

**CALIFORNIA COASTAL COMMISSION**

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

Appeal Filed: 7/19/05  
49<sup>th</sup> Day: 9/6/05  
Staff: S. Hudson  
Staff Report: 7/26/05  
Hearing Date: 8/10/05



## RECORD PACKET COPY

### STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

**LOCAL GOVERNMENT:** City of Malibu

**LOCAL DECISION:** Approval with Conditions

**APPEAL NO.:** A-4-MAL-05-084

**APPLICANT:** Terry Greene

**APPELLANTS:** Commissioners Caldwell and Kruer

**PROJECT LOCATION:** 21934 Pacific Coast Highway, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Demolition of existing 1,418 sq. ft. residence and construction of a new 2,626 sq. ft. single family residence with 400 sq. ft. garage, alternative onsite wastewater treatment system, and bulkhead on a beachfront parcel.

**SUBSTANTIVE FILE DOCUMENTS:** Staff Report for City of Malibu Coastal Development Permit No. 04-014/Variance No. 05-014; City of Malibu Planning Commission Resolution No. 05-18;

#### 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 public access and recreation, visual resources, and water quality policies of the certified Local Coastal Program (LCP). Motion and resolution can be found on **Page 4**.

The project, as approved by the City, would allow for the construction of a new single family residence on a 40 ft. wide beachfront parcel with a variance that would allow the applicant to split the required 8 ft. wide contiguous public view corridor on the property into two smaller 4 ft. wide view corridors in contradiction to Policy 6.18 of the LCP that specifically requires new development provide for "one contiguous view corridor" equal to 20 percent of the lineal frontage of the subject parcel.

The project, as approved by the City, would provide for a public lateral access easement across the beachfront portion of the site that would be smaller in size (only extending from the mean high tide line to a point no closer than 10 ft. seaward of the deck dripline) than required by Policy 2.64 of the LCP which requires that such easements "shall extend from the mean high tide line landward to a point fixed at the most seaward extent of development" (which, in this case, would be the approved dripline of the deck) The reduced easement would result in potential impacts to public access from the limitations on the public's ability to walk on the sandy beach seaward of the residence. In addition, the City's approval of the project does not include any of the necessary special conditions ensuring that the on-site wastewater treatment system will be maintained, operated, and monitored in a manner consistent with the protection of water quality and marine resources, as required by Section 18.9 of the Malibu LCP.

## **I. APPEAL JURISDICTION**

The project site is a beachfront parcel on Carbon Beach. (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 300 feet from the beach, which extends inland of Pacific Coast Highway. 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 04-014 and Variance 05-014 for the single family residence project. The Notice of Final Action for the project was received by Commission staff on July 5, 2005. A ten working day appeal period was set and notice provided beginning July 6, 2005, and extending to July 19, 2005.

An appeal of the County's action was filed by Commissioners Caldwell and Kruer on July 19, 2005, 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 July 25, 2005.

## II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

**MOTION:** *I move that the Commission determine that Appeal No. A-4-MAL-05-084 raises NO substantial issue with respect to the grounds on which the appeals have been filed under Section 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-05-084 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 approved Coastal Development Permit 04-014 and Variance 05-014 for the demolition of existing 1,418 sq. ft. residence and construction of a new 2,626 sq. ft. single family residence with 400 sq. ft. garage, alternative onsite wastewater treatment system, and bulkhead on a beachfront parcel. Variance 05-014 was also approved in order to allow the view corridor, which would otherwise be required to be 8 ft. in width pursuant to the policies of the adopted Local Coastal Program to be split into two smaller 4 ft. wide view corridors on each side of the property. The Coastal Development Permit was approved subject to 15 standard conditions and 13 special conditions (see Exhibit 8). The special conditions include the following: color restriction, lighting, geology, water quality (storm runoff), and public access.

## **B. APPELLANTS' CONTENTIONS**

The City's action was appealed by Commissioners Caldwell and Kruer. This appeal is attached as Exhibit 5. The appeal contends that the approved project is not consistent with the policies of the certified LCP with regard to several of the public access and recreation, visual, and water quality policies of the certified City of Malibu Local Coastal Program (LCP) and applicable policies of the Coastal Act as incorporated by reference into the certified LCP. The Commissioners' appeal alleges that the project is not consistent with Public Access Policies 2.63 and 2.64 of the Malibu Land Use Plan (LUP), as well as Chapter 12 of the Malibu Local Implementation Plan (LIP). Additionally, the appeal contends that the proposed project does not meet visual resource Policy 6.18 of the LUP or Section 6.5(E)(2) of the LIP. Finally, the appeal contends that the approved project does not include special conditions ensuring that the on-site wastewater treatment system will be maintained, operated, and monitored in a manner consistent with the protection of water quality and marine resources, as required by Section 18.9 of the Malibu LIP.

## **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, although the public access policies of the LCP were cited. 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. Public Access and Recreation**

The appellants contend that the project is inconsistent with public access and recreation policies of the City of Malibu Local Coastal Program. The public possesses ownership interests in tidelands or those lands below the mean high tide line. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The protection of these public areas and the assurance of access to them lies at the heart of Coastal Act policies (which are incorporated by reference into the Malibu LCP) requiring both the implementation of a public access program and the minimization of impacts to access and the provision of access, where applicable, through the regulation of development.

The City of Malibu Land Use Plan (LUP) contains several policies to ensure the protection and provision of public access in new development along with the consideration of public safety needs, private property rights, and the protection of natural resources, where applicable. Several policies provide specifically for the requirement of an offer to dedicate a lateral or vertical public access easement as a special condition in new development projects where a nexus is demonstrated between the proposed development and its impact on public access. The appellants contend that the proposed development does not conform with the public access provisions of Chapter 12 of the Malibu Local Implementation Plan (LIP) and with the following LUP policies:

- 2.63 *Consistent with the policies below, maximum public access from the nearest public roadway to the shoreline and along the shoreline shall be provided in new development. Exceptions may occur only where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as an accessway that provides for public access and use along the shoreline. Vertical access is defined as an accessway which extends to the shoreline, or perpendicular to the shoreline in order to provide access from the first public road to the shoreline.*
- 2.64 *An Offer to Dedicate (OTD) an easement for lateral public access shall be required for all new oceanfronting development causing or contributing to adverse public access impacts. Such easement shall extend from the mean high tide line landward to a point fixed at the most seaward extent of development i.e. intersection of sand with toe of revetment, vertical face of seawall, dripline of deck, or toe of bluff.*

The approved project includes construction of a vertical bulkhead to protect the approved septic system, which is located within the estimated wave uprush zone for the project site. The applicants have proposed the construction of a vertical bulkhead in order to protect the proposed septic system from wave uprush. The proposed bulkhead would be located beneath the residence approximately 25 feet seaward of Pacific Coast Highway and would be subject to periodic wave action. Given the narrow width of Carbon Beach, particularly coupled with projected sea level rise, it is likely that the proposed bulkhead will result in adverse impacts to the beach profile (through accelerated erosion and scouring, increased steepness and/or inland migration of the MHTL) and thereby impact the public's ability to gain access to and use state tidelands. Therefore, in order to mitigate impacts to public access, it is appropriate in this case to require an easement for lateral access inland of the MHTL to be provided across the project site, consistent with Policies 2.63 and 2.64 of the Malibu LUP, and Chapter 12 of the Malibu LIP.

Policy 2.64 of the LUP requires that an Offer to Dedicate an easement for lateral public access be provided for all new oceanfronting development that would result in potential adverse impacts to public access along the shoreline. Specifically, Policy 2.64 requires that "such easement shall extend from the mean high tide line landward to a point fixed at the most seaward extent of development, i.e. intersection of sand with toe of

revetment, vertical face of seawall, dripline of deck, or toe of bluff." In this case, although not stated in the actual project description of the City's staff report or final local action notice, the findings of the City's staff report states that the "applicant has agreed to provide an offer to dedicate the required lateral access subject to project approval." However, the special condition required by the City fails to adequately implement the provisions of Policy 2.64. Special Condition No. 26 of the City's permit requires the applicant to record an offer to dedicate a lateral public access easement across the subject property from the "mean high tide line landward to ten feet from the approved deck drip line." However, Policy 2.64 of the LUP requires that such easements "shall extend from the mean high tide line landward to a point fixed at the most seaward extent of development" which in this case would be the approved dripline of deck. As provided by the City's condition, the public easement would not extend to the seaward extent of the approved development but would only extend to a point 10 ft. from the seaward extent of development on the site. The reduced easement that would be provided by the City's condition is not consistent with the applicable policy of the LUP and would result in a 10 ft. wide gap between the approved development and the portion of the beach where the public would have a stated right to walk on. This would result in the potential loss of public access along the beach in the event of high tide events when the only dry portions of the beach might be located within 10 ft. of the approved deck drip line. As such, the Commission cannot conclude that adequate lateral access is provided on the project site consistent with the requirements of the LCP.

Therefore, the Commission finds that this contention does raise substantial issue with respect to the grounds that the project, as approved by the City, is not consistent with the access policies of the LCP.

## **2. Visual Resources**

As required by Policy 6.18 of the Malibu LUP and Section 6.5(E)(2) of the Malibu Local Implementation Plan (LIP), the proposed project includes a contiguous view corridor that is 20 percent of the width of the parcel (10 feet, 4 inches). LUP Policy 6.18 states as follows:

- 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.

The LCP requires that new development on beachfront lots include the provision and maintenance of a view corridor that is 20 percent of the width of the parcel in order to "maintain an ocean view throughout the project site." However, in the case of the proposed project, a view corridor was not proposed or required by the City to be provided as one contiguous corridor as specifically required by Policy 6.18 of the LUP and Section 6.5(E)(2) of the LIP. Rather, the City approved a variance to allow the public view corridor to be split, providing 10 percent of the width of the parcel on either side of the residence. The split view corridor is not consistent with the intent of Policy 6.18 which specifically requires the provision of a single continuous view corridor in order to ensure that the corridor is of sufficient width to function adequately and provide blue water views from public viewing areas landward of the new development. Additionally, the approved project does not include any condition of approval that would restrict future development (including fencing or landscaping that might block or impact public views) within the view corridor.

