hardscape improvements, a jacuzzi, swimming pool, gazebo, two permeable wood decks, partial perimeter fencing, an infinity pool and a new alternative onsite wastewater treatment system on an approximate 0.65-acre parcel. The rear of the lot drops off sharply and limits the options available for feasible alternatives to the proposed project, except for minor alterations in layout that would not result in any environmental advantage. The project will not result in potentially significant impacts because the proposed project will generally be below the crest of the existing berm located adjacent to Pacific Coast Highway; and the project does not have any elements that will result in any potentially significantly impacts the environment. For the reasons stated above, the project is the least environmentally damaging alternative.

Finding D. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

The subject parcel is not located in or adjacent to an ESHA, ESHA buffer zone or any streams as designated in the Malibu Local Coastal Program, Local Implementation Plan (LIP) and is not subject to review by the Environmental Review Board. In addition, the City Biologist has determined that the project is not expected to result in any new biological impacts.

B. Environmentally Sensitive Habitat Area (LIP Chapter 4)

The subject parcel is not located in the ESHA Overlay Map and does not have any Environmentally Sensitive Habitat located on the site. Therefore, the project will not result in impacts to sensitive resources, significant loss of vegetation or wildlife, or encroachments into ESHA and the supplemental ESHA findings are not applicable in accordance with LIP Section 4.7.6(C).

C. Native Tree Protection Ordinance (LIP Chapter 5)

The project plans do not identify any native trees present on the site. Should any native trees subject to protection be identified, the project will be required to comply with Chapter 5 of the LIP.

D. Scenic, Visual and Hillside Resource Protection Ordinance (LIP Chapter 6)

The Scenic, Visual and Hillside Resource Protection Ordinance governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road, or public viewing area. Story poles were placed on the site prior to the City approval of Site Plan Review No. 03-052. Story poles indicating the front of the proposed residence were again erected for this application. Staff visited the site to determine if any public views would be blocked, and

found that no ocean views will be blocked by the proposed project. Any potential views from Pacific Coast Highway are blocked by the existing berm, fence and vegetation at the northern property line of the project site such that there are currently no views of the ocean from the highway.

Finding A. The project, as proposed will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

LIP Section 6.5(E) requires a view corridor for new development located on the ocean side of public roads. The proposed plans do not show the required view corridor; however, there is a mitigating factor that makes imposition of a view corridor irrelevant. There is a substantial berm, fence and vegetation located adjacent to Pacific Coast Highway that is higher than the right-of-way that blocks any potential ocean views from the street. Therefore, the proposed development does not have the potential to block any view corridors that currently exist on the site.

Finding B. The project, as conditioned will not have significant adverse scenic or visual impacts due to required project modifications, landscaping and other conditions.

As previously stated, there are no public views currently available at the project site. The conditions of approval include restrictions on materials and plantings that can be used at the site to prevent any future impacts and/or maintain the existing conditions as they pertain to public views. Therefore, the project will not have any significant adverse scenic or visual impacts due to project modifications, new landscaping or other conditions.

Finding C. The project, as proposed or conditioned, is the least environmentally damaging alternative.

As previously discussed under A. General Coastal Development Permit, Finding C, the project is the least environmentally damaging alternative.

Finding D. There are no feasible alternatives that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

As previously discussed in D. Scenic, Visual and Hillside Resource Protection, there are no significant scenic or visual resources currently available on the site and the project does not create any new impacts.

Finding E. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As previously discussed in D. Scenic, Visual and Hillside Resource Protection, there are no significant scenic or visual resources currently available on the site and the project does not create any new impacts.

E. Transfer Development Credits (LIP Chapter 7)

Pursuant to LIP Section 7.2, transfers of development credits only apply to land division and/or new multi-family development in specified zoning districts. The proposed CDP does not involve land division or multi-family development. Therefore, LIP Chapter 7 does not apply to the proposed project.

F. Hazards (LIP Chapter 9)

The proposed project is not anticipated to result in the potential to create adverse impacts on site stability or structural integrity. The project has been reviewed by the City Geologist, City Coastal Engineer, and City of Malibu Public Works Department, and has been determined to be consistent with all relevant policies and regulations regarding potential hazards. The geotechnical reports dated February 4, 2003 and August 15, 2003 indicate that the project will not result in potentially significant adverse impacts on site stability or structural integrity. Therefore, in accordance with LIP Section 9.3, LCP hazard findings need not be made.

G. Shoreline and Bluff Development (LIP Chapter 10)

LIP Section 10.3 requires that shoreline and bluff development findings be made if the proposed project is anticipated to result in potentially significant adverse impacts on coastal resources, including public access and shoreline sand supply. Staff has determined that the project is not anticipated to result in such impacts; and therefore, the findings from LIP Section 10.3 need not be made in order to issue a coastal development permit for this project. However, the project site does include a man-made slope that might be considered a coastal bluff under the imprecise definition contained in the LIP. Although the findings are not applicable since there is no impact on public access and shoreline sand supply, the findings from LIP Section 10.3 can be made for the reasons stated below:

Finding A. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons.

The project is a new single-family residence and associated improvements on a constrained lot. The project is not subject to Chapter 10 per Section 10.2. Section 10.2 provides that Chapter 10 only applies to shorelines and coastal bluffs/bluff-tops fronting the shoreline. The subject site is separated from the shoreline by property developed with a seawall, single-family residence, and a private road; and therefore, is not subject to Chapter 10. In any case, the project has been evaluated and determined to provide adequate structural stability, not create or contribute to shoreline erosion, or have an impact on local shoreline sand supply. Therefore, the project is not anticipated to result in any new significant adverse impacts on public access, shoreline sand supply, or other resources as conditioned.

Finding B. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions.

The project is a new single-family residence on a constrained lot. As indicated above, the project will not have an impact on public access, shoreline sand supply or other resources because the project is separated from the shoreline by other development. Therefore, the project is not anticipated to result in any new significant adverse impacts on public access, shoreline sand supply, or other resources.

Finding C. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As previously discussed under A. General Coastal Development Permit, Finding C, the project is the least

environmentally damaging alternative.

Finding D. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

The project will not result in potentially significant impacts as conditioned. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

Finding E. In addition, if the development includes a shoreline protective device, that it is designed or conditioned to be sited as far landward as feasible, to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and is the least environmentally damaging alternative.

The development does not include modifications to, or a new shoreline protective device. Therefore, this finding is not applicable.

H. Public Access (LIP Chapter 12)

Vertical Access

Finding A. The type of access potentially applicable to the site involved (vertical, lateral, blufftop, etc.) and its location in relation to the fragile coastal resource to be protected, the public safety concern, or the military facility which is the basis for the exception, as applicable.

Access to the seaward side of the subject site is available from the private road that is located approximately 40 feet to the east of the project site, which is within the desired 1,000 foot standard established by the LCP. Therefore, no impacts to vertical access are anticipated and no a vertical access easement is not required.

Finding B. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that fragile coastal resources, public safety, or military security, as applicable, are protected.

No mitigation measures to manage the type, character, intensity, hours, season or location of lateral access are necessary to mitigate vertical access because adequate access is available within 40 feet of the project site. Therefore, no potential project-related or cumulative impact on public vertical access is anticipated.

Finding C. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

Access to the Pacific Ocean is available approximately 40 feet to the east of the project site, which is within the desired 1,000 foot standard established by the LCP. Existing access to coastal resources is adequate and no legitimate governmental or public interest would be furthered by requiring access at the

project site.

Lateral Access. The project is not located on a beach; therefore, no conditions or findings for lateral access are required.

Bluff Top Access

The project is not located on a bluff top per the applicability standards of Chapter 10 of the LIP; therefore, no conditions or findings for bluff top access are required.

Trail Access

The project site does not include any existing or planned trails as indicated in the LCP, the General Plan, or the Trails Master Plan. Therefore, no conditions or findings for trail access are required.

Recreational Access

The project site is not adjacent to, does not include, nor has any access ways to existing or planned public recreational areas. Therefore, no conditions or findings for recreational access are required.

I. Land Division (LIP Chapter 15)

This project does not involve a division of land as defined in LIP Section 15.1; therefore, this section does not apply.

Section 4. Conditions of Approval

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves Coastal Development Permit No. 05-041, subject to the conditions listed below:

Standard Conditions

1. The applicants and property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Approval of this application is to allow for the construction of a new two-story 5,388 square-foot single-family residence with attached two-car garage, landscaping and hardscape improvements, a jacuzzi, swimming pool, gazebo, two permeable wood decks, partial perimeter fencing, an infinity pool and a new alternative onsite wastewater treatment system. Subsequent submittals for this project shall be in substantial compliance

with the plans date-stamped received by the Planning Division on March 11, 2005. In the event the project plans conflict with any condition of approval, this condition shall take precedence.

3. This permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes, and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Division within 30 days of this decision and prior to the issuance of any development permits.
4. These Conditions of Approval shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental and Building Safety Division for plan check and the City of Malibu Public Works/Engineering Services Department for an encroachment permit (as applicable).
5. The coastal development permit shall be null and void if the project has not commenced within two (2) years after issuance of the permit. Extension to the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent at least two weeks prior to expiration of the two-year period and shall set forth the reasons for the request.
6. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Division Manager upon written request of such interpretation.
7. All structures shall conform to the requirements of the City of Malibu Environmental and Building Safety Division, and to all City Geologist, City Environmental Health Specialist, City Biologist, and Los Angeles County Fire Department requirements, as applicable. Notwithstanding this review, all required permits shall be secured.
8. The applicant shall submit three complete sets of plans to the Planning Division for consistency review and approval prior to the issuance of any building or development permit.
9. The applicant shall request a final planning inspection prior to final inspection by the City of Malibu Environmental and Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Division has determined that the project complies with this CDP. A temporary certificate of occupancy may be granted at the discretion of the Planning Division Manager, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.
10. In the event that potentially important cultural resources are found in the course of geologic testing, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Division Manager can review this information. Thereafter, the procedures contained in Chapter 11 of the LCP and those in Section 17.54.040(D)(4)(b) of the City of Malibu

Municipal Code shall be followed.

11. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.
12. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Division Manager, provided such changes achieve substantially the same results and the project is still in compliance with the Municipal Code and the Local Coastal Program. An application with all required materials and fees shall be required.
13. Violation of any of the conditions of this approval shall be cause for revocation and termination of all rights thereunder.
14. The CDP runs with the land and binds all future owners of the property.
15. All conditions of approval for Plot Plan Review No. 03-152 and Site Plan Review No. 03-052 shall remain in effect. If there is a conflict between conditions, these conditions shall take precedence.

Special Conditions

16. Three (3) sets of revised plans showing compliance with all conditions of approval shall be submitted for review and approval prior to the issuance of a building permit.

Biology/Landscaping

17. Vegetation shall be situated on the property so as not to obstruct significantly the primary view from private property at any time (given consideration of its future growth).
18. Native species of the Santa Monica Mountains, characteristic of the local habitat, shall be used on graded slopes or where slope plantings are required for slope stabilization, erosion control, and watershed protection. Plants should be selected to have a variety of rooting depths. A spacing of 15 feet between large, woody shrubs is recommended by the Los Angeles County Fire Department. No lawns are permitted on slopes greater than 5 percent.
19. Slope planting measures such as contour planting and terracing or other techniques shall be incorporated on slopes to interrupt the flow and rate of surface runoff in order to prevent surface soil erosion.

20. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as, but not limited to, copper arsenate.
21. Prior to the initiation of any vegetation removal or other site preparation activities, the applicant shall verify to the satisfaction of the City Biologist that the trees located on the landscape plan are not native oak trees that are subject to native tree protection under the Local Coastal Program. Should any trees be identified as being subject to protection, they shall be protected in accordance with Chapter 5 of the Local Implementation Plan.
22. All landscaping and notes identified on the approved landscape plan shall be adhered to and are considered conditions of approval by reference.

Site Conditions

23. Where visible from Pacific Coast Highway, the development shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
 - a. Colors shall be compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.

Lighting

24. Exterior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas, including Pacific Coast Highway, public beaches, and/or the Pacific Ocean. Permitted lighting shall conform to the following standards:
 - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height that are directed downward, and use bulbs that do not exceed 60 watts or the equivalent.
 - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 60 watts or the equivalent.
 - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 60 watts or the equivalent.
 - d. Lights at entrances in accordance with Building Codes shall be permitted provided that such lighting does not exceed 60 watts or the equivalent.