The Commission notes that LIP Policy 13.26.5 allows the City approve a variance for a new development only if the project is consistent with several different specific findings of fact, including, in part, a finding that there are "special circumstances or exceptional characteristics applicable to the subject property" that would deprive the property owner of privileges enjoyed by other properties in the vicinity under the identical classification and that such a variance would not constitute a "special privilege to the applicant or property owner." In this case, the City found that "[t]here are physical constraints on the subject property that would deprive the property owner of privileges enjoyed by other properties in the vicinity if the 20% had to be provided contiguously." The subject parcel is 40 ft. in width (as measured in total lineal frontage along Pacific Coast Highway) therefore, in order to comply with the requirements of Policy 6.18 of the LUP, an 8 ft. wide contiguous view corridor must be provided as part of the City's approval of any new structures on site. However, instead, the City granted Variance No. 05-014 to only provide for two smaller 4ft. wide view corridors on either side of the new proposed residence rather than the required 8 ft. contiguous view corridor.

However, the City's finding that there are special or unique physical constraints on the subject property relative to other beachfront parcels in Malibu and in the surrounding area is incorrect. The Commission notes that 40 ft. in width, or less, is a common width for many beachfront lots in Malibu. In fact, the Parcel Map included as Exhibit 2 of this report shows that 10 of the 25 parcels (almost one-half of the parcels) on the same parcel map as the subject site are 40 ft. or less in width. Therefore, the Commission



finds that the width of the subject lot does not, in any manner, constitute a special or unique circumstance on the subject site in relation to the neighboring lots.

The City also found in its approval of the variance that implementation of the required LUP policy to provide a contiguous view corridor equal to 20 % of the width of the lot (in this case, 8 ft. in width) in combination with the Los Angeles County Fire Department requirement that 5 ft. of area be open to the sky on either side of the structure would result in the "loss of 13 of the 40 foot lineal frontage" (5 ft. of open area on one side of the residence and 8 ft. of open area on the other side) as opposed to the City-approved variance which would only require the loss of 10 ft. of the lineal frontage (5 ft. of open area on one side of the residence and 5 ft. of open area on the other side). The Commission notes that construction of the residence without a variance would still allow for the construction of a 27 ft. wide structure as opposed to a 30 ft. wide structure with the variance. The addendum to the City's staff report (included as Exhibit 7) finds that the construction of a 27 ft. wide residence on the subject property with the requirement for a single contiguous 8 ft. wide view corridor (without the variance) is feasible. As such, the Commission notes that the provision of the additional 3-4 ft. of open area on one side of the residence to provide the required public view corridor would still allow for the feasible construction of a single family residence on the site and does not constitute a hardship on the property owner or unique circumstance on the subject site compared to other neighboring properties.

The City also found in its approval of the variance that several of the neighboring lots that are 40 ft. in width or less have been developed with structures wider than would be allowed on the subject site unless the variance is granted and that the variance was necessary to "ensure that the applicant is not deprived of the privileges enjoyed by other properties in the vicinity." However, the existing structures referenced by the City were constructed prior to the certification of the City's LCP and prior to the requirement of Policy 6.18. Therefore, the comparison of the existing development on other lots included in the City's findings is not relevant to the determination of whether there are any special or unique circumstances on the subject site (such as size, shape, topography, etc.) in comparison to neighboring parcels. The Commission finds that in the event that any of the neighboring properties of similar size to the subject site were to be redeveloped, those lots would also be subject to the same requirements as the subject site, including the provision of a contiguous view corridor equal to 20% of the width of the lot as consistent with Policy 6.18. As such, granting the approved variance to the applicant would actually serve to convey a special privilege to a particular property owner that would not be available to other property owners of similar properties, in contradiction to Policy 13.26.5. Moreover, compliance with Policy 6.18 still allows the property owner to build a new residence that is substantially larger than the existing 1,418 sq. ft residence on the site. Therefore, the Commission finds that there are no special circumstances or exceptional characteristics of the subject site that would serve to deprive the owner of the subject site of any privileges that would be enjoyed by other property owners in the vicinity if the provisions of Policy 6.18 were applied equally to each property.

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

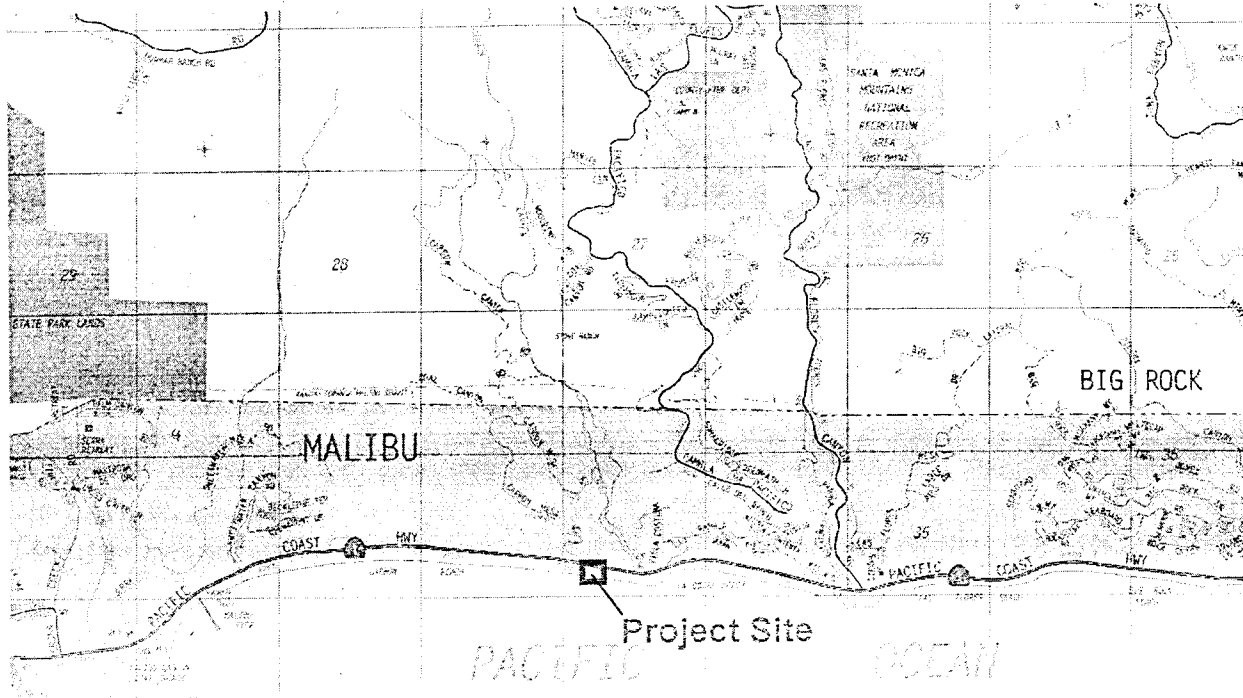
### 3. Water Quality

Finally, the appellants contend that the approved project does not include special conditions ensuring that the on-site wastewater treatment system will be maintained, operated, and monitored in a manner necessary to insure it is functioning properly and will protect water quality and marine resources, as required by Section 18.9 of the Malibu LIP. This LIP provision requires that permit conditions be imposed to ensure that all new, expanded, or modified on-site treatment systems are maintained, operated and monitored in accordance with several requirements. No such special condition was imposed on the subject coastal development permit. The Commission finds that this contention does raise substantial issue with respect to the grounds that the project, as approved by the City, is not consistent with the Section 18.9 of the Malibu LIP.

Therefore, for the above reasons, the Commission finds that a substantial issue is raised with respect to the appellants' contentions that the project does not meet provisions of the certified Local Coastal Program.

## D. CONCLUSION

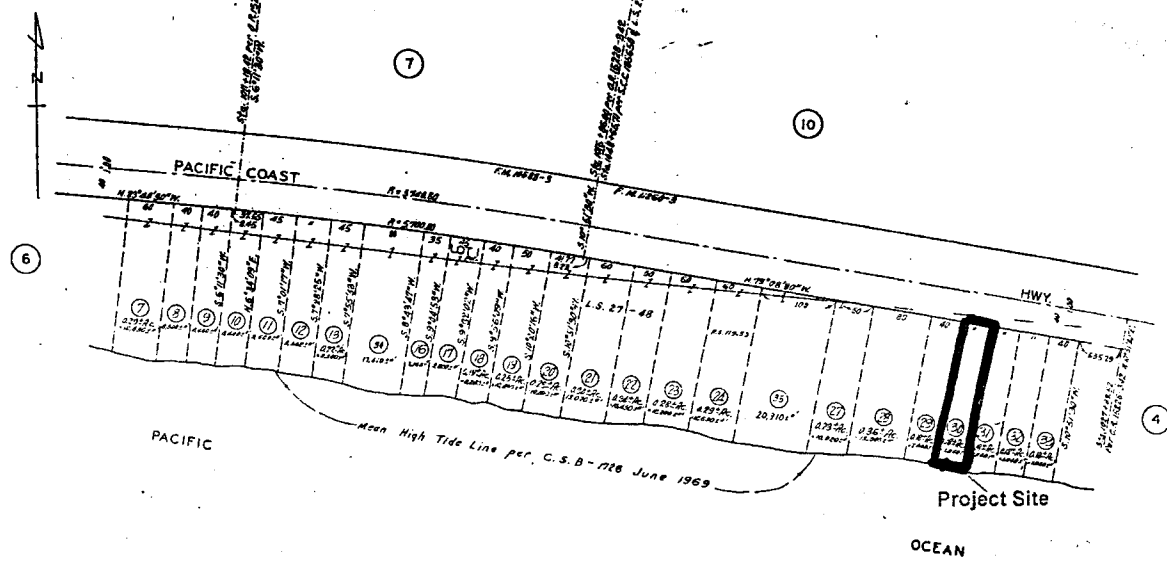
The purpose of the substantial issue determination is to review the administrative record and establish whether a substantial question is raised with respect to the appellants' assertions that the project does not conform to the certified LCP and public access policies of the Coastal Act. As described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



4451 | 5  
SCALE 1" = 100'

2003

TRACER 3066  
S8 01° 02' 00" W 101' 07"  
S00° 02' 00" W 350' 07"  
N45° 00' 00" W 50' 00" 07"



**EXHIBIT 1**  
**A-5-MAL-05-084**  
**Vicinity and Parcel Maps**

**TYPICAL NOTES:** PROVIDE FIRE SPRINKLERS TYP.

1. PROVIDE FINISHES AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

2. PROVIDE FLOORING AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

3. PROVIDE CEILING AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

4. PROVIDE WALLS AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

5. PROVIDE DOORS AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

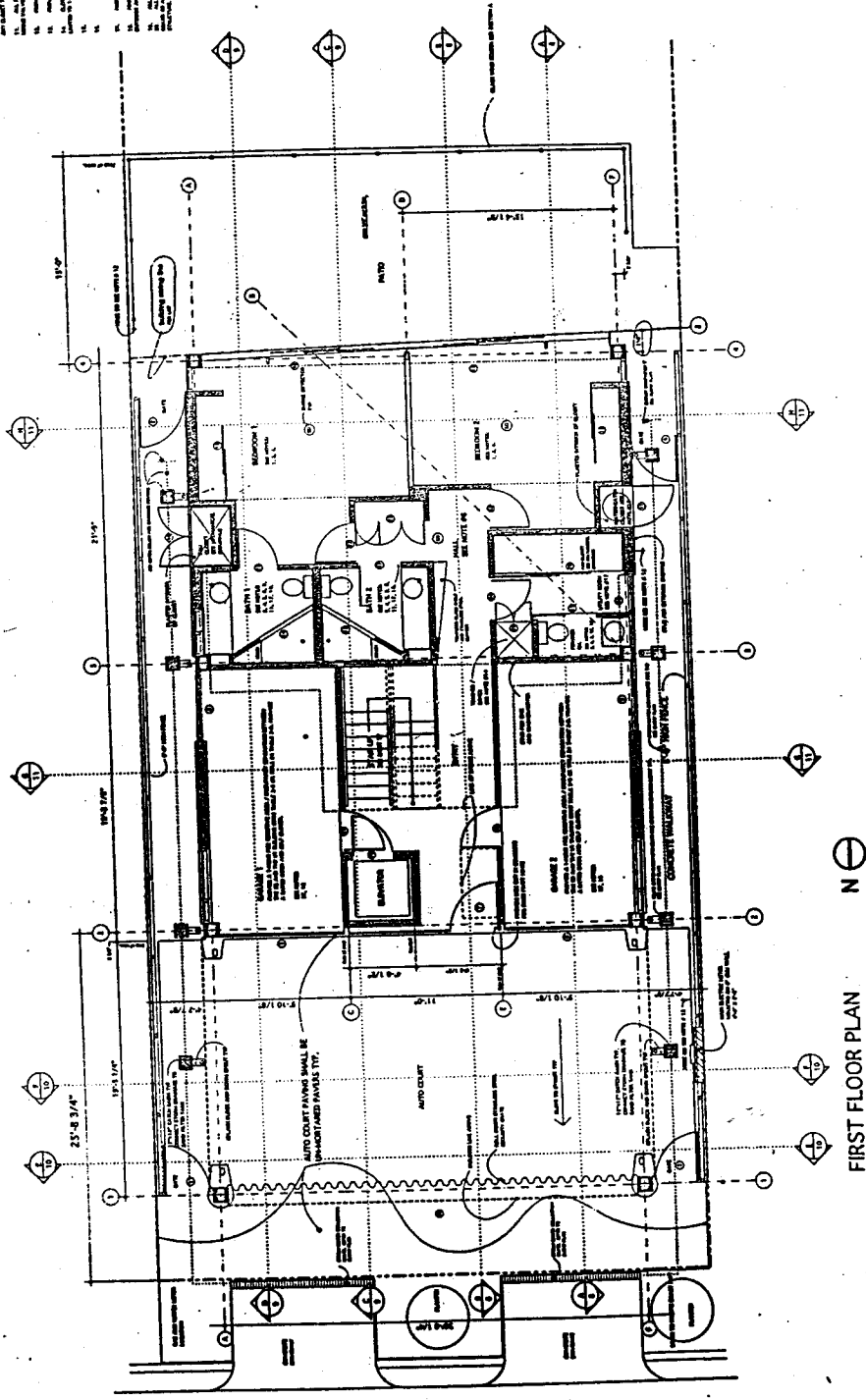
6. PROVIDE WINDOWS AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