- e. Site perimeter lighting shall be prohibited.
- f. Outdoor decorative lighting for aesthetic purposes is prohibited.
- g. Night lighting for sports courts or other private recreational facilities shall be prohibited.
- h. Prior to issuance of the CDP, the applicant shall be required to execute and record a deed restriction reflecting the above restrictions.

Geology

- 25. All recommendations of the consulting Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
- 26. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the Coastal Development Permit or a new Coastal Development Permit

Public Works

- 27. Permission to grade or build within the existing power line easement shall be required prior to the issuance of grading or building permits.
- 28. Any work in Pacific Coast Highway will require a permit from the California Department of Transportation (Caltrans).
- 29. Grading shall not exceed a total of 1,000 cubic yards of non-exempt grading.
- 30. Exported soil from the site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP section 8.3.
- 31. Permission to grade or build within the existing power line easement shall be obtained prior to the issuance of grading or building permits.
- 32. A grading and drainage plan shall be reviewed and approved by the Public Works Department prior to the issuance of grading permits. The plan shall include the following:
 - a. Public Works Department "General Notes"
 - b. The existing and proposed square-footage of impervious coverage on the property,

including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks.

- c. The limits of land to be disturbed during project development shall be delineated and a total area shown. Areas disturbed by grading equipment or shoring beyond the limits of grading shall be shown.
 - d. Any tree requiring protection shall be shown.
 - e. Private storm drain systems shall be shown. Systems with greater than a 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
33. A Wet Weather Erosion and Sediment Control Plan shall be reviewed and approved by the Public Works Department. The following elements shall be included:
- a. Locations where concentrated runoff will occur.
 - b. Plans for the stabilization of disturbed areas of the property, landscaping and hardscape, along with the proposed schedule for installation of the protective measures.
 - c. Location and sizing criteria for silt basins, sandbag barriers, and silt fencing.
 - d. Stabilized construction entrance and a monitoring program for the sweeping of material tracked off-site.
34. A Storm Water Management Plan (SWMP) is required for this project. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the site design and source control best management practices that have been implemented in the design of the project.
35. Storm drainage improvements are required to mitigate increased runoff generated by development of the property consistent with LIP section 17.4.2.B.2.
36. The following shall apply to all pools and spas:
- a. Alternative sanitation methods are required. This may include no chlorine or low chlorine sanitation methods.
 - b. Discharge of chlorinated pool water is prohibited.
 - c. Discharge of non-chlorinated pool water into streets, storm drains, creeks, canyons, drainage channels, or other locations where it could enter receiving waters is prohibited.

Water Quality

37. The revised site plans shall show all easements affecting both private and public properties. The revised site plans shall clearly show the proposed drainage system and any pipes proposed to protect the home from storm runoff.
38. A plan clearly identifying any proposed changes within the Pacific Coast Highway right-of-way shall be submitted. The plan shall identify all proposed improvements, including drainage and other structures in the right-of-way, and the standards to which they will be constructed. If no improvements are proposed, a statement indicating such shall be included on the revised site plans.
39. A SWPPP shall be submitted for review and approval prior to final Public Works approval.
40. A Storm Water Management Plan shall be submitted for review and approval prior to final Public Works approval.
41. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in Chapter 17 of the Malibu LIP.
42. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but not be limited to: Asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.
43. Prior to the issuance of the Certificate of Occupancy, the applicant shall provide the City Public Works Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into material types. The final report shall be approved by the City Public Works Department.

Solid Waste

44. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but not be limited to: Asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.
45. Prior to the issuance of the Certificate of Occupancy, the applicant shall provide the City Public Works Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into material types. The final report shall be approved by the City Public Works Department.

Section 5. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 6th day of June 2005.

JOHN W. SIBERT, Planning Commission Chair

ATTEST:

LISA A. TENT, Planning Commission Secretary

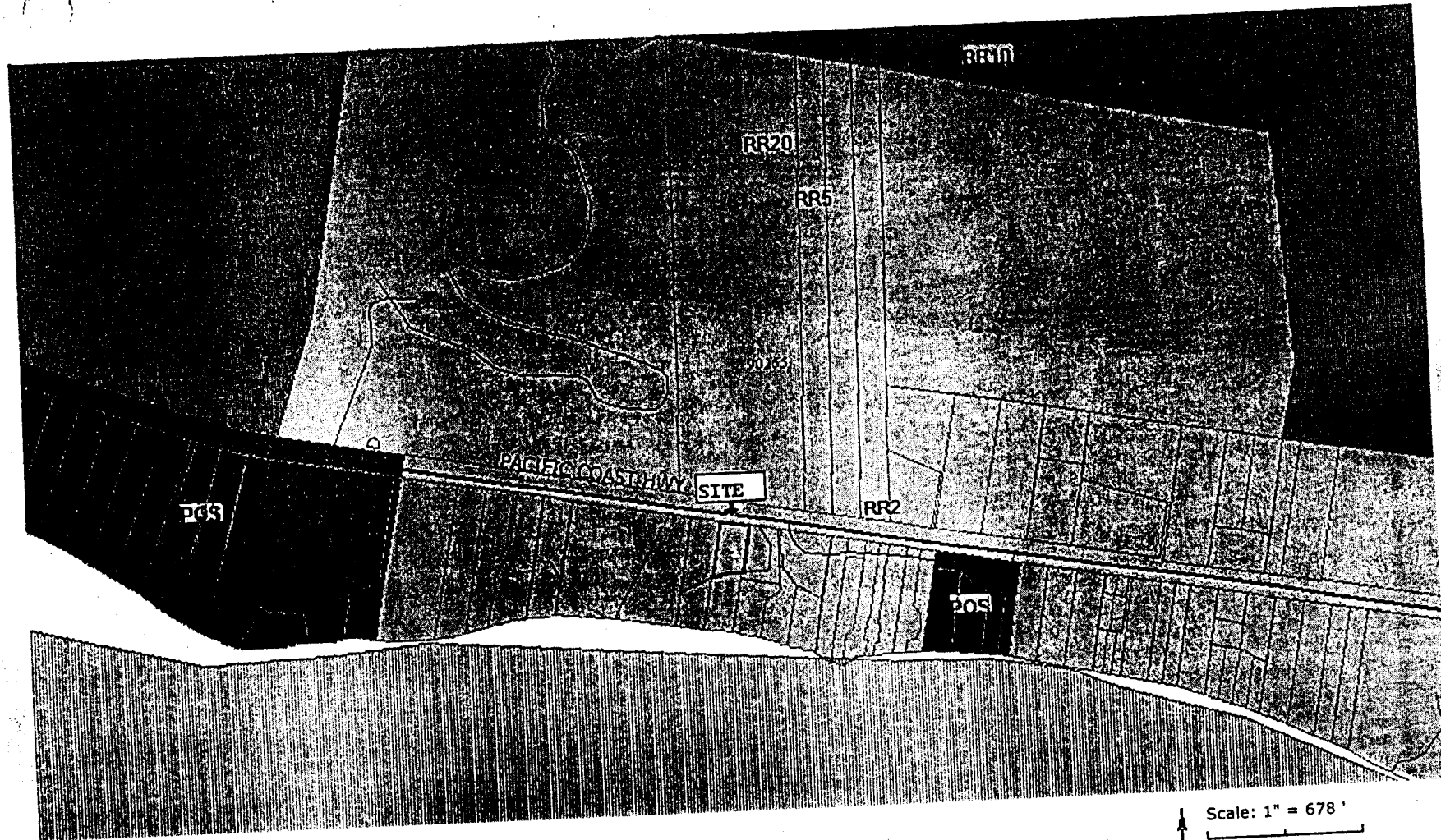
LOCAL APPEAL - The decision of the Planning Commission may be appealed by an aggrieved person to the City Council, within 10 days of the decision, by written statement and upon payment of an appeal fee of \$282.00 for the first finding and \$159.00 for each additional finding. If the appeal period ends on a weekend or holiday, the appeal period shall expire the next business day. Appeal forms may be found online at www.ci.malibu.ca.us or in person at City Hall, or by calling (310) 456-2489 ext. 245.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission's decision to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling 805-585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 05-30 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 6th day of June 2005, by the following vote:

AYES:	0	Commissioners:
NOES:	0	
ABSTAIN:	0	
ABSENT:	0	Commissioners:

LISA A. TENT, Planning Commission Secretary



Scale: 1" = 678'

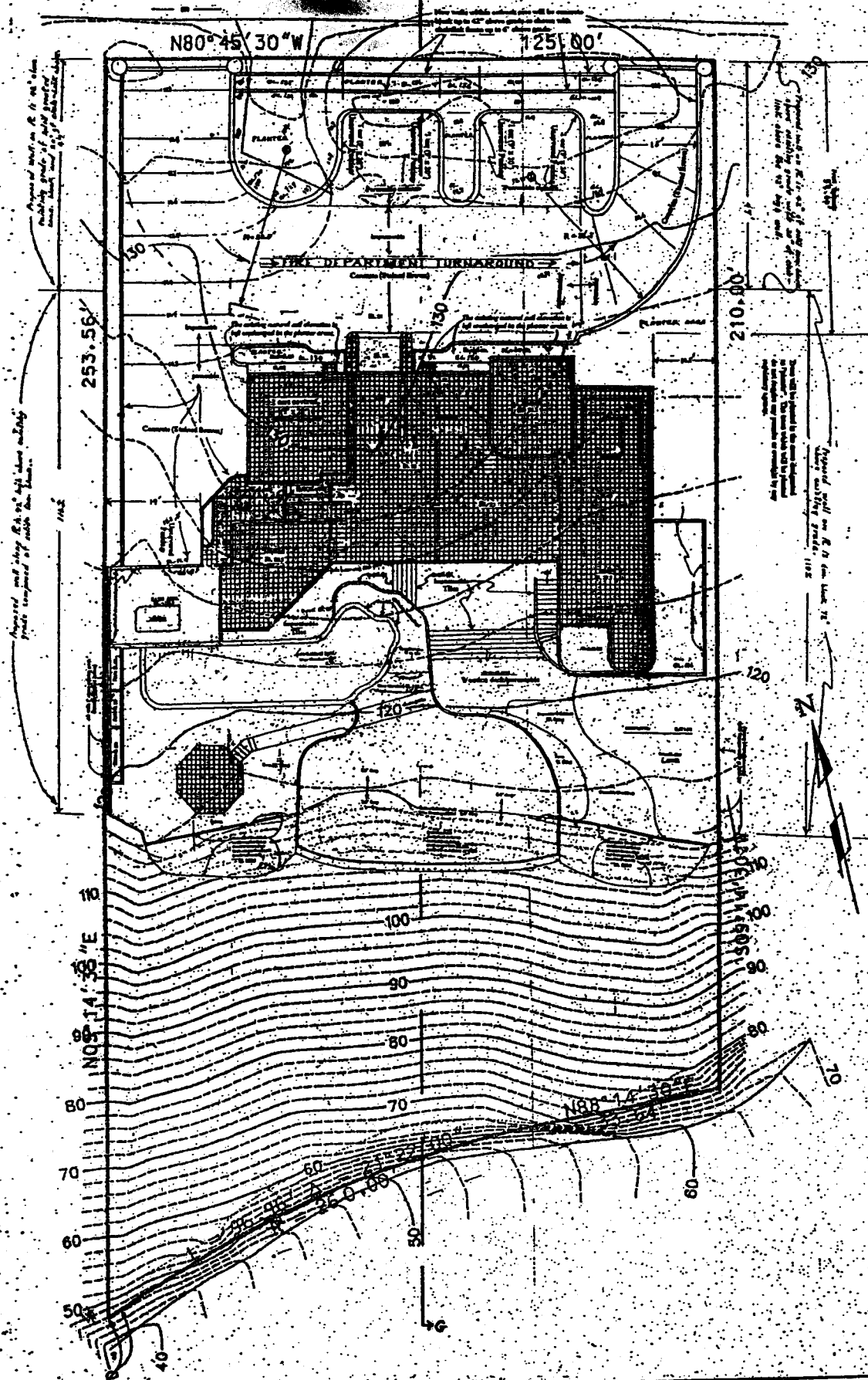
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CityGIS2
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PACIFIC COAST HIGHWAY



Sheet	Index
Sheet A-1	Plot Plan & Grading Plan
Sheet A-2	Basement Plan & Elevation Analysis
Sheet A-3	First Level Plan & Landscape Plan
Sheet A-4	Second Level Plan
Sheet A-5	Road Plan
Sheet A-6	North Elevation & South Elevation
Sheet A-7	East Elevation & West Elevation
Sheet A-8	House Height Analysis
Sheet A-9	Cross-Section Q-Q'
Sheet A-10	Survey and Topographic Map

DATE	APPROVED
DRAWN BY	CHECKED BY
SCALE	DATE
SHEET	
NO.	