7. PROVIDE LIGHTING AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

8. PROVIDE MECHANICAL AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

9. PROVIDE ELECTRICAL AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.

10. PROVIDE PLUMBING AS SHOWN OR APPROVED BY THE ARCHITECT. FINISHES SHALL BE AS SHOWN ON THE FINISH SCHEDULE.



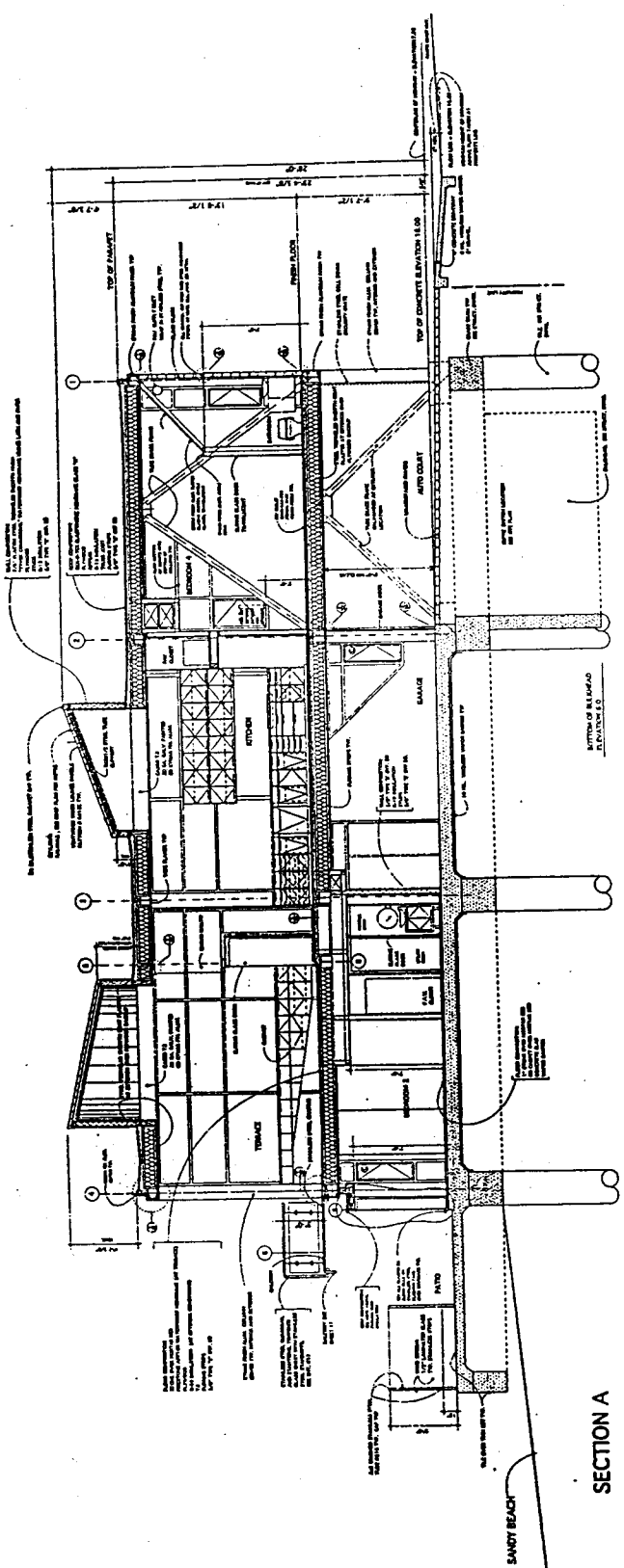
FIRST FLOOR PLAN

SEE FIRST FLOOR DIMENSION PLAN SHT. #5 FOR ADDITIONAL DIMENSIONS

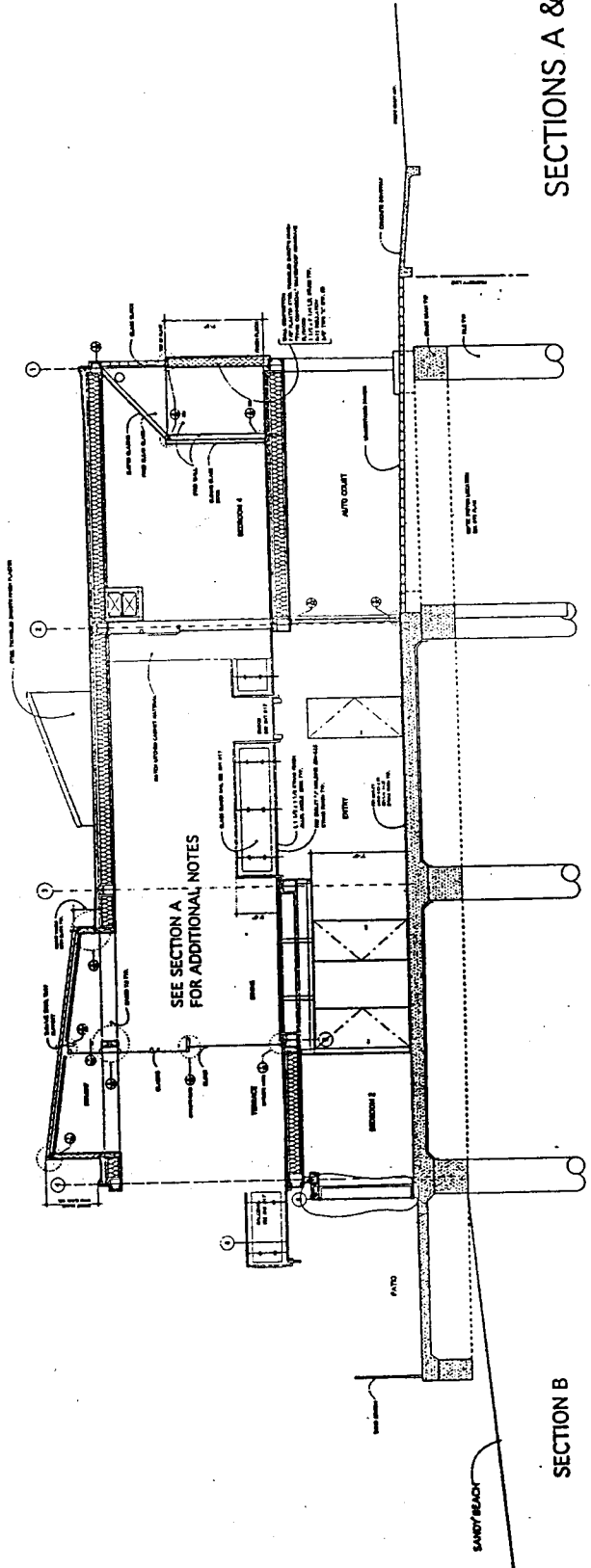
<p><b>EXHIBIT 2</b>  <b>A-5-MAL-05-084</b>  <b>Site Plan/Floor Plan</b></p>
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PACIFIC COAST HWY

SECTIONS A & B

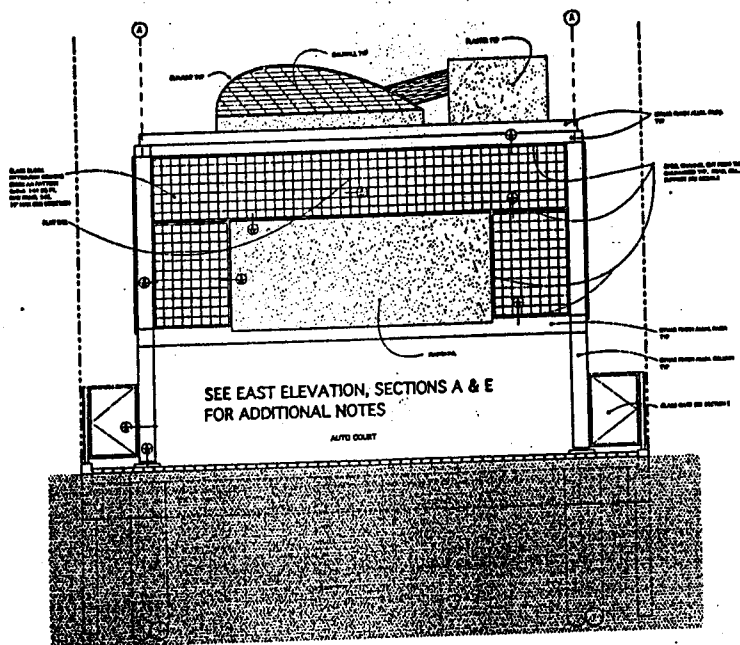


SECTION A

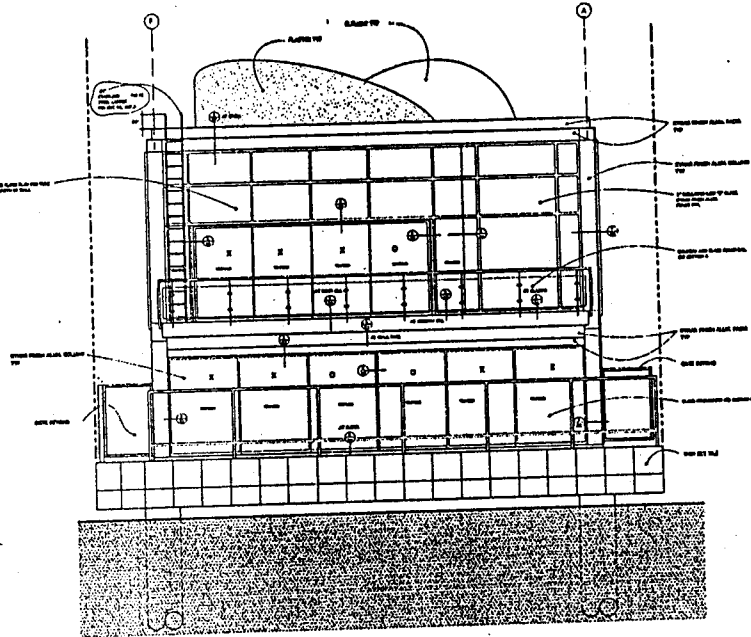


SECTION B

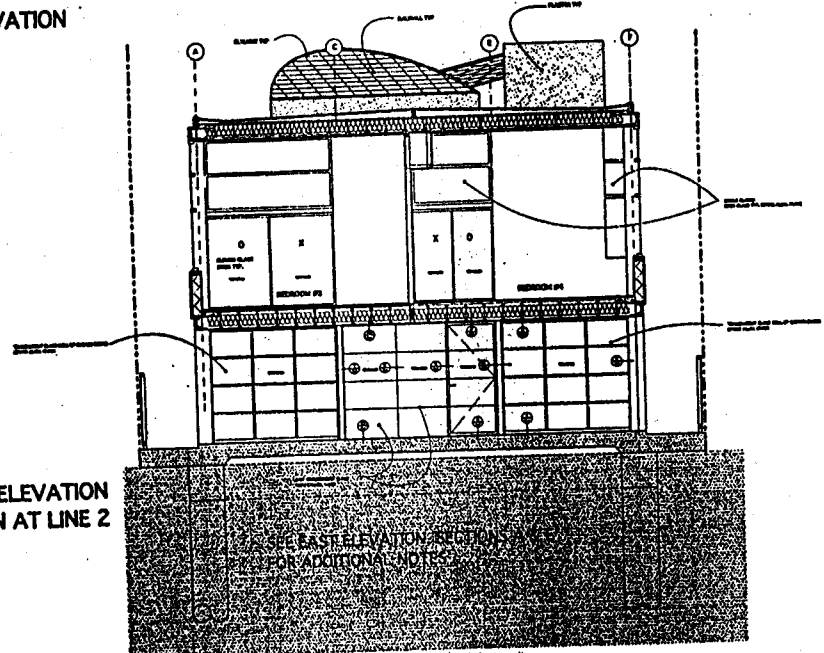
**EXHIBIT 3**  
**A-5-MAL-05-084**  
**Cross Sections**



**NORTH ELEVATION**



**SOUTH ELEVATION** SEE EAST ELEVATION, SECTIONS A & E FOR ADDITIONAL NOTES



**EAST ELEVATION ON AT LINE 2**

- NOTES:**
1. SEE EAST ELEVATION, SECTIONS A & E FOR ADDITIONAL NOTES
  2. GLASS SPEC:  
1" INSULATED GLASS, LOW "E", GREY TINT ON OUT BOARD SHEET.  
ALUMINUM FRAME KYNAR 500 FINISH
  3. EXTERIOR ALUMINUM PANELS:  
KYNAR 500 FINISH ALUMINUM PANELS 1/8" MIN. THICKNESS  
BREAK METAL:  
KYNAR 500 FINISH ALUMINUM 1/8" MIN. THICKNESS
  4. FRY REGLET:  
KYNAR 500 FINISH AT EXTERIOR APPLICATIONS

**EXHIBIT 4**  
**A A-5-MAL-05-084**  
**Elevations**

**NORTH AND SOUTH ELEVATION**

<p>EDWARD R. NEES ARCHITECT FALLA 28350 PACIFIC COAST HWY. MALIBU, CALIFORNIA 90265 (310) 457-5622</p>					
<p><b>GREENE RESIDENCE</b> <b>21934 PACIFIC COAST HWY.</b> <b>MALIBU, CA. 90265</b></p>					
13					

A-4-MAL-05-084

RECEIVED

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

JUL 19 2005



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: Chair Meg Caldwell, Vice-Chair Patrick Krueger, California Coastal Commission  
Mailing Address: C/O California Coastal Commission, 89 South California Street, Suite 200  
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:

Demolition of existing 1,418 sq. ft. residence and construction of a new 2,626 sq. ft. single family residence with 400 sq. ft. garage, alternative onsite wastewater treatment system, and bulkhead on a beachfront parcel.

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

21934 Pacific Coast Highway, City of Malibu, Los Angeles County, Assessor's Parcel Number 4451-005-030

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-05-084

DATE FILED: \_\_\_\_\_

DISTRICT: South Central Coast

<b>EXHIBIT 5</b>
<b>A-5-MAL-05-084</b>
<b>Appeal</b>

**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: June 20, 2005

7. Local government's file number (if any): CDP No. 04-014, Variance No. 05-014

**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:

Terry Greene  
C/O Lisa Niles and Ed Niles  
29350 Pacific Coast Highway, #9  
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)

(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.