Plot Plan & Grading Plan

APPLICANT: *Star Sapphire Designers*
 22771 Pacific Coast Highway, Malibu
 Home location: Aliso Viejo 92653-9212
 Valley of the Sun Pacific Coast Highway, Malibu

STAR SAPPHIRE DESIGNERS
 22771 Pacific Coast Highway, Suite 200
 Malibu, California, 90266

253.56'

120

130

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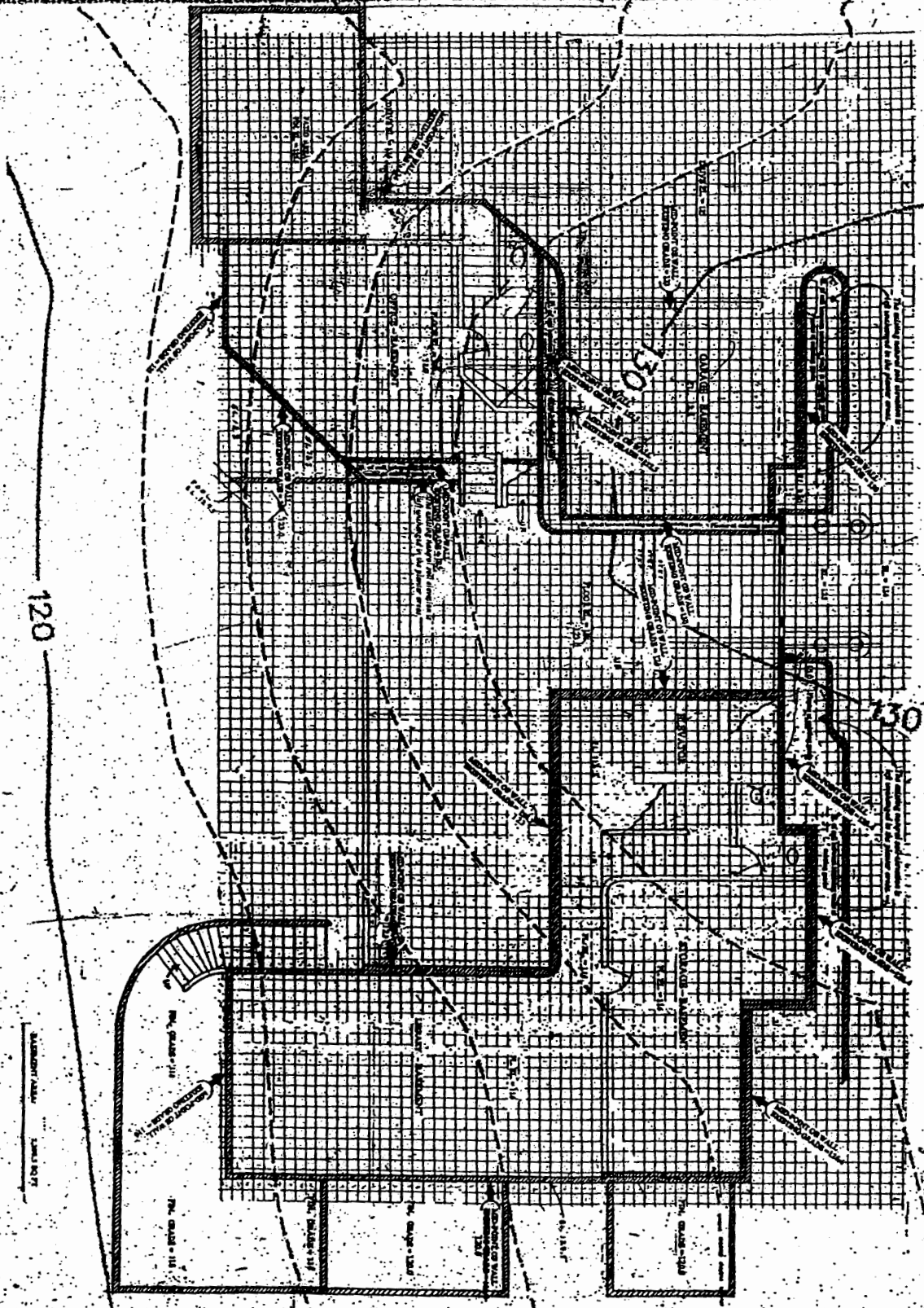
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PROJECT: [Project Name]

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CLIENT	[Client Name]
PROJECT	[Project Name]
LOCATION	[Location]

BASEMENT PLAN & BASEMENT ANALYSIS

APPLICANT: [Company Name]

ADDRESS: [Address]

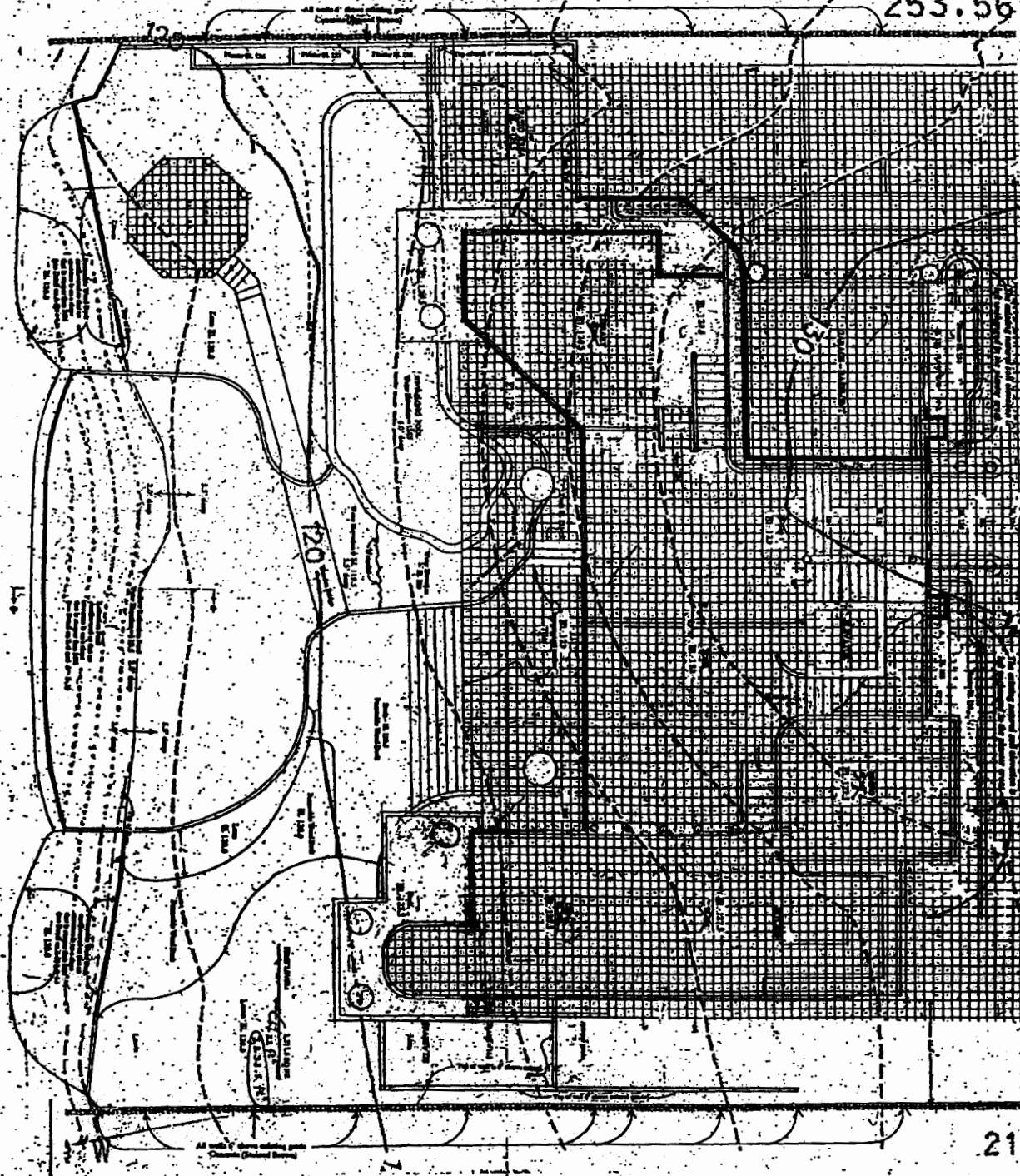
PHONE: [Phone Number]

WEBSITE: [Website]

STAR SAPPHIRE DESIGNERS

21751 Pacific Coast Highway, Suite 200
Malibu, California, 90262

253.56



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FIRST LEVEL PLAN
&
LANDSCAPE PLAN

APPLICANT: Star Sapphire Designers, Inc.
 21761 Pacific Coast Highway, Malibu
 Phone Number: (805) 455-0000
 Vicinity of 21761 Pacific Coast Highway, Malibu



**STAR SAPPHIRE
DESIGNERS**
 21761 Pacific Coast Highway, Suite 200
 Malibu, California, 90265

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IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Paul Huckabee, Senior Planning Consultant, at (310) 456-2489, ext. 276.



VINCENT P. BERTONI, AICP
Interim Planning Division Manager

Publish Date: May 26, 2005

Notice Continued

this project (CEQA Guidelines Section 15300.2).

A written staff report will be available at or before the hearing. Following an oral staff report at the beginning of the hearing, the applicant may be given up to 15 minutes to make a presentation. Any amount of that time may be saved for rebuttal. All other persons wishing to address the Commission will be provided up to three minutes to address the Commission. These time limits may be changed at the discretion of the Commission. At the conclusion of the testimony, the Commission will deliberate and its decision will be memorialized in a written resolution.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the Planning Commission at any time prior to the close of the public hearing.

LOCAL APPEAL - The decision of the Planning Commission may be appealed by an aggrieved person to the City Council within 10 days of the decision, by written statement and upon payment of an appeal fee of \$282.00 for the first finding and \$159.00 for each additional finding. If the appeal period ends on a weekend or a holiday, the appeal period shall expire the next business day. Appeal forms may be found online at www.ci.malibu.ca.us or in person at City Hall, or by calling (310) 456-2489 ext. 245.

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If there are any questions regarding this notice, please contact Paul Huckabee, Senior Consulting Planner, at (310) 456-2489, ext. 276.

Date: May 26, 2005
By: Vincent P. Bartoni, AICP
Interim Planning Division Manager

Notice of Public Hearing



City of Malibu Planning Division
23815 Stuart Ranch Road
Malibu, CA 90265



Planning Division

City of Malibu
23815 Stuart Ranch Road
Malibu, CA 90265
(310) 456-2489 Fax (310) 456-7650

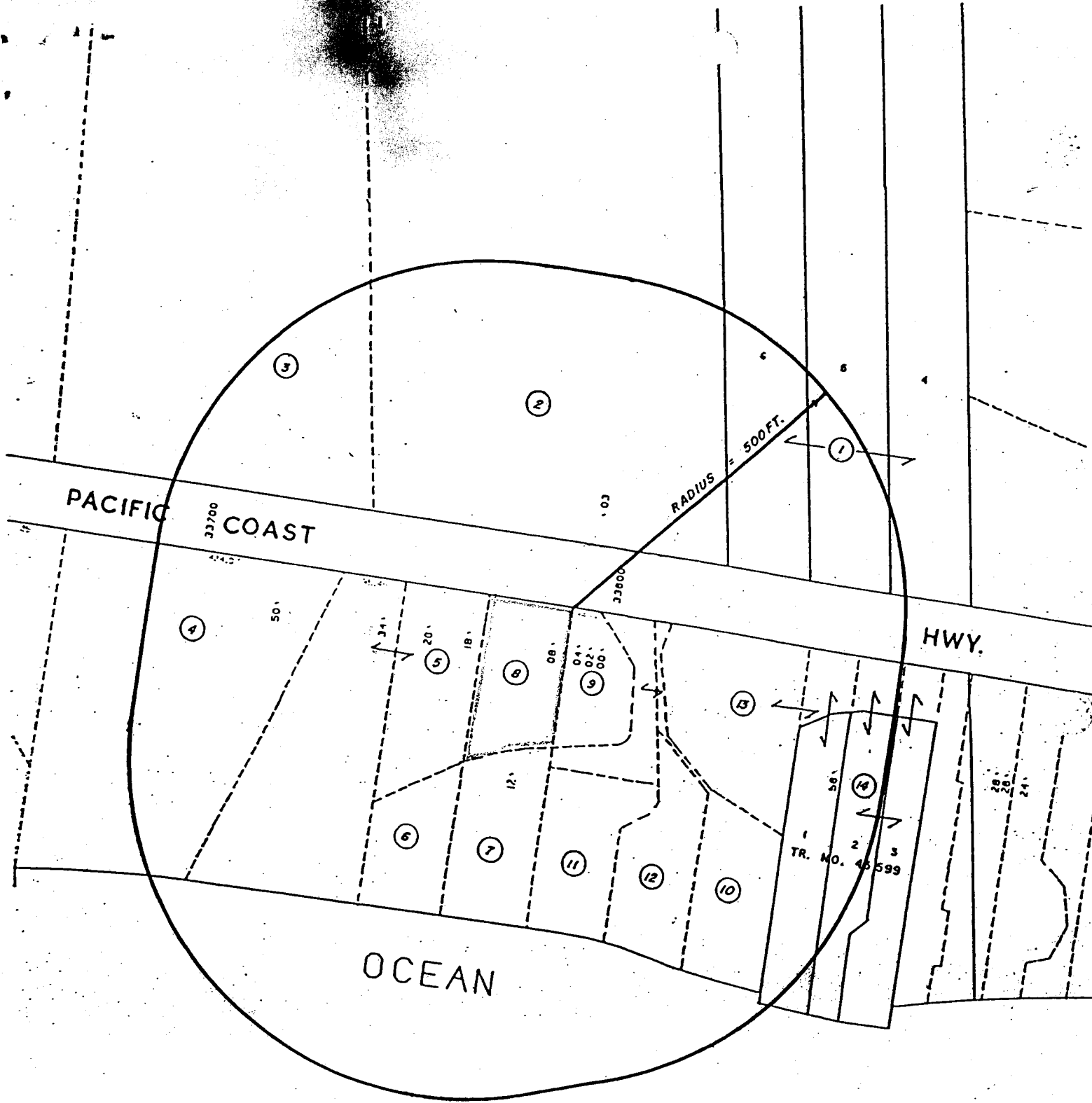
NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on Monday, June 6, 2005, at 6:30 p.m., in the Council Chambers at Malibu City Hall, 23815 Stuart Ranch Road, Malibu, California for the project identified below:

COASTAL DEVELOPMENT PERMIT NO. 05-041 - An application within the coastal zone to allow the construction of a new 5,388 square-foot, two-story, single-family residence with an attached two-car garage and a new alternative onsite wastewater treatment system.

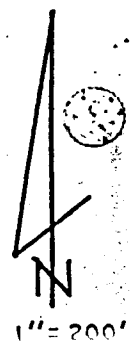
APPLICATION NUMBER: Coastal Development Permit No. 05-041
APPLICATION FILING DATE: March 11, 2005
APPLICANT: Norman Haynie
OWNER: Lechuza Villas West, LLC
LOCATION: 33616 Pacific Coast Highway within the coastal zone (APN: 4473-021-011)
ZONING: Rural Residential - 2 (RR-2)
CITY PLANNER: Paul Huckabee, ext. 276

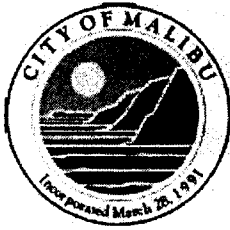
Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Division has analyzed the proposal as described above. The Planning Division has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and therefore, exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION (Class 3) will be prepared and issued pursuant to CEQA Guidelines Section 15303 (a) - New Construction or Conversion of Small Structures. The Planning Division has further determined that none of the six exceptions to the use of a categorical exemption applies to



HERON
 MAPS

13101 317 - 1515
 20756 SEABOARD RD.





LCP Interpretation

Number: 9

Dated: March 28, 2005

Amended: n/a

Planning Manager: Michael M. Teruya

LCP Section: LIP references to Coastal Bluffs

Title: Coastal Bluffs

Issue: What is the definition of a coastal bluff? The LIP provides the following definitions:

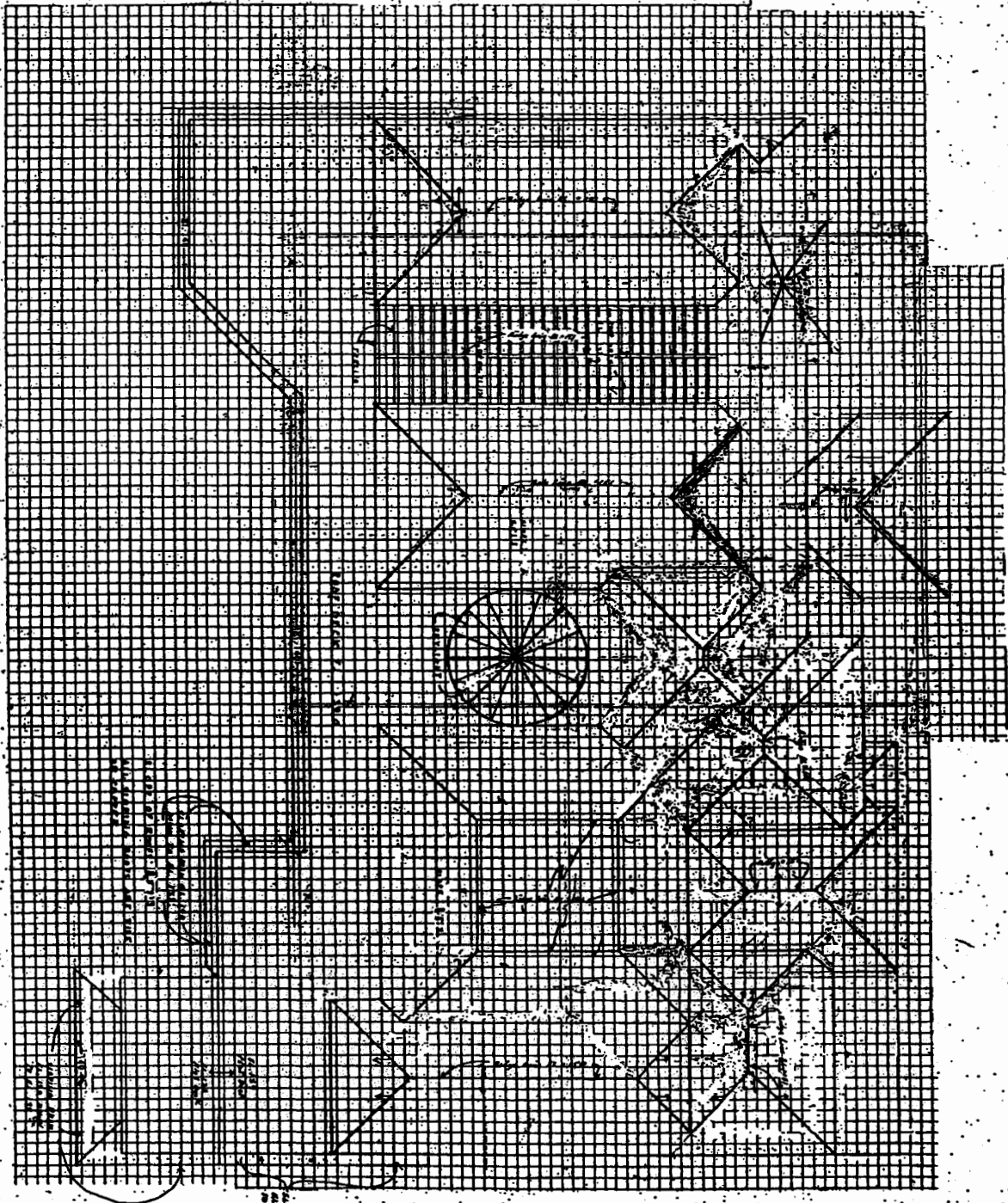
BLUFF EDGE - for coastal and canyon bluffs, the bluff edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff, the bluff edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the bluff edge. Where a coastal bluff curves landward to become a canyon bluff, the termini of the coastal bluff edge, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the coastal bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the canyon facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

CLIFF – any high, very steep to perpendicular or overhanging face of rock, a precipice.

COASTAL BLUFF – a high bank or bold headland, 10 feet or more in vertical extent, with a broad, precipitous, sometimes rounded cliff face overlooking a body of water.

SEA CLIFF – a cliff or slope produced by wave action, situated at the seaward edge of the coast or the landward side of the wave-cut platform, and marking the inner limit of beach erosion.

Interpretation: Any cliff, sea cliff, bluff, or bluff edge that is directly affected by wave action is a "coastal bluff". If there is a road or structures that require, or use, coastal protection, between the "bluff" and the "body of water" then it is not considered a coastal bluff, because at that point it is no longer affected by coastal erosion processes related directly to wave action.



ROOF PLAN

APPLICAND: Star Sapphire Designers, Inc.