#### PUBLIC ACCESS

The approved project includes the applicant's offer to include a lateral access easement as mitigation for projected impacts to public access as required by Policies 2.63 and 2.64 of the Malibu LUP, as well as Chapter 12 of the Malibu LIP. The approved project includes construction of a vertical bulkhead to protect the approved septic system. With the provision of lateral access, the project was found not to impact public access. The City of Malibu did require the recordation of a lateral access offer to dedicate as a condition of approval of the coastal development permit (Condition No. 26). However, the language of the Special Condition describing the location of the easement OTD to be recorded does not conform to Section 12.7.7 of the Malibu LIP. Special Condition No. 26 states in part that: "Such easement shall be located along the entire width of the property (Assessor's Parcel Number 4451-005-030) from the ambulatory mean high tide line landward to ten feet from the approved deck drip line, not to exceed the width of the easements of the neighboring property owners". Section 12.7.7 of the LIP provides that lateral access easements extend from the mean high tide to the most seaward extent of the development, such as the deck dripline. The condition language does not reflect this provision. Additionally, the language: "not to exceed the width of the easements of the neighboring property owners" is not consistent with Section 12.7.7 of the LIP and is not sufficiently specific to be included in the recorded easement OTD.

#### VIEW CORRIDOR.

As required by the LCP, the proposed project includes a view corridor that is 20 percent of the width of the parcel. However, this view corridor was not included in one contiguous corridor as required by Policy 6.18 of the LUP and Section 6.5(E)(2) of the LIP. Rather, the City approved a variance to allow the view corridor to be split, providing 10 percent of the width of the parcel on either side of the residence. The split view corridor is not consistent with the intent of the view corridor provisions. Additionally, the approved project does not include any condition of approval that would restrict any other future development (such as fencing or landscaping) within the view corridor.

#### WASTEWATER TREATMENT SYSTEM

Also, the approved project does not include special conditions ensuring that the on-site wastewater treatment system will be maintained, operated, and monitored in a manner consistent with the protection of water quality and marine resources, as required by Section 18.9 of the Malibu LIP.

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: Mig Caldwell  
Appellant or Agent

Date: 7/19/05

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

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

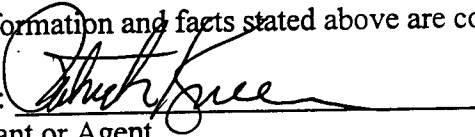
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
Page 3

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: 7/19/05

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

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



4-MAL-05-165

# Amended<sup>1</sup> NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT

# RECEIVED

Date of Notice: July 6, 2005

JUL 07 2005

Notice Sent to (via FedEx Priority):  
California Coastal Commission  
South Central Coast District Office  
89 South California Street, Suite 200  
Ventura, CA 93001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Contact:  
Stefanie Edmondson, Associate Planner  
City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265  
(310) 456-2489 ext. 233

Please note the following Final City of Malibu Action for a coastal development permit application. All local appeals have been exhausted for this matter.:

### Project Information

Application #: Coastal Development Permit No. 04-014 / Variance No. 05-014  
Property Owner: Terry Greene  
Applicant: Lisa Niles and Ed Niles, 29350 Pacific Coast Highway, #9, Malibu, CA 90265  
Project Location: 21934 Pacific Coast Highway / APN 4451-005-030  
Project Description: An application for a demolition of an existing single-family residence, construction of a new single-family residence, an alternative onsite wastewater treatment system, and associated development. This project is more specifically described in the attached documents.

### Final Action Information

Final Local Action:  Approved  Approved with Conditions  Denied  
Final Action Body: Approved on June 20, 2005 by the Planning Commission

Required Materials Supporting the Final Action	Enclosed	Previously Sent (date)
Adopted Staff Report: June 20, 2005 Item 6.H. Planning Commission Agenda Report		July 1, 2005
Adopted Findings: Revised Planning Commission Resolution No. 05-18	X	July 1, 2005
Adopted Conditions: Revised Planning Commission Resolution No. 05-18	X	July 1, 2005
Site Plans and Elevations		July 1, 2005
Addendum to Coastal Development Permit No. 04-014 – City of Malibu Planning Division Staff Response to Coastal Commission Comments dated June 17, 2005	X	

### California Coastal Commission Appeal Information

This Final Action is:

- NOT appealable to the California Coastal Commission (CCC). The Final City of Malibu Action is now effective.
- Appealable to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this final action. The final action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission South Central Coast District Office in Ventura, California; there is no fee for such an appeal. Should you have any questions regarding the California Coastal Commission appeal period or process, please contact the CCC South Central Coast District Office at 89 South California Street, Suite 200, Ventura, California, 93001 or by calling (805) 585-1800.

Copies of this notice have also been sent via first-class mail to: Property Owner/Applicant

Prepared by: Patricia Salazar, Department Specialist

<b>EXHIBIT 6</b>
<b>A-5-MAL-05-084</b>
<b>Final Local Action Notice</b>

<sup>1</sup>On July 1, 2005, the City submitted the Notice of Final Action. Inadvertently, the incorrect version of Planning Commission Resolution No. 05-18 was submitted. This amended Notice of Final Action includes the correct version of Planning Commission No. 05-18 including additional supporting documents.

Submitted by staff

RECEIVED

JUN 18 2005

PLANNING DEPT.

ADDENDUM TO COASTAL DEVELOPMENT PERMIT NO. 04-014  
FOR 21934 PACIFIC COAST HIGHWAY (GREENE)  
RESPONSE TO COASTAL COMMISSION COMMENTS - JUNE 17, 2005

**Coastal Commission Comment:**

"This project is for the demolition of an existing residence and the construction of a new single family residence on a beachfront parcel, including a variance request to allow the required view corridor to be split into two areas, one on either side of the residence. The staff report concludes that application of the view corridor requirement would deprive the property owner of having a house of similar mass, bulk and scale as neighboring residences (that were not subject to the view corridor requirement). However, no quantification is provided of the square footage that could be constructed in conformance with the requirement of one contiguous view corridor. The staff report does not demonstrate that the construction of an alternative project that provides the 20 percent view corridor in one contiguous corridor would be infeasible."

**Staff Response:**

To question whether a project must strictly adhere to the "20 percent contiguous" view corridor requirement or whether a variance is appropriate does not imply that the project is infeasible if it does not conform to the view corridor requirements. The question is whether a project on a 40 foot wide lot, with a 4 foot required Fire Department access on one side and an 8 foot wide view corridor on the other is feasible? The answer is yes. However, the applicant has requested a variance to allow the view corridor to be split with 10% on one side and 10% on the other side. There are physical constraints on the subject property that would deprive the property owner of privileges enjoyed by other properties in the vicinity if the 20% had to be provided contiguously.

**The project with the 20% view corridor**

The square footage of a residence on a 40 foot wide lot, with a 4 foot required Fire Department access on one side and the 8 foot view corridor on the other, while providing the required parking (2 enclosed and 2 unenclosed off street) is a **1,952 square foot residence and a 400 square foot garage.**

Comparing existing 37 to 40-foot wide lots, which have 3 foot side yards, but with the same lot depth and stringline, these homes average 2,584 square feet, not including garages (if applicable). In addition, these homes do not provide the 2 unenclosed off-street parking spaces.

Address	Lot Width	No. Bed/Bath	Square footage (not including garages if any exist)**
21836 PCH	37	4/2	2585
21844	37	3/2	1765
21920	40	3/3	2706
21922	40	3/2	3068
21928	39	3/3	2362

Date Received  
Planning Commis:  
Agenda Item No.  
Total No. of Pages

**EXHIBIT 7**  
**A-5-MAL-05-084**  
**Addendum to City Staff Report**

21932	39	4/4	2644
21934	39	3/2	1264*
21938	39	4/5	3056
22028	40	3/4	2492
		AVERAGE	2,584
WITH CORRIDOR		1952/2584 = 75%	
		Resulting in a 25% loss of square footage	
AS REQUESTED	39	4/5	2626-400=2,226

\*Applicant's current residence not included in average.

\*\*Data compiled from the City's GIS records and the Los Angeles County Assessor's office.

**Coastal Commission Comment:**

"The staff report notes that the applicants propose to provide an offer to dedicate lateral access and Special Condition No. 26 of the permit requires the OTD to be secured prior to building permit issuance. However, no details are given regarding the size or location of the OTD that is to be provided."

**Staff Response:**

Special Condition No. 26 has been amended and now reads:

The applicant has agreed to provide an offer to dedicate (OTD) a lateral public access easement and passive recreational use along the shoreline as part of this project. In order to implement the applicant's proposal of an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the applicant agrees to complete the following prior to issuance of a building permit: the landowner shall execute and record a document, in a form and content acceptable to the City Attorney, irrevocably offering to dedicate to a public agency or private association approved by the City Attorney an easement for lateral public access and passive recreational use along the shoreline. Such easement shall be located along the entire width of the property (Assessor's Parcel Number 4451-005-030) from the ambulatory mean high tide line landward to ten feet from the approved deck drip line.

The document shall be recorded free of prior liens that the City Attorney determines may affect the interest being conveyed, and free of any other encumbrances that may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions and graphic depiction of both the applicant's entire parcel and the easement area. This deed restriction shall not be removed or changed without a City-approved amendment to this coastal development permit.

**Coastal Commission Comment:**

"Further, the applicant should be required to acknowledge and assume the risks of wave action, erosion, and flooding hazards associated with developing on a shoreline property, as required by Policy 4.42 of the LUP."

**Staff Response:**

Special Condition No. 27 shall be added to Planning Commission Resolution No. 05-018 and read:

The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

**Coastal Commission Comment:**

"Finally, the applicant should be required to acknowledge that no future improvements to the bulkhead that extends the seaward footprint of the bulkhead may be undertaken in the future (LUP Policy 4.43)."

**Staff Response:**

Special Condition No. 28 shall be added to Planning Commission Resolution No. 05-018 and read:

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



# Commission Agenda Report

Planning  
Commission  
06-20-05

Item  
6.H.