46 22761 Pacific Coast Highway, Malibu

Phone Number: (818) 422-4422

Validity of road of Pacific Coast Highway, Malibu

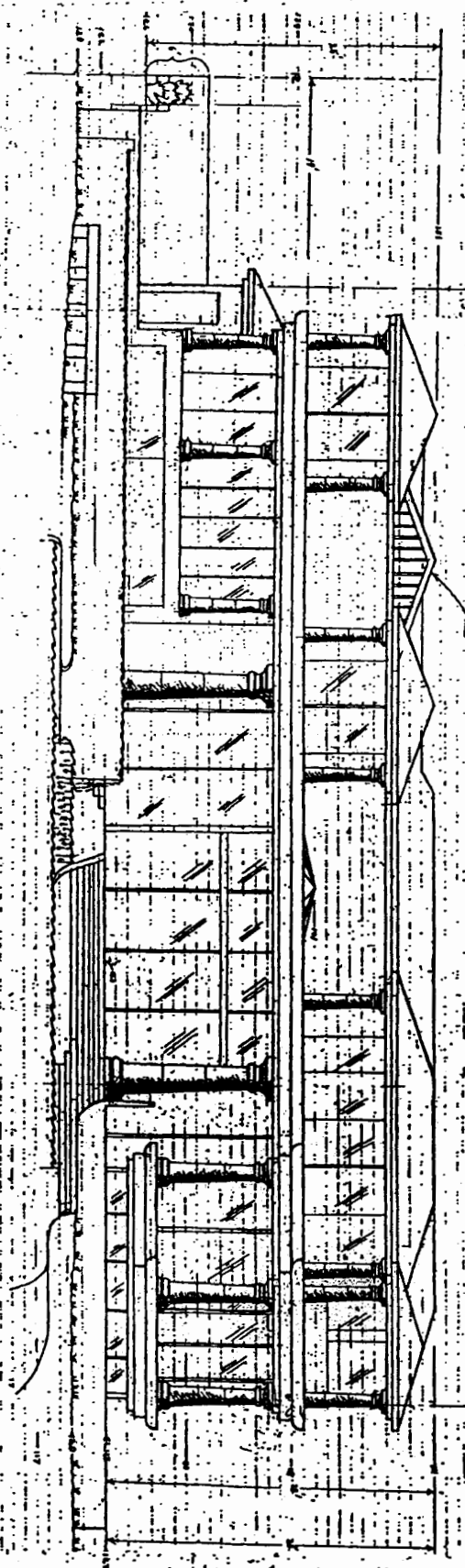


**STAR SAPPHIRE
DESIGNERS**

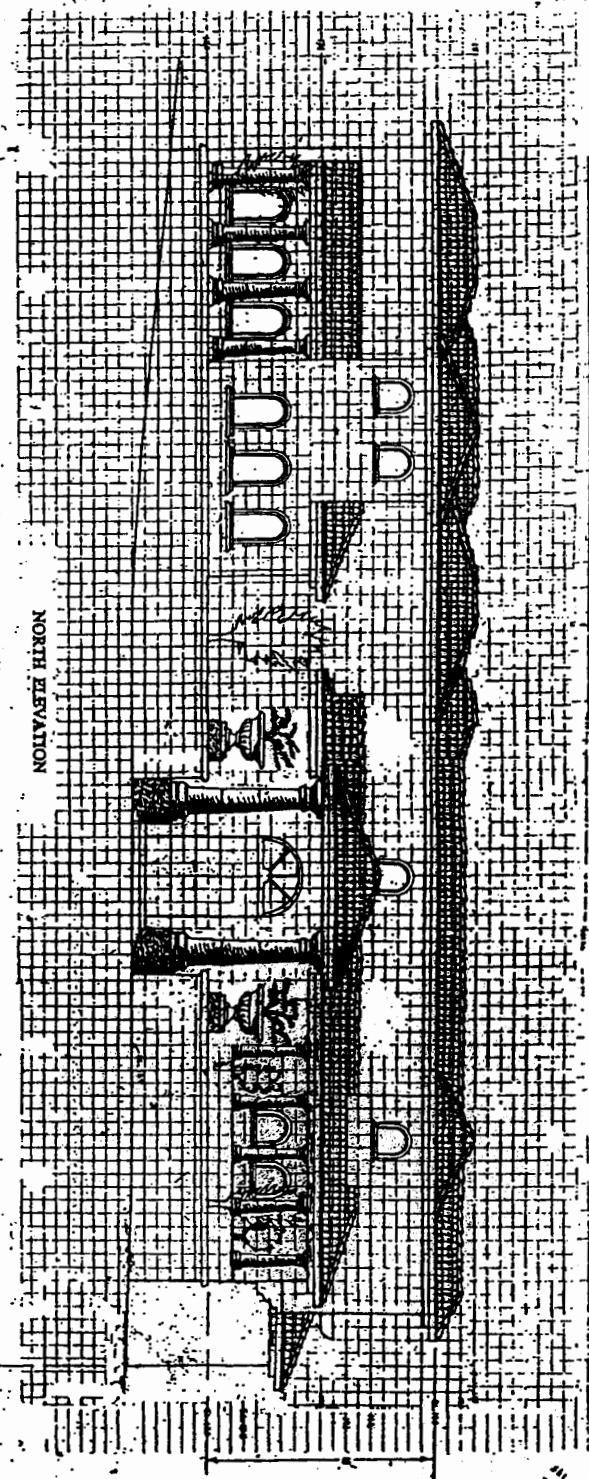
11701 Pacific Coast Highway, Suite 104
Malibu, California, 90262

DATE	SCALE	BY	CHECKED
11-11-81	1/4" = 1'-0"	J.M.	J.M.
REVISIONS			

SOUTH ELEVATION



NORTH ELEVATION



NORTH ELEVATION
&
SOUTH ELEVATION

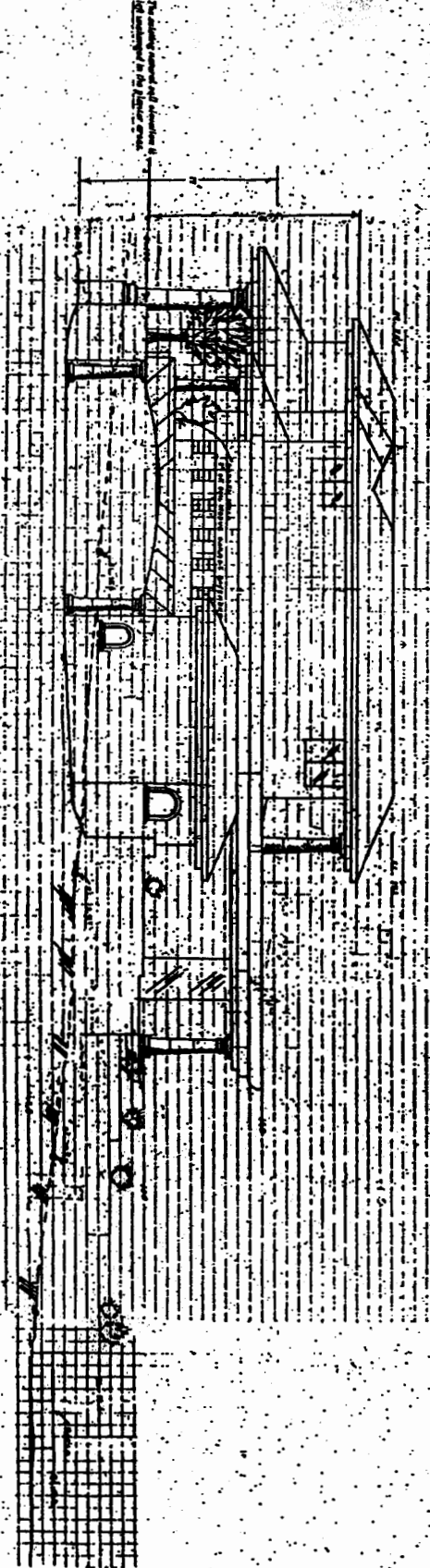
APPLICANT: Star Sapphire Designers, Inc.
46 22761 Pacific Coast Highway, Malibu
Phone Number: 4799 4423-462-466
Validity of 23.36 Pacific Coast Highway, Malibu



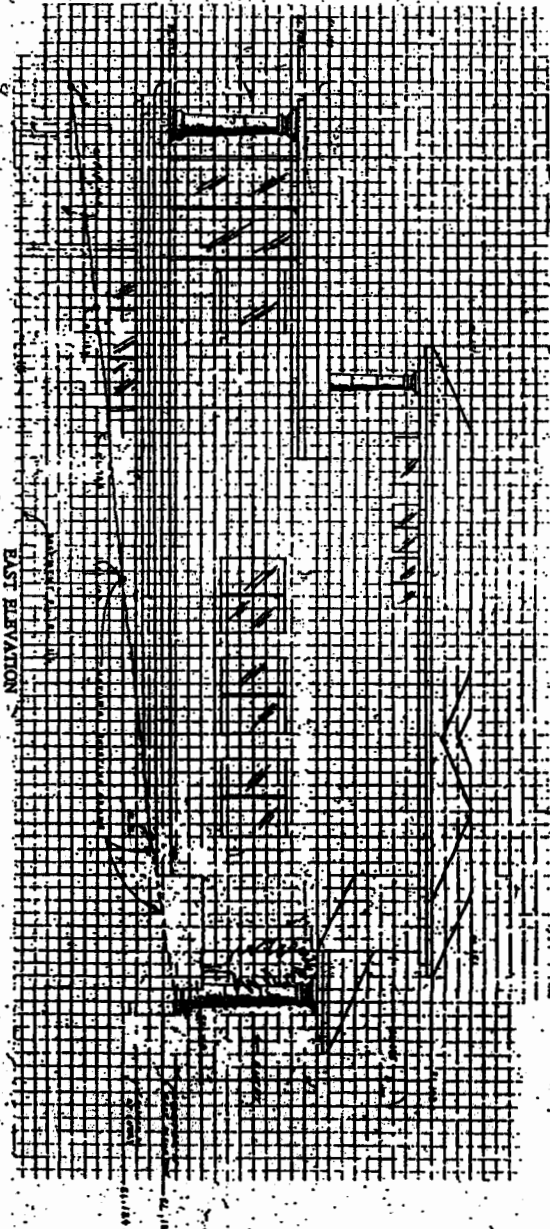
STAR SAPPHIRE
DESIGNERS

22761 Pacific Coast Highway, Suite 200
Malibu, CA 90263

WEST ELEVATION



EAST ELEVATION



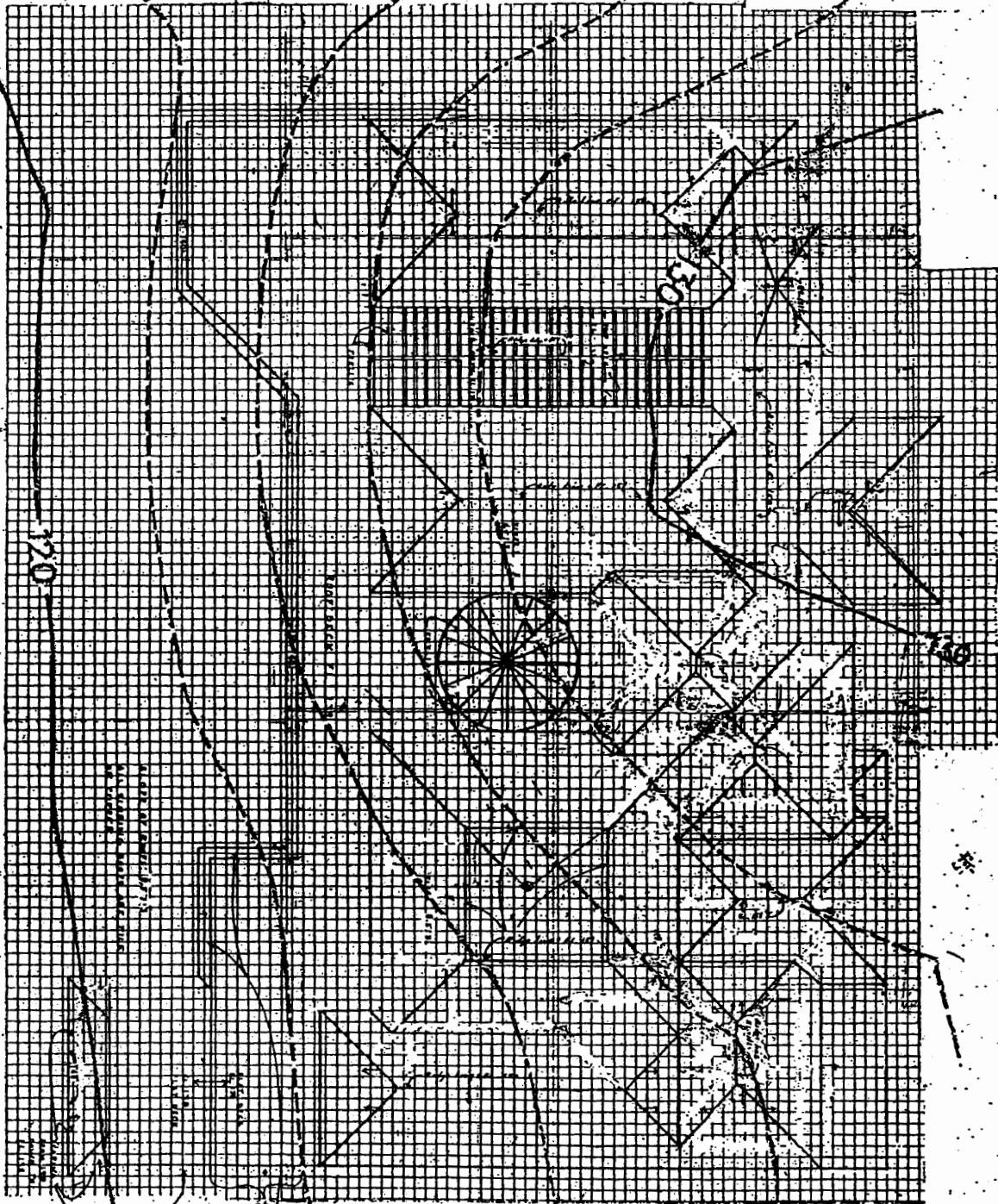
EAST ELEVATION
&
WEST ELEVATION

APPLICANT: **STANISLAV KONIK, INC.**
 22261 Pacific Coast Highway, Malibu
 Phone: 310-425-6888
 22261 Pacific Coast Highway, Malibu



**STAR SAPPHIRE
DESIGNERS**
 2701 Pacific Coast Highway, Suite 204
 Malibu, California, 90263

DATE	
BY	
CHECKED	
APPROVED	
SCALE	
SHEET	A-7

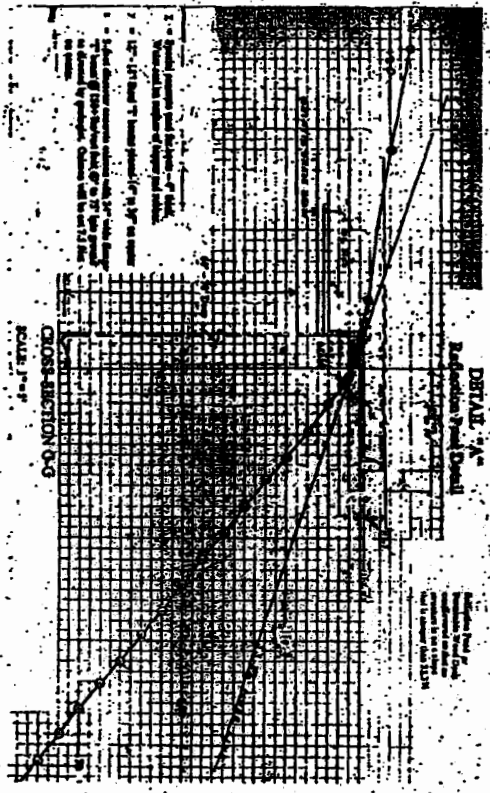


DATE	SCALE	NAME	CHARGE

HOUSE HEIGHT ANALYSIS
 (No portion of the house is higher than 18 feet above the natural grade or any excavated grade, whichever is the lowest).