To: Chair Sibert and Honorable Planning Commission Members

Prepared by: Stefanie Edmondson, Associate Planner *SE*

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

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

Date prepared: June 6, 2005 Meeting date: June 20, 2005

Subject: Coastal Development Permit No. 04-014; Variance No. 05-014 - An application within the coastal zone to allow for the demolition of an existing 1,418 square-foot beachfront single-family residence and construction of a new 2,626 square-foot single-family beachfront residence including a 400 square-foot garage and an alternative onsite wastewater treatment system. A variance has been requested to allow relief from the ocean view development standard which requires "20% of the lineal frontage shall be maintained as one contiguous view corridor." The proposal is to provide 20% but with 10% on each side of the proposed structure.

RECEIVED

JUL 05 2005

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Application Number: Coastal Development Permit No. 04-014  
Application Filing Date: August 26, 2004  
Applicant: Lisa Niles/Ed Niles  
Owner: Terry Greene  
Location: 21934 PCH within the coastal zone (APN: 4451-005-030)  
Zoning: Single Family Medium Density (SF-M) - 0.25 Area Lot Size

**RECOMMENDED ACTION:** Adopt Planning Commission Resolution No. 05-18 (Attachment 1) approving Coastal Development Permit (CDP) No. 04-014 and Variance No. 05-014 for the demolition of an existing 1,418 square-foot beachfront single-family residence and construction of a new 2,626 square-foot single-family beachfront residence including a 400 square-foot garage, hardscape, and alternative onsite wastewater treatment system in the Single Family Medium Density Residential (SF-M) Zoning District located at 21934 Pacific Coast Highway (PCH) within the coastal zone.

EXHIBIT 8  
A-5-MAL-05-084  
City of Malibu Staff  
Report and Findings



DISCUSSION: The issue before the Planning Commission tonight is whether to adopt Resolution No. 05-18 approving Coastal Development Permit No. 04-014 and Variance No. 05-014. The project proposes the demolition of an existing one-story 1,418 square-foot single-family residence and attached 200 square-foot garage and construction of a new two-story 2,626 square-foot single-family residence with an attached 400 square-foot garage, hardscape, and alternative onsite wastewater treatment system on a 7,840 square-foot (40 feet wide by 196 feet in length) beachfront lot zoned SFM. A variance has been requested to allow relief from the ocean view development standard which requires "20% of the lineal frontage shall be maintained as one contiguous view corridor." Attachment 2 (Aerial Photo) and Attachment 4 (Site Photos)

### Chronology of Project

On February 6, 2003, an application was submitted by Lisa Niles [Plot Plan Review (PPR) No. 03-014] on behalf of property owner Terry Greene to the Planning Division for demolition of an existing one-story 1,418 square-foot single-family residence and attached 200 square-foot garage and construction of a new two-story, 28 feet in height, 2,626 square-foot single-family beachfront residence with an attached 400 square-foot garage, hardscape, and onsite wastewater treatment system. The application was referred to and reviewed by the City Biologist, City Coastal Engineer, City Environmental Health Specialist, City Geologist, and the Los Angeles County Fire Department.

On April 30, 2003, a Notice of Decision was issued approving PPR No. 03-014 (see Attachment 9). Staff received the Affidavit of Acceptance of Conditions from the applicant on November 7, 2003 and subsequently project plans were stamped approved in concept on November 17, 2003.

On August 26, 2004, an application for CDP No. 04-014 was submitted by the applicant to the Planning Division for processing. On February 14, 2005, the application was deemed complete for processing. On March 17, 2005, a Notice of Application for Coastal Development Permit No. 04-014 was posted on the subject property.

On April 20, 2005, story poles were placed on the subject property to demonstrate the height of the proposed project and to analyze visual impacts. Staff visited the site on April 21, 2005 to ensure that the story poles were placed according to plan and to evaluate potential impacts. No comments from the public have been received.

On May 5, 2005, a Notice of Public Hearing was published in a newspaper of general circulation with the City of Malibu. In addition, on May 5, 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 project site located at 21934 PCH is zoned SF-M and is a 7,840 (40 feet wide by 196 feet in length) square-foot beachfront lot situated between Carbon Beach and La Costa Beach. The subject property lies within the Appealable Zone as depicted on Attachment 4, the Post LCP Certification Permit and Appeal Jurisdiction Map. The property is not designated Environmentally Sensitive Habitat Area (ESHA) as shown on Attachment 5 LCP ESHA Overlay Map 4. Properties situated in this stretch of PCH are generally zoned SF-M to the south (ocean side) with a variety of zoning designations to the north (mountain side) as shown on Attachment 6, LCP Zoning Map.

**Project Description**

The proposed project consists of the demolition of an existing one-story 1,418 square-foot single-family residence and attached 200 square-foot garage and construction of a new two-story, 28 feet in height, 2,626 square-foot single-family residence with an attached 400 square-foot garage, hardscape, and alternative onsite wastewater treatment system on a 7,840 square-foot (40 feet wide by 100 feet in length) beachfront lot zoned SFM. Attachment 7 (Project Plans) A variance has been requested to allow relief from the ocean view development standard which requires "20% of the lineal frontage shall be maintained as one contiguous view corridor." The proposal is to provide 20% but with 10% on each side of the proposed structure. The project is broken down as follows:

- Proposed Square-footage

2,626	square feet of residence
<u>400</u>	square feet of garage space
3,026	total development square-footage

- Associated hardscape (auto court and off-street parking area)
- Alternative onsite wastewater treatment system

**Existing City Approvals for Plot Plan Review and Site Plan Review**

The project received prior approval from the City of Malibu for PPR No. 03-014 for conformance with the development standards of the Malibu Municipal Code (M.M.C.) Section 17.40.040. The Notice of Decision for the City approval is included as Attachment 8. The proposed project was reviewed by the City Biologist, City Environmental Health Specialist, City Coastal Engineering Geologist and City Geologist, Public Works Department and Los Angeles County Fire Department and was determined to be consistent will all applicable codes, goals, and policies at the time of their approval (Attachment 9).

**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 Coastal Act in Malibu. The purpose of the LIP is to carry out the policies of the LUP. The LIP contains specific policies and regulations to which every project 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 sections: (1) 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; (9) Land Division; and (10) Variance, of the LIP. Of these ten, for the reasons discussed below, only six apply to the proposed project and warrant further discussion. The applicable findings will be discussed in order as they appear.

**Conformance Analysis**

As shown in Table 2, the proposed project complies with the LCP development standards. The project complies with LIP Section 3.6 concerning height on beachfront lots. Story poles were placed on the subject property to demonstrate the height of the proposed project and to analyze potential visual impacts. The project height of 28 feet conforms to the allowed maximum 28 foot height for pitched roofs. Staff visited the site on April 21, 2005, to ensure that the story poles were placed according to plan and evaluate potential impacts. No comments from the public have been received. The project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies.

**Zoning**

Table 1 below provides a summary of the lot dimensions and lot area of the subject parcel.

<b>Table 1 – Property Data</b>	
<b>Lot Depth</b>	~196 to 198 feet.
<b>Lot Width</b>	40 feet

Gross Lot Area (including driveway easements)	.18 acre (7,840 sq. ft.)
Net Lot Area*	.18 acre (7,840 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 as set forth under LIP Section 3.5., 3.6., and 6.5. As shown, with the exception of the contiguous view corridor, the project complies with the relevant development standards.

Table 2 – Zoning Conformance			
Development Requirement	Allowed	Proposed	Comments
<b>SETBACKS</b>			
Front Yard- Average of two adjacent neighbors	5' 6"	5' 6"	Complies
Rear Yard – Stringline	Stringline	Stringline	Complies
Side Yard (10 % minimum)	4'	4' (with FD required Sprinklers)	Complies
View Corridor	8'	4'	Variance
<b>PARKING</b>	2 enclosed 2 unenclosed	2 enclosed 2 unenclosed	Complies
<b>TOTAL DEVELOPMENT SQUARE-FOOTAGE</b>	N/A Beachfront	3,026 sq. ft.	Complies
<b>2/3RDS RULE/2<sup>nd</sup> floor sq.ft.</b>	N/A Beachfront		N/A
<b>HEIGHT</b>	24' Flat roof 28' Pitched	23' 5" Flat roof 28' Pitched	Complies
<b>IMPERMEABLE COVERAGE</b>	N/A Beachfront		N/A
<b>NON-EXEMPT GRADING</b>	NA	NA	N/A
<b>CONSTRUCTION ON SLOPES</b>	3:1	N/A	Complies
<b>Fence/Wall Height</b>			
Front	42" impermeable 30" permeable	None	Complies
Side(s)	6 feet	None	Complies
Rear	6 feet	None	Complies

## Grading

No grading is proposed. Therefore, the project conforms to the grading requirements as set forth under Section 8.3 of the LIP, which ensures that new development minimizes the visual and resource impacts of grading and landform alteration

## Archaeological/Cultural Resources

According to the City's archaeological resource maps, the subject site has a low potential to contain archaeological resources.

## **Findings**

The proposed project has been reviewed for conformance with the City of Malibu Local Coastal Program (LCP) by Planning Division staff, the City Biologist, the City Environmental Health Specialist, the City Coastal Engineer, the City Geologist, the City of Malibu Public Works Department and the Los Angeles County Fire Department. Staff has determined that, subject to the proposed conditions of approval, the project conforms to the City's LCP. The required findings are made below.

### **A. General Coastal Development Permit (LCP - 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, as conditioned, conforms to the certified City of Malibu Local Coastal Program (LCP) in that it meets the required development standards (see Table 2) with the exception of LIP Section 6.5(E) 2.b which requires that new development provide 20% of lineal frontage as one contiguous ocean view corridor. A variance has been requested to provide the 20% view corridor non-contiguously with 10% on each side of the proposed structure. The narrow lot width of the subject property is such that the strict application of the development standards including setbacks, fire code requirements, and the 20% contiguous view corridor requirement would result in a loss of 13 of the 40 foot lineal frontage. This would make 32.5% of the lot width unusable and a residence only 27 feet in width. Thereby, depriving the property owner of having a house of similar mass, bulk and scale as allowed neighboring residences.

***Finding B. The project is located between the first public road and the sea. 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 and the sea. However, the proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast as the site offers no direct or indirect beach access. There is existing lateral access on the site to the east and the applicant has offered to provide a lateral access easement; therefore, the project conforms to the public access and recreation policies.

***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. The proposed project would not result in 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 Malibu Municipal Code (M.M.C.). The proposed single family residence and associated development is a permitted use within the Single Family Medium zoning classification of the subject property. The project will not result in potentially significant impacts on the physical environment. Due to size constraints of the subject property, the proposed location is the least environmentally damaging alternative.

The project as proposed has been found to be Categorical Exempt under CEQA Sections 15301 (I) – Existing Facilities – Demolition and removal of a single-family residence and 15303 (a) New Construction of single-family residence. Therefore, the project as proposed has been determined to be consistent with CEQA.

There are three alternatives that were considered to determine the least environmentally damaging.

1. No Project – The no project alternative would avoid any change in the project site, and hence, any change in visual resources. However, the project site is zoned SF-M. Thus, prohibiting economic use of the property is not a legally feasible alternative.

2. Different location on the site - Other locations on the site were considered but due to the narrow lot width, setback, and fire code restrictions, and Pacific Ocean to the rear of the property, shifting the proposed location of the house proved problematic as the City development standards and Los Angeles County Fire Department regulations do not allow for a zero lot line development. The house as proposed sits precisely within the required setbacks with the exception of the

20% contiguous view corridor. A variance has been requested to provide the view corridor with 10% on each side of the structure. Relocation of the project on the site is not the least damaging alternative.

3. Proposed Project - The subject site contains an existing single-family home and is situated among other single-family homes of similar mass, bulk and scales as the proposed home. The project is proposed to be constructed on piers with a bulkhead and will not be substantially different than the existing neighborhood scale. In addition, the proposed project provides public ocean corridors (although not contiguous) where none previously existed. Therefore, the proposed 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. However, the applicant did submit a biological inventory dated October 15, 2004, which was conducted by Consulting Biologist, Rachel Tierney. Attachment 10 (Biological Inventory) The inventory was reviewed by the City Biologist who agreed with the determination that the site is not an ESHA.

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

As discussed above, the subject parcel is not designated as ESHA and the City Biologist has determined that the project is not expected to result in any new biological impacts. Accordingly, the findings in the ESHA Overlay are not applicable.

**C. Native Tree Protection Ordinance (LIP - Chapter 5)**

According to the biological inventory dated October 15, 2004, no native trees exist on the property. Therefore, according to Section 5.7, the native tree findings are not applicable.

**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. This project is visible from a scenic road (PCH); therefore, the Scenic, Visual and Hillside Resource

Protection Ordinance applies and the five findings set forth in LIP Section 6.4 are hereby made below.

In addition, LIP Section 6.5(E) 2.b requires that new development provide 20% of lineal frontage as one contiguous ocean view corridor. A variance has been requested to provide the 20% view corridor non-contiguously with 10% on each side of the proposed structure.

***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.***

Due to the restrictive lot dimensions, there exists no alternative building site locations where development would not be visible. However, the project has been designed to avoid any adverse or scenic impacts by emulating the mass bulk and scale of adjoining properties. In addition, the proposed project is under the maximum development envelope allowed for the subject property. The use of non-metallic and non-glare siding, as required by the LCP will help minimize visual impacts upon viewing the subject site.

Staff conducted site visits on March 16, 2005, and May 12, 2005. Story poles were in-place to demonstrate potential visual impacts. The analysis of the project's visual impact from public viewing areas along PCH included site reconnaissance, view of the property from PCH, and review of the landscape and architectural plans. Staff determined that the proposed residence would result in a less than significant visual impact to public views from either the beach or from PCH. Attachment 4 (Site Photos)

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

The project has been designed to avoid any adverse or scenic impacts. The proposed residence is designed utilizing colors and materials that will be compatible with the surrounding natural and residential character and will be compatible with the architectural character of the surrounding neighborhood.

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

As discussed in A. General Coastal Development Permit, Finding C. the project as proposed or as conditioned is the least environmentally damaging alternative.



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

As discussed in A. General Coastal Development Permit, Finding C. the proposed location of the structure will result in less than significant impacts on scenic and visual resources.

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

As discussed in A. General Coastal Development Permit, Finding C. the project will have less than significant scenic and visual 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.

#### **F. Hazards (LIP - Chapter 9)**

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood, and fire hazards, structural integrity or other potential hazard must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. Staff has determined that the project is located on a site or in an area where the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. Therefore, the requirements of Chapter 9 of the LIP are applicable to the project and the required findings are made below.

***Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.***

The project was analyzed by staff for the hazards listed in the LIP Section 9.2.A. (1-7). Analysis of the project for hazards included review of the following documents/data, which are available on file with the City: 1) existing City Geologic Data maintained by the City; 2) Preliminary Geotechnical Engineering report prepared by Earth Systems Southern California dated January 31, 2003 and the

Addendum No. 1 Geotechnical Engineering Report dated January 8, 2004; and 3) a Coastal Engineering Report by David C. Weiss Structural Engineers & Associates dated January 16, 2003. Attachment 11 (Cover sheet for Geotechnical Reports dated January 31, 2003, Addendum dated January 8, 2004, and Coastal Engineering Report dated January 16, 2003)

The General Plan shows that the project site is in the vicinity of the Malibu Coast Fault. The Malibu Coast Fault Zone has not been recognized as an active fault by the State and no special study zones have been delineated along its length. The General Plan also shows the project site is in the vicinity of extreme fire hazards areas. The project is located approximately 17 feet above sea level and is subject to hazards from liquefaction (LIP 9.2.A.4), wave action (LIP Section 9.2.A.5) and potential tsunamis (LIP Section 9.2.A.6).

The proposed site was analyzed for geologic and structural integrity hazards. Based on the reports by the applicant's geotechnical consultants (Earth Systems) as well as a review of the Seismic Hazards Zone Maps and Earthquake Fault Zone Maps, the site is not within earthquake-induced landslide hazard zone but is within liquefaction hazard zone. There is no hazard due to fault rupture from the Malibu Coast Fault across the building site.

Per Earth Systems Southern California's Preliminary Geologic Engineering Report page 6, "While the City of Malibu Guidelines require trench studies for sites close (500' or closer) to the Malibu Coast fault, the beach location renders trenching impractical because of young loose sandy soil and high groundwater." Analysis of the site and review of geologic literature reviewed suggest that the most active trace of the Malibu Coast fault zone is off-shore and an active fault does not trend across the building site.

Based on staff's review of the above referenced information, it has been determined that:

1. The project site could be subject to hazards from liquefaction;
2. The highest point of the project site is located approximately 11 feet above sea-level and could be subject to hazards from wave action and tsunami hazard;
3. The project site is in the vicinity of extreme fire hazard areas.

The City Geotechnical staff, Public Works Department, Environmental Health Specialist and Los Angeles County Fire Department have reviewed the project and found that there were no substantial risks to life and property related to any of the above hazards provided that their recommendations and those contained in the associated geotechnical and wave uprush reports are incorporated into the project design.

### Liquefaction Hazard

The project site soils consist primarily of sandy beach deposits that are subject to liquefaction and erosion due to wave action. The proposed two-story wood frame structure will be supported by piles (piers) embedded into bedrock beneath the sandy soils. The building super-structure will be supported directly by the piers and the ground floor will consist of a structural deck also supported by the piers. Any exterior concrete slab-on-grade construction would be supported by compacted soils. Attachment 12 (Geologic Cross Section A-A') The proposed structure foundations will extend into the bedrock which is not susceptible to liquefaction thus mitigating seismically induced settlement and earth movement due to liquefaction hazards.

### Wave Uprush Hazard

Wave Uprush analysis can be found in the Coastal Engineering Report by David C. Weiss Structural Engineers & Associates dated January 16, 2003. The wave uprush studies indicated that an average wave uprush would be to an elevation of 11 feet from the PCH right of way line. The proposed bulkhead is at 25 feet from the right of way line and is of adequate height and depth to protect the sewage disposal system. The existing bulkhead has had no effect on coastal processes such as the littoral drift of sand along the beach. Furthermore, the proposed bulkhead is located well landward of the ocean currents that carry sand along the beach. The proposed bulkhead will have no effect on adjacent properties. This bulkhead is set much further landward than the long line of bulkheads to the east. There has been no adverse effect due to the other bulkheads in the immediate area in the past; there is no reason to believe that there will be in the future (Coastal Engineering Report dated January 16, 2003, Page 9). Based on the existing plans the bulkhead and alternative onsite wastewater treatment system have been located as far landward as feasible and are consistent with LIP Chapters 8 and 10.

### Flood/Fire Hazard

The proposed site was also evaluated for flood hazards and the project has been designed to meet the Federal Emergency Management Act's requirements for flood prone areas. In addition, the entire City of Malibu is located within the fire hazard zone so no other alternatives were considered.

***Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.***

As stated in G. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public

Works Department and the Los Angeles County Fire Department, the project will not have any significant adverse impacts on the site stability or structural integrity.

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

As discussed previously, the project will not result in potentially significant environmental impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen and potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project is the least environmental damaging alternative.

***Finding 4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.***

As stated in G. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the Los Angeles County Fire Department, the project will not have any significant adverse impacts on the site stability or structural integrity.

***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 Malibu LCP.***

As stated in G. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the Los Angeles County Fire Department, the project will not have any significant adverse impacts on the site stability or structural integrity. Therefore, no adverse impacts are anticipated to hazards or to sensitive resource protection policies contained in the LCP.