APPLICANT: **STAR SAPPHIRE DESIGNERS, INC.**
 27781 Pacific Coast Highway, Malibu
 Home location: AIRTEL 442-482-221
 Visiting: 23416 Pacific Coast Highway, Malibu

 **STAR SAPPHIRE DESIGNERS**
 27781 Pacific Coast Highway, Suite 200
 Malibu, California, 90263

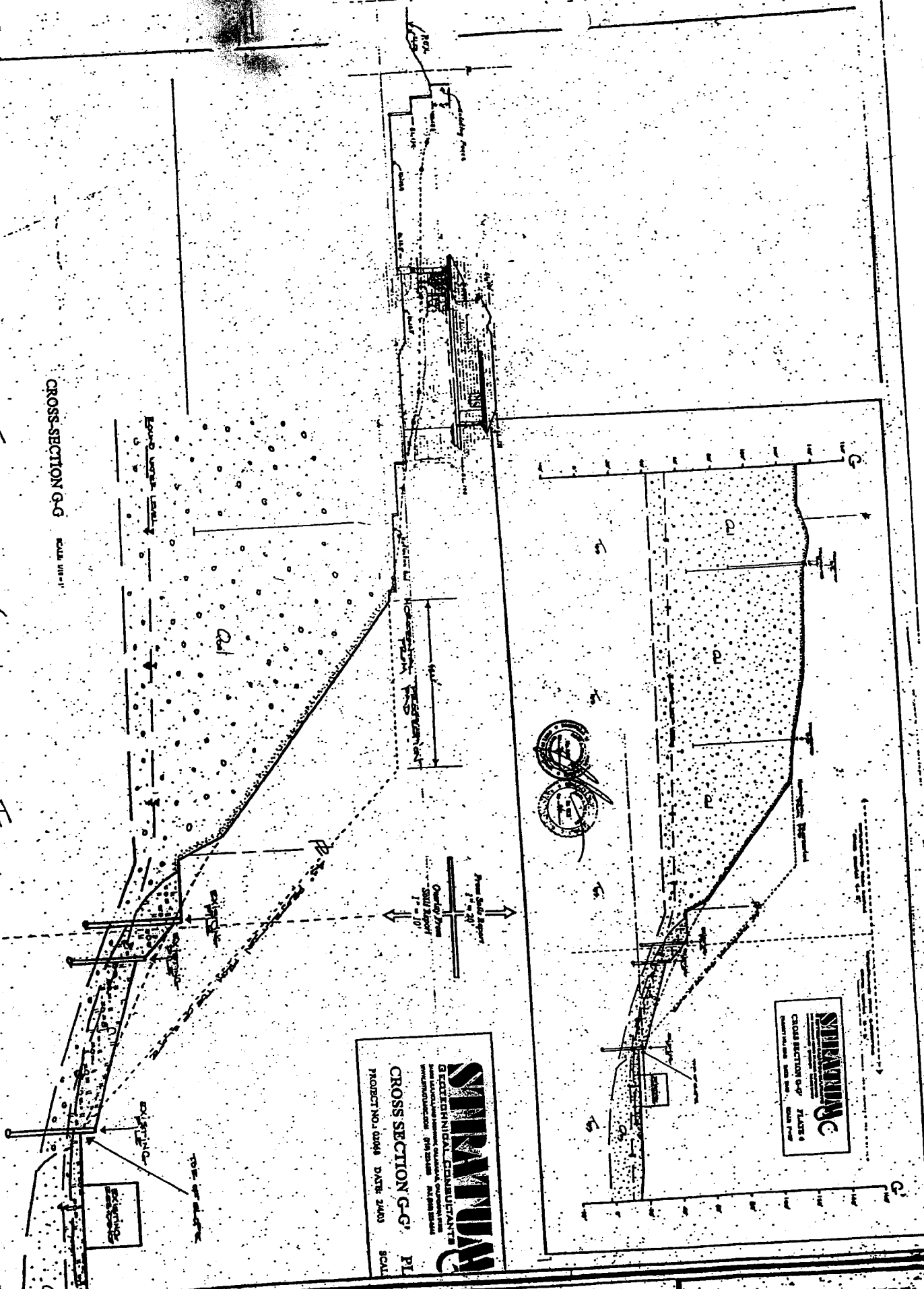
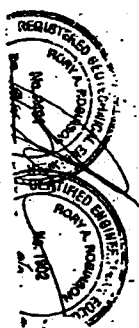


DETAIL "A"
Reflection Post Detail

AMERICAN ROAD & BUILDING MATERIALS, INC.
22741 Pacific Coast Highway, Malibu
Phone: (818) 425-4800
Vicinity of 22741 Pacific Coast Highway, Malibu

 **STAR SAPPHIRE DESIGNERS**
21761 Pacific Coast Highway, Suite 200

CROSS-SECTION G-G SCALE 1/8"=1'-0"



STAR SAPPHIRE
 GEOTECHNICAL CONSULTANTS
 27751 Pacific Coast Highway, Malibu, California 90263
 (818) 224-1111
 PROJECT NO. 0048 DATE: 2/80
 SCALE: P.L.
 CROSS SECTION G-G

STAR SAPPHIRE
 CROSS SECTION G-G PLATE 6
 PROJECT NO. 0048 DATE: 2/80

DATE	
SCALE	1/8"=1'-0"
DRAWN	
CHECKED	
DESIGNED	
APPROVED	

CROSS-SECTION G-G

APPLICANT: *San Gabriel Community Services, Inc.*
 442261 Pacific Coast Highway, Malibu
 (818) 224-1111
 442261 Pacific Coast Highway, Malibu

STAR SAPPHIRE
 DESIGNERS
 27751 Pacific Coast Highway, Suite 100
 Malibu, California, 90263

SECTION 10

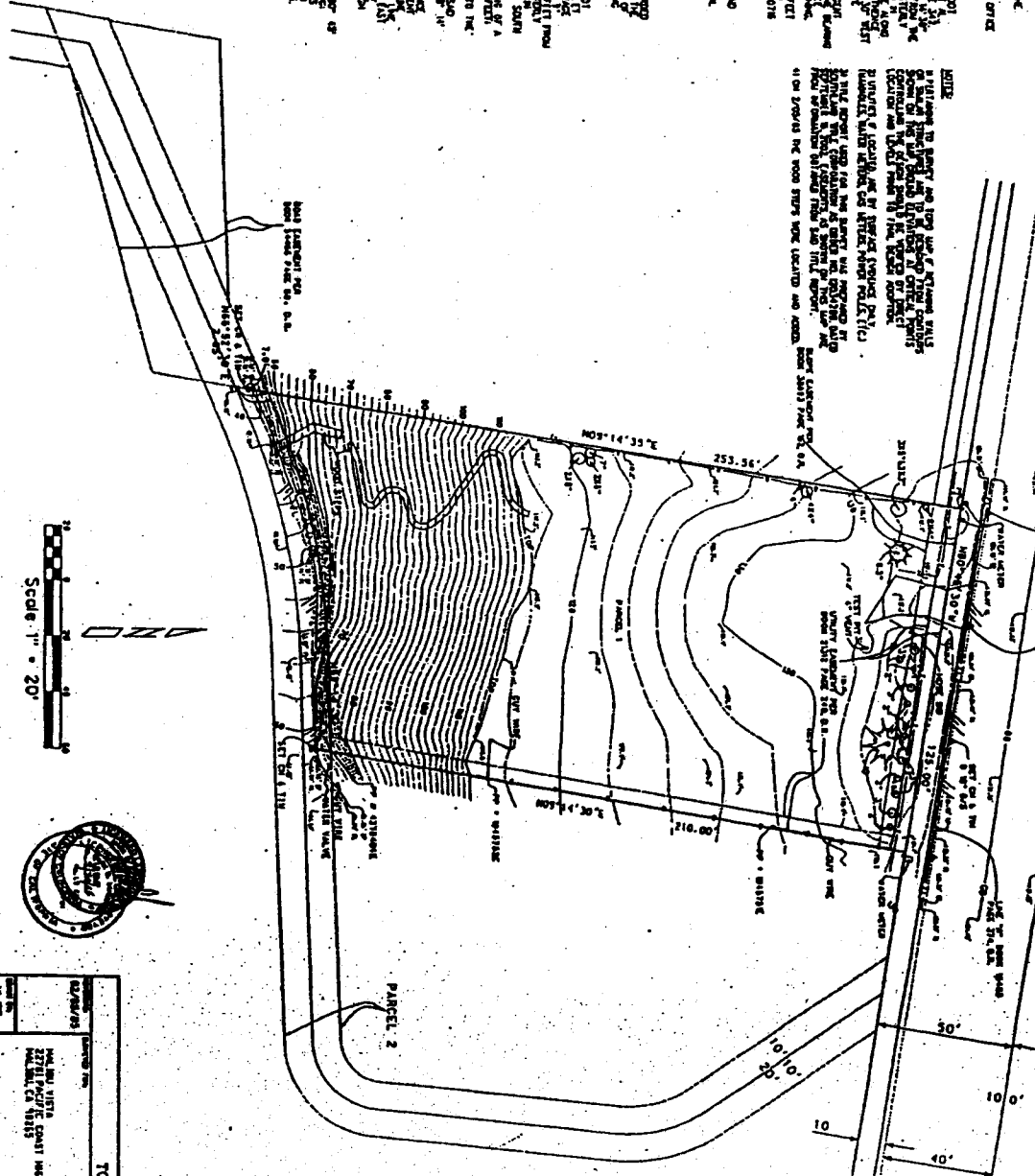
PACIFIC COAST HIGHWAY

DEPARTMENT OF LAND AND NATURAL RESOURCES
ALABAMA
SECTION 10
ALABAMA

RECORDS AT A POINT IN THE SOUTHWEST CORNER OF THE S3/4 CORNER... [Detailed survey data and bearings follow]

PARCEL 1

PARCEL 2



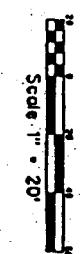
LEGEND

PROPERTY LINE
STREET CENTERLINE
DRAINAGE DITCH
CLUMP (TWP)
STREET CORNER (TWP)
ADJACENT LOTS
BELONG
CHAIN LINK FENCE (CL.F.)
WOOD FENCE
VAULTED ROOF (V.R.)
CONCRETE (CONC.)
WATER TABLE
IRREGULAR CORNER (I.C.)

TOPOGRAPHIC SURVEY

LAND & AIR CONSERVATION
DIVISION OF LAND & WATER RESOURCES
UNIVERSITY OF ALABAMA

- 10 Copies filed
- 2 R.S. x 11



City of Malibu

23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-2489 Fax (310) 456-7650

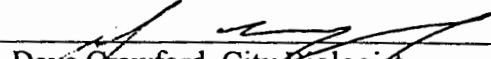
Planning Department

BIOLOGICAL REVIEW

Site Address: 33616 Pacific Coast Highway
Applicant/Phone: Norm Haynie/ 310.456.5515
Project Type: NSFR
Project Number: CDP 05-041
Project Planner: Paul

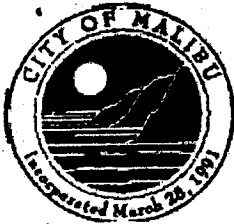
RECOMMENDATIONS:

1. The project is **APPROVED** with the following conditions:
 - A. The Biological Inventory indicates that one small native oak tree – not meeting the criteria as a protected tree – occurs on the subject property. The landscape plan indicates the presence of at least 6 oak trees that will either remain in place or be transplanted. However, no indication of the actual species or size of these trees is provided. Prior to initiation of any vegetation removal or other site preparation activities, please provide verification that the trees indicated on the landscape plan are not native oak trees that are covered under the native tree protection chapter of the LIP.
 - B. All landscaping notes identified on the approved landscape plan shall be adhered to and are considered conditions of approval.
2. **PRIOR TO ISSUING A CERTIFICATE OF OCCUPANCY**, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

Reviewed By: 
Dave Crawford, City Biologist

Date: 4/28/05

310-456-2489 ext.227 (City of Malibu); e-mail dcrawford@ci.malibu.ca.us
Available at Planning Counter Mondays and Thursdays 8:30 a.m. to 12:30 p.m.



City of Malibu

23815 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

Paul
2299

GEOLOGY REVIEW REFERRAL SHEET

TO: City of Malibu City Geologist
FROM: City of Malibu Planning Department

DATE: 3/11/2005

PROJECT NUMBER: CDP 05-041
JOB ADDRESS: 33616 PACIFIC COAST HIGHWAY (33624)
APPLICANT / CONTACT: Norm Haynie, Blue Onyx Design & Engineer
APPLICANT ADDRESS: 22761 Pacific Coast Highway
Malibu, CA 90265
APPLICANT PHONE #: (310)456-5515
APPLICANT FAX #: (310) 456-9821
PROJECT DESCRIPTION: NSFR *Paul Huckabee*

TO: Malibu Planning Department and/or Applicant
FROM: *Mr. Chris Dean, City Geologist*

The project is geologically feasible and CAN proceed through the planning process. *

The project CANNOT proceed through the planning process until geological feasibility is determined. Depending upon the nature of the project, this may require geology and/or geo-technical engineering (soils) reports which evaluate the site conditions, factor of safety, and potential geologic hazards. The following items are required to begin the review process (see attached.)

Chris Dean
SIGNATURE

4/6/05
DATE

Determination of geologic feasibility for planning should not be construed as approval of building and/or grading plans which need to be submitted for Building Department approval. At that time, those plans may require approval of both the City Geologist and Geo-technical Engineer. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review, including requiring geology and geo-technical reports.

Mr. Chris Dean, City Geologist, may be contacted at the Building & Safety Counter Mondays and Thursdays between 8:00 AM and 12:30 PM or by calling (310) 456-2489, extension 306.

Originated: 11/29/04 (gs)

* Provide updated geotechnical report addressing current site conditions and BPC comments in letter dated 8-28-03 (attached). Please pay the balance due. if it is invoice ASAP.



CITY OF MALIBU

FILE COPY

City of Malibu

23815 Stuart Ranch Road, Malibu, California 90265
(310) 456-CITY, x236 Fax (310) 456-7650

City geotechnical staff

PLANNING REVIEW

GEOLOGY AND GEOTECHNICAL ENGINEERING REVIEW SHEET

Guidelines for geotechnical reports (dated February 2002) are available on the City of Malibu web site: <http://www.ci.malibu.ca.us/index.cfm?fuseaction=nav&navid=30>. All geotechnical reports, including update reports, submitted with a date of February 1, 2002 or later will be reviewed for compliance with these guidelines.

Site Address: 33624 Pacific Coast Highway	Date: August 28, 2003
Lot/Tract/PM #: n/a	City Log #: 2299
Applicant/Phone #: Norman R. Haynie/456-5515	BYA Project #: 49.17691.0001
Architect/Engineer: Star Sapphire Designers	Planning #: PPR 03-079
Project Type: New two level single family residence with basement (3,211.5 square foot first floor, 2,134 square foot second floor, 2,398.5 square foot basement), drainage, grading	BPC/GPC #: n/a

Geotechnical Engineer: Stratum Geotechnical, Inc. (Robinson, GE 2491)
 Geotechnical Report(s) dated: 8-15-03, 2-4-03
 Previous Geotechnical Reviews dated: 7-24-03
 Engineering Geologist: Stratum Geotechnical, Inc. (Robinson, CEG 1902), GeoPlan, Inc. (Merrill, CEG 83)
 Geologic Report(s) dated: 8-15-03; 3-11-03, 1-7-03
 Previous Geology Reviews dated: 7-24-03

Recommendation:

APPROVED "in concept" in the **PLANNING** stage. The Project Geotechnical Consultants and applicant shall address the following comments prior to Building plan check stage approval (See "Items to be Addressed" below).

Items to be Noted by Applicant:

1. NOTICE: *Grading in excess of 1,000 cubic yards is prohibited by the City of Malibu Municipal Code Section 17.40.040(A)(9). This includes grading for, but is not limited to, primary and accessory structures, driveways and parking areas, swimming pools, retention basins, building pads and other similar development areas. If your project changes so that more than 1,000 cubic yards of grading is involved, it will not be approved. For specific information please contact the Planning Department.*
2. Please contact Roberta Morowitz at ext. 231 in the Building and Safety Department regarding the assignment of an address for the property. Applies

Items to be Addressed by Project Geotechnical Consultant Prior to Building Plan Check Stage Approval:

1. The Project Geotechnical Consultant's shall provide stress strain curves for all the shear strength data specified in the slope stability analyses, and specify the strain rate used in the tests. In addition, please provide a statement about GeoSystems shear strength data. This item was not addressed in the previous review.

Items to be Addressed by Applicant or Project Civil Engineer Prior to Building Plan Check Stage Approval:

1. Clearly depict the name, address, and phone number of the Project Geotechnical Consultants on the cover sheet of the grading, building, swimming pool, and retaining wall plans.
2. The foundation plans and foundation details for the swimming pool, retaining walls, and residence shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Project Geotechnical Consultant's recommendations.
3. Foundation setback distances from descending slopes shall be in accordance with Section 1806.5 of the Building Code, or the requirements of the Project Geotechnical Consultant's recommendations, whichever are more stringent. Please clearly depict the required minimum foundation setback distances on the foundation plans, as applicable.
4. The building plans for the proposed swimming pool, pond, and water features shall clearly depict the Project Geotechnical Consultant's recommended gravel subdrain and non-erosive outlet.
5. Please clearly depict the retaining wall backdrain design and backfill as recommended by the Project Geotechnical Consultant on the plans as details or notes.
6. Please clearly depict the City of Malibu Environmental Health Specialist's approved location of the private sewage treatment system on the site plan.
7. The Project Geotechnical Consultant's landscaping recommendations shall be included as notes and details on the plans
8. Please contact the Department of Building and Safety regarding the submittal requirements for a grading and drainage plan review.
9. A comprehensive site drainage plan incorporating the Project Geotechnical Consultant's recommendations shall be included in the plans. Please depict all area drains and outlets and surface non-erosive drainage devices on the plans. Water shall not be allowed to flow uncontrolled over descending slopes.
10. Proposed retaining walls separate from the residence will require separate permits. Please contact the Building and Safety Department regarding this matter. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.
11. The grading plan shall clearly depict the limits and depths of overexcavation.
12. An as-built report prepared by the Project Geotechnical Consultant documenting the installation of the pile foundation elements shall be submitted to the City for review by the City Geologist and Geotechnical Engineering Reviewers prior to final approval of the project. The report shall include

detailed geologic logs of the pile excavations, including total depth or tip elevation, depth into the recommended bearing material, and depth to groundwater, as well as an as-built map depicting the piles and grade beams. This comment must be included as a note on the plans.

13. Prior to final approval of the project, an as-built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the results of all density tests as well as a map depicting the limits of fill, locations of all density tests, locations and elevations of all removal bottoms, locations and elevations of all keyways and back drains, and locations and elevations of all retaining wall backdrains and outlets. Geologic conditions exposed during grading must be depicted on an as-built geologic map. This comment must be included as a note on the grading plans.
14. Please include the following note on the foundation plans and details: *"All foundation excavations must be observed and approved by the Project Engineering Geologist or Project Geotechnical Engineer prior to placement of reinforcing steel."*
15. One set of grading, retaining wall, swimming pool, and residence plans incorporating the Project Geotechnical Consultant's recommendations and items in this review sheet must be submitted to City geotechnical staff for review. Additional concerns may be raised at that time which may require a response by the Project Consultants and Applicant.

Reviewed by Jeffrey T. Wilson Date: 8-28-03
Jeffrey T. Wilson, C.E.G. #2193, Exp. 7-31-05
Assistant City Geologist

Reviewed by Lauren J. Boyel Date: 8-28-03
Lauren J. Boyel, R.C.E. # 61337, Exp. 6-30-05
Engineering Reviewer

Bing Yen & Associates, Inc.
2310 East Ponderosa Drive, Suite 1
Camarillo, California 93010
(805) 383-0064 (Camarillo office)
(310) 456-2489, x236 (City of Malibu)



City of Malibu

23815 Stuart Ranch Road
 Malibu, California 90265
 (310) 456-2489 Fax (310) 456-7650

GEOTECHNICAL REVIEW FEE FORM

PROJECT OWNER/APPLICANT: Norm Haynie

PROJECT ADDRESS: 33616 Pacific Coast Highway

GEOTECHNICAL LOG NO: 2299

PLANNING NO: CDP 05-041 (PPR 03-079)

PLAN CHECK NO: _____

ITEM	STATUS	DATE	DEPOSIT	CHARGE	BALANCE	COMMENTS
DEPOSIT BY: Norm Haynie		7/10/03	\$1,250.00		\$1,250.00	
CITY ADMINISTRATIVE FEE	7/10/2003			\$250.00	\$1,000.00	
Planning review	Response Required	7/24/03		\$1,085.00	(\$85.00)	
Supplemental Deposit		8/14/03	\$1,335.00	\$0.00	\$1,250.00	
Meeting at City Hall		8/7/03		\$237.50	\$1,012.50	
Planning review	Approved	8/28/03		\$975.00	\$37.50	
CDP 05-041	Approved	4/6/05		\$328.75	(\$291.25)	items to Address in BPC
REFUND DUE APPLICANT						REFUND # _____
BALANCE DUE CITY OF MALIBU					\$ 291.25	CHECK # _____

NOTES:

\$1,250.00 Deposit required Geology AND Soils Review
 \$625.00 Deposit required Geology OR Soils Review ONLY
 \$XXX.XX Indicates Positive deposit balance
 (\$XXX.XX) Indicates Negative balance, supplemental deposit required before further review.

DEPOSITS

PROJECTS REQUIRING AS-BUILT REVIEWS MAY REQUIRE ADDITIONAL FEE DEPOSIT

P.H.



City of Malibu

23815 Stuart Ranch Rd., Malibu, California CA 90265-4861
(310) 456-2489 FAX (310) 456-7650

PUBLIC WORKS REVIEW REFERRAL SHEET

TO: Public Works Department
FROM: Planning Division

DATE: 3/11/2005

PROJECT NUMBER: CDP 05-041

JOB ADDRESS: ~~33616 PACIFIC COAST HIGHWAY~~

APPLICANT / CONTACT: Norm Haynie, Blue Onyx Design & Enginee

APPLICANT ADDRESS: 22761 Pacific Coast Highway
Malibu, CA 90265

APPLICANT PHONE #: (310)456-5515

APPLICANT FAX #: (310) 456-9821

PROJECT DESCRIPTION: NSFR

Malibu Planning Division

From: Public Works Department

The following items described on the attached memorandum shall be addressed and resubmitted.

The project was reviewed and found to be in conformance with the City's Public Works and LCP policies and CAN proceed through the Planning process. *Subject to the attached conditions*

Eliy L. Kyle
SIGNATURE

4/5/05
DATE

RECEIVED
CITY OF MALIBU

MAR 16 2005

Public Works
Department



City of Malibu

MEMORANDUM

To: Planning Department
From: Public Works Department
Date: April 5, 2005
Re: Proposed Conditions of Approval for CDP 05-041, 33616 Pacific Coast Highway

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan and the City's Municipal Code can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

- The project proposes grading. Sections 8.3 of the LIP allows up to 1,000 cubic yards of combined cut and fill on a residential lot or 1,000 cubic yards of combined cut and fill per acre on a commercial Development. The "grading plan" is of little value for reviewing this project. When the real grading plan is submitted the volume limits will be verified.
- Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with section 8.3.
- Permission to grade or build within the existing power line easement will be required prior to the issuance of grading or building permits.
- A Grading and Drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.
 - Public Works Department General Notes
 - The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
 - The limits of land to be disturbed during project development shall be delineated on the Grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment or shoring beyond the limits of grading shall be included within the area delineated.
 - If the property contains trees that are to be protected they shall be highlighted on the grading plan.
 - If the property contains rare and endangered species as identified in the Resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.



April 5, 2005

- Private storm drain systems shall be shown on the Grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
- A Wet Weather Erosion and Sediment control plan is required for this project (grading or construction activity is anticipated to occur during the rainy season). The following elements shall be included:
 - Locations where concentrated runoff will occur.
 - Plans for the stabilization of disturbed areas of the property, landscaping and hardscape, along with the proposed schedule for the installation of protective measures.
 - Location and sizing criteria for silt basins, sandbag barriers, and silt fencing.
 - Stabilized construction entrance and a monitoring program for the sweeping of material tracked off site.
- A Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading permits for the project. This plan shall include:
 - Dust Control Plan for the management of fugitive dust during extended periods without rain.
 - Designated areas for the storage of construction materials that do not disrupt drainage patterns or subject the material to erosion by site runoff.
 - Designated area for the construction portable toilets that separates them from storm water runoff and limits the potential for upset.
 - Designated areas for disposal and recycling facilities for solid waste separated from the site drainage system to prevent the discharge of runoff through the waste.
- A Storm Water Management Plan (SWMP) is required for this project. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design (page 283-4 LCP) and Source control (PAGE 284 LCP) Best Management Practices (BMP's) that have been implemented in the design of the project.
- Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within section 17.4.2.B.2.
- Geology and Geotechnical reports shall be submitted with all applications for plan review to the Public Works Department. Approval by Geology and Geotechnical Engineering shall be provided prior to the issuance of any permit for the project. The Developers Consulting Engineer shall sign the final plans prior to the issuance of permits.

The Planning Department is notified that the project could:

1. result in increased impervious surfaces and associated increased runoff.
2. result in increased erosion downstream.



April 5, 2005

- POOLS AND SPAS

- Alternative sanitation methods are required for all pools and spas. This may include no chlorine or low chlorine sanitation methods.
- Prohibit the discharge of chlorinated pool water.
- Prohibit discharge of non-chlorinated pool water into streets, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters.





City of Malibu

23815 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-7650

FIRE DEPARTMENT REVIEW REFERRAL SHEET

TO: Los Angeles County Fire Department

DATE: 3/11/2005

FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 05-041

JOB ADDRESS: 33616 PACIFIC COAST HIGHWAY

APPLICANT / CONTACT: Norm Haynie, Blue Onyx Design & Engine

APPLICANT ADDRESS: 22761 Pacific Coast Highway
Malibu, CA 90265

APPLICANT PHONE #: (310)456-5515

APPLICANT FAX #: (310) 456-9821

PROJECT DESCRIPTION: NSFR

TO: Malibu Planning Department and/or Applicant

FROM: Mr. Pat Askren, Fire Prevention Engineering Assistant

The project DOES require Fire Department Plan Check and Developer Fee.

The project DOES NOT require Fire Department Plan Check.

The project shall provide a 20 foot wide Access Driveway and Safety Vehicle Turn-around.

The project requires Interior Fire Sprinklers. *To be determined by*

The project requires 1,250 gallons per minute Fire Flow at 20 pounds per square inch for a 2 hour duration.

Fire Department approval of a Final Fuel Modification Plan is required prior to City building permit issuance.


SIGNATURE

4/13/05
DATE

Additional requirements/conditions may be imposed upon review of plan revisions.

Mr. Pat Askren, Fire Prevention Engineering Assistant, may be contacted at the Fire Department Counter Monday - Thursday between 8:00 AM and 5:00 PM, or by phone at (310) 317-1351.

Originated: 8/10/99 (ddp)



City of Malibu

23555 Civic Center Way, Malibu, California CA 90265-4804
(310) 456-2489 FAX (310) 456-3356

COASTAL ENGINEERING REVIEW REFERRAL SHEET

CDP 05-041

TO: City of Malibu Coastal Engineer
FROM: City of Malibu Planning Department

DATE: 3/11/2005

PROJECT NUMBER: CDP 05-041
JOB ADDRESS: 33616 PACIFIC COAST HIGHWAY
APPLICANT / CONTACT: Norm Haynie, Blue Onyx Design & Engineer
APPLICANT ADDRESS: 22761 Pacific Coast Highway
Malibu, CA 90265
APPLICANT PHONE #: (310)456-5515
APPLICANT FAX #: (310) 456-9821
PROJECT DESCRIPTION: NSFR *on top of coastal bluff -*

*Planner
PA*

TO: Malibu Planning Department and/or Applicant
FROM: Lauren Doyel, Coastal Engineering Reviewer

*no protective structures,
no drainage allowed
structures allowed over
bluff.*

The project is consistent with Coastal Engineering aspects of the General Plan shoreline protection policies and CAN proceed through the Planning process.

The project CANNOT proceed through Planning until Coastal Engineering feasibility is determined. Depending upon the nature of the project, this may require Coastal Engineering reports which evaluate the stability of proposed improvements and shoreline processes. The following item is required to begin the review process:

③ Coastal Geotechnical Report, plus Review Deposit (\$625)

Lauren Doyel
SIGNATURE

4/5/05
DATE

Determination of Coastal Engineering feasibility is not approval of building and/or grading plans. Plans and/or reports must be submitted for Building Department approval, and may require approval of both the City Geologist, City Geotechnical Engineer, and City Coastal Engineer. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review. Geology and geotechnical reports may also be required.

Lauren Doyel, Coastal Engineering Reviewer, may be contacted at the Building & Safety Counter Thursdays between 8:00 AM and 12:30 PM or leave a message at (310) 456-2489, extension 306 or (805) 383-0064.

Originated: 11/29/04 (gs)

all structures above 100ft. elevation

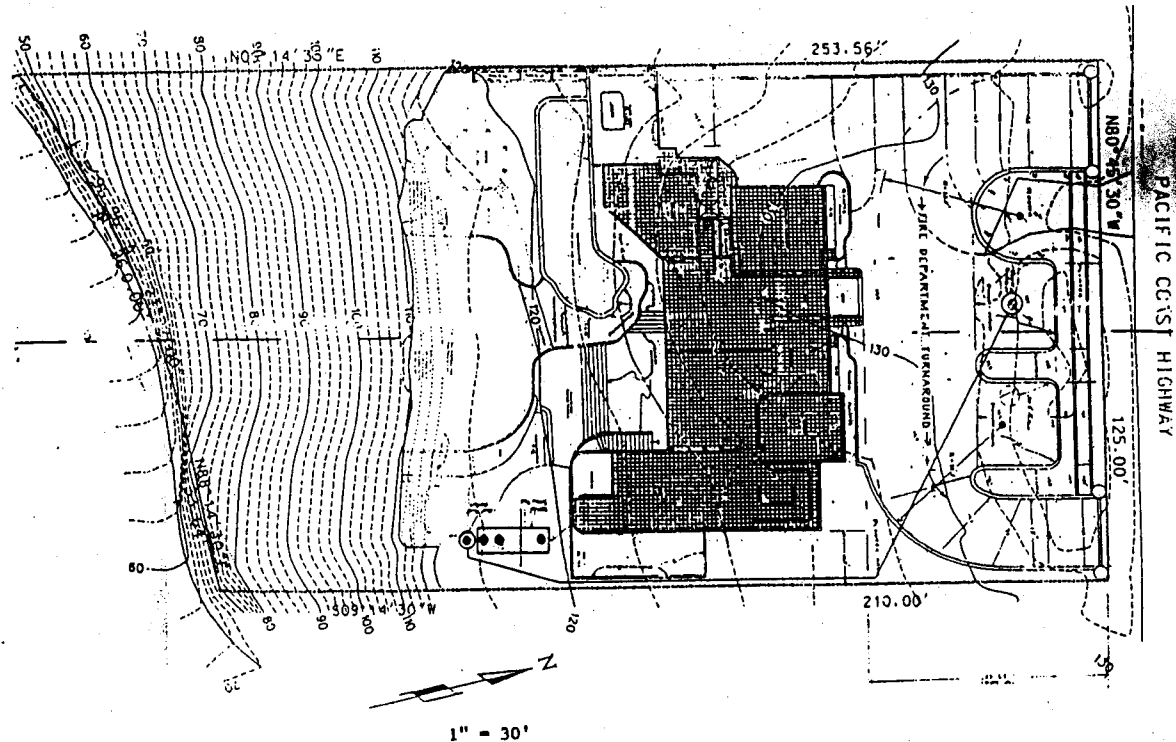
33616 PF COAST HWY.
MALIBU, CA 90265

S.F.D.: 3 Bedroom/63 Fixture Units (N)
TREATMENT TANK: 3436 Gallon MicroSeptec ES12 (N)
ACTIVE: 1 - 6' X 41' BI w/4' Cap (N)
FUTURE: 100%
PERC RATE: 9750 gpd/12.62 gpcsf

NOTES:

1. This conformance review is for a 3 bedroom (63 fixture units) single family dwelling. The alternative onsite wastewater treatment system shown conforms to the requirements of the City of Malibu Plumbing Code (MPC), and the Local Coastal Plan (LCP).
2. This review only relates to the the minimum requirements of the MPC, and the LCP, and does not include an evaluation of any geological, or other potential problems, which may require an alternative method of wastewater treatment.
3. This review is valid for one year, or until MPC, and/or LCP, and/or Administrative Policy changes render it noncomplying.

CITY OF MALIBU ENVIRONMENTAL HEALTH
CONFORMANCE REVIEW
SIGNATURE APR 05 2005 <i>L. Young</i>
THIS IS NOT AN APPROVAL. FINAL APPROVAL IS REQUIRED PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMITS.



**NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION**

The Malibu Planning Commission will hold a public hearing on **MONDAY, June 6, 2005, at 6:30 p.m. in the Council Chambers, Malibu City Hall, 23815 Stuart Ranch Road, Malibu, CA**, for the project identified below.

COASTAL DEVELOPMENT PERMIT NO. 05-041 - An application within the coastal zone to allow the construction of a new 5,388 square-foot, two-story, single-family residence with an attached two-car garage and a new alternative onsite wastewater treatment system.

APPLICATION NUMBER:	Coastal Development Permit No. 05-041
APPLICATION FILING DATE:	March 11, 2005
APPLICANT:	Norman Haynie
OWNER:	Lechuza Villas West, LLC
LOCATION:	33616 Pacific Coast Highway within the coastal zone (APN: 4473-021-011)
ZONING:	Rural Residential - 2 (RR-2)
CITY PLANNER:	Paul Huckabee, ext. 276

Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the Planning Division has analyzed the proposal as described above. The Planning Division has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and therefore, exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION (Class 3) will be prepared and issued pursuant to CEQA Guidelines Section 15303 (a) – New Construction or Conversion of Small Structures. The Planning Division has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines Section 15300.2).

A written staff report will be available at or before the hearing. Following an oral staff report at the beginning of the hearing, the applicant may be given up to 15 minutes to make a presentation. Any amount of that time may be saved for rebuttal. All other persons wishing to address the Commission will be provided up to three minutes to address the Commission. These time limits may be changed at the discretion of the Commission. At the conclusion of the testimony, the Commission will deliberate and its decision will be memorialized in a written resolution.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the Planning Commission at any time prior to the close of the public hearing.

LOCAL APPEAL - The decision of the Planning Commission may be appealed by an aggrieved person to the City Council within 10 days of the decision, by written statement and upon payment of an appeal fee of \$282.00 for the first finding and \$159.00 for each additional finding. If the appeal period ends on a weekend or a holiday, the appeal period shall expire the next business day. Appeal forms may be found online at www.ci.malibu.ca.us or in person at City Hall, or by calling (310) 456-2489 ext. 245.