#### **G. Shoreline and Bluff Development (LIP – Chapter 10)**

The project does include development of a parcel located on or along the shoreline, a coastal bluff or bluff top fronting the shoreline as defined by the Malibu Local Coastal Program. Therefore, in accordance with Section 10.2 of the Local Implementation Plan, the requirements of Chapter 10 of the LIP are applicable to the project and the required findings made 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 project currently provides no public access but the applicant will be providing a lateral easement for public access subject to project approval. Therefore, the proposed project will have no significant adverse impacts on public access.

Per Coastal Engineering Report by David C. Weiss Structural Engineers & Associates dated January 16, 2003, the existing bulkhead has had no effect on coastal processes such as the littoral drift of sand along the beach. The proposed bulkhead is located well landward of the ocean currents that carry sand along the beach. The proposed bulkhead will have no effect on adjacent properties. This bulkhead is set much further landward than the long line of bulkhead to the east. There has been no adverse effect due to the other bulkheads in the immediate area in the past; there is no reason to believe that there will be in the future (Coastal Engineering Report dated January 16, 2003, Page 9). Therefore, it is anticipated that shoreline sand supply or other resources will not be impacted by the proposed project.

The project as designed considers 100 year worst-case storm conditions and local studies have concluded that design for these conditions mitigates predicted tsunami impacts.

***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.***

As stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

As discussed previously, the project will not result in potentially significant impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project is the least environmentally damaging alternative.

***Finding 4 – There are not alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.***

As stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or 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 extent 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.***

As stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

Per LIP 10.5 (c) (page 184), all applications for proposed development on a beach or along a shoreline, including a shoreline protection structure, shall contain written evidence of review and determination from the California State Lands Commission (CSLC) relative to the proposed project's location to or impact upon the boundary between public tidelands and private property. Attachment 14 contains the determination from the State Land Commission which indicates that "the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters."

The proposed shoreline protection structure (bulkhead) is located as far landward as feasible while maintaining building and plumbing code required setbacks.

As discussed previously, the project will not result in potentially significant impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project is the least environmentally damaging alternative.

#### **H. Public Access (LIP - Chapter 12)**

The subject site is located between the first public road on the ocean-side of PCH between Carbon Beach and La Costa Beach. The project involved the demolition of an existing single-family residence and reconstruction of a new (with more than 10% additional square footage) single-family residence. No onsite vertical or lateral access is

currently provided on the subject parcel. The project does not meet the definitions of exceptions to public access requirements identified in LIP Section 12.2.2.; however, LIP Section 12.6 states that public access is not required when adequate access exists nearby and the findings addressing LIP Section 12.8.3 can be made. The following findings satisfy this requirement. Analyses required in LIP Section 12.8.2 are provided herein, and in geotechnical and coastal engineering reports referenced earlier in this report. Bluff top, trail, and recreational accesses are not applicable. No issue of public prescriptive rights has been raised.

The project is not located on a bluff top; therefore, no condition for bluff top access is required by the Local Coastal Program.

#### *Trail Access*

The project site does not include, or have any access ways to existing or planned public trail areas; therefore, no condition for trail access is required by the Local Coastal Program.

#### *Lateral Access*

A lateral public access provides public access and use along or parallel to the sea or shoreline. The applicant has agreed to provide an offer to dedicate the required lateral access subject to project approval. Such Offer to Dedicate (OTD) shall include a site map that shows all easements, deed restrictions, or OTD and/or other dedications to public access and open space and provide documentation for said easement or dedication.

#### *Vertical Access.*

As indicated above, the project is located along the shoreline; however, as shown on the Coastal Commission Public Access Map for Los Angeles 1998 and the City of Malibu LCP Public Access Map 4 (Attachment 14), vertical access is adequately provided for in the following locations:

- 22466 PCH, Carbon Beach -The "Access for All" easement is 10 feet wide and extends along the eastern property line boundary.
- 22126-22132 PCH, Carbon Beach – The "Access for All" easement is 9 feet wide and approximately 200 feet long. It runs along the western property line boundary.
- 21704 PCH, Carbon/La Costa Beach – The California Coastal Conservancy owns this parcel for the sole purpose of "providing visual and vertical public access to La Costa and Carbon Beaches." Attachment 15 – Coastal Conservancy exhibit dated April 27, 2000.
- Directly across from Rambla Vista, adjacent to 21704 PCH, the State of California owns a stretch of beach approximately 200 feet in length which is currently used by the public to access the beach. Attachment 14 – Coastal Commission Public Access Map for Los Angeles 1998

Consistent with LIP Section 12.6, due to the ability of the public, through other reasonable means to reach nearby coastal resources, an exception for public vertical access has been determined to be appropriate for the project and no condition for vertical access has been required. Nevertheless, the following findings and analysis were conducted in accordance with LIP Section 12.8.3 regarding vertical access. Due to these findings, Section LIP Section 12.8.1 is not applicable.

***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.***

Vertical access would not impact fragile coastal resources or have any impact on a military facility. The basis for the exception to the requirement for vertical access is associated with the availability of access nearby as described above.

***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.***

Vertical access would not impact fragile coastal resources or have any impact on a military facility. The basis for the exception to the requirement for vertical access is associated with the availability of access nearby as described above.

***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.***

The public, through other reasonable means, can reach the same area of public tidelands as would be made accessible by an access way on the subject land. The project, as proposed, does not block or impede existing access to the ocean. Conditioning the project to provide a vertical public access would not provide additional access to coastal resources because adequate public access is provided nearby. As indicated on Attachment 14 (Public Access Maps), there are four existing vertical access ways between Carbon Beach and La Costa Beach. No legitimate governmental or public interest would be furthered by requiring access at the project site because existing public access to coastal resources is adequate and the proposed project will not impact any existing public access way.



## I. Land Division (LIP - Chapter 15)

This project does not involve a division of land as defined in LIP Section 15.1; therefore, Chapter 15 of the LCP does not apply.

## J. Variance (LIP - Chapter 13)

Pursuant to LIP Section 13.26.5, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes ten (10) findings of fact. Staff believes the evidence in the record supports the requested variance and the following findings of fact are made below.

***Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.***

The size of the subject property is such that the strict application of the development standards requiring a 20% contiguous view corridor would result in a loss of 13 of the 40 foot lineal frontage. This is due to the combination of the City's setback requirements, Los Angeles County Fire Department requirements and LCP requirements. The M.M.C setback requirements are 10% (4 feet) on one side of the site and the 10% on the other side (4 feet), the Los Angeles County Fire Department requires that a minimum of five feet be open to the sky and unusable as an "approved access walkway" for life safety purposes (LACFD Code Section 902.31); and the LCP requires 20% (8 feet) be provided as a public view corridor. Thus, under this scenario, the applicant must provide 20% (8 feet) on one side and 12.5% (5 feet required by LACFD unless sprinklers are installed) for a total of 13 feet (32.5% of lineal frontage). Strict application of these requirements would require a residence 27 feet in width and deprive the property owner of having a house of similar mass, bulk, and scale as neighboring residences. A variance would ensure that the applicant is not deprived of the privileges enjoyed by other properties in the vicinity.

***Finding 2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.***

The granting of the requested variance will allow the construction of a single family residence in an area that has been determined to be appropriate for such use, and will not be detrimental to the public's interest, safety, health or welfare or detrimental or injurious to the property or improvements in the same vicinity and

zone as the subject property. The granting of the requested variance will allow the subject property to be constructed and still provide a view corridor on both sides on the subject property. As stated previously, the proposed project has been reviewed and approved by the Los Angeles County Fire Department, the City Public Works Department, the City Geologist and Coastal Engineer. The project, as proposed or conditioned, was found to be consistent with applicable City goals and policies.

***Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.***

The granting of the variance will not constitute a special privilege to the applicant or property owner in that adjacent properties have been developed without the required 20% contiguous view corridor and that the applicant is providing the required view corridor development standard just 10% on each side. Since the applicant is supplying the view corridor in an area where none currently exist, granting the variance does not constitute a special privilege to the property owner.

***Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.***

The granting of the variance is not contrary to or in conflict with the general purposes or intent of the Scenic Resources Chapter in that the requirement to "protect public ocean views" is achieved in that view corridors will be provided where none currently exists. The two 10% view corridors will provide an ocean view on a pedestrian level and provide visual relief to passing motorists. Given that this view corridor provides public views where none currently exists, the proposed project with the variance meets the intent of this Chapter.

***Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.***

The subject variance is not associated with environmentally sensitive habitat area buffer; therefore, this finding is not applicable.

***Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.***

The requested variance is not associated with Stringline standards; therefore, this finding is not applicable.

***Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.***

The requested variance is for relief from a specific development standard and does not authorize a use not otherwise permitted in the Single Family – Medium Zone. The proposed project is a new single-family residence, which is permitted in the zone.

***Finding 8. The subject site is physically suitable for the proposed variance.***

The granting of the variance will allow construction of a residence that is compatible with the surrounding built environment and still provide a view corridor where none currently exists. The subject site is physically suitable for the proposed variance in that the narrow lot width physically constrains proposed development of the site. Strict application of the development standards requiring a 20% contiguous view corridor would result in a loss of 13 feet of the 40 foot lineal frontage. Therefore, the subject site is physically suitable for the proposed variance.

***Finding 9. The variance complies with all requirements of state and local law.***

The variance complies with all requirements of state and local law. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City Agencies.

***Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.***

The requested variance is for relief from a specific development standard and does not involve the reduction or elimination of public parking.

### **Environmental Review Board**

The Environmental Review Board was not required to evaluate this project because the project is not within or adjacent to an area identified as ESHA on the LCP ESHA Overlay Map or determined to be ESHA based on the site specific biological study prepared for this project.

CORRESPONDENCE: To date, staff has received no correspondence from any neighbors or members of the public.

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 to have less than significant adverse effect on the environment and therefore, exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION will be prepared and issued pursuant to CEQA Guidelines Sections 15301 (I) – Existing Facilities – Demolition and removal of a single-family residence and 15303 (a) New Construction of a single-family residence. 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).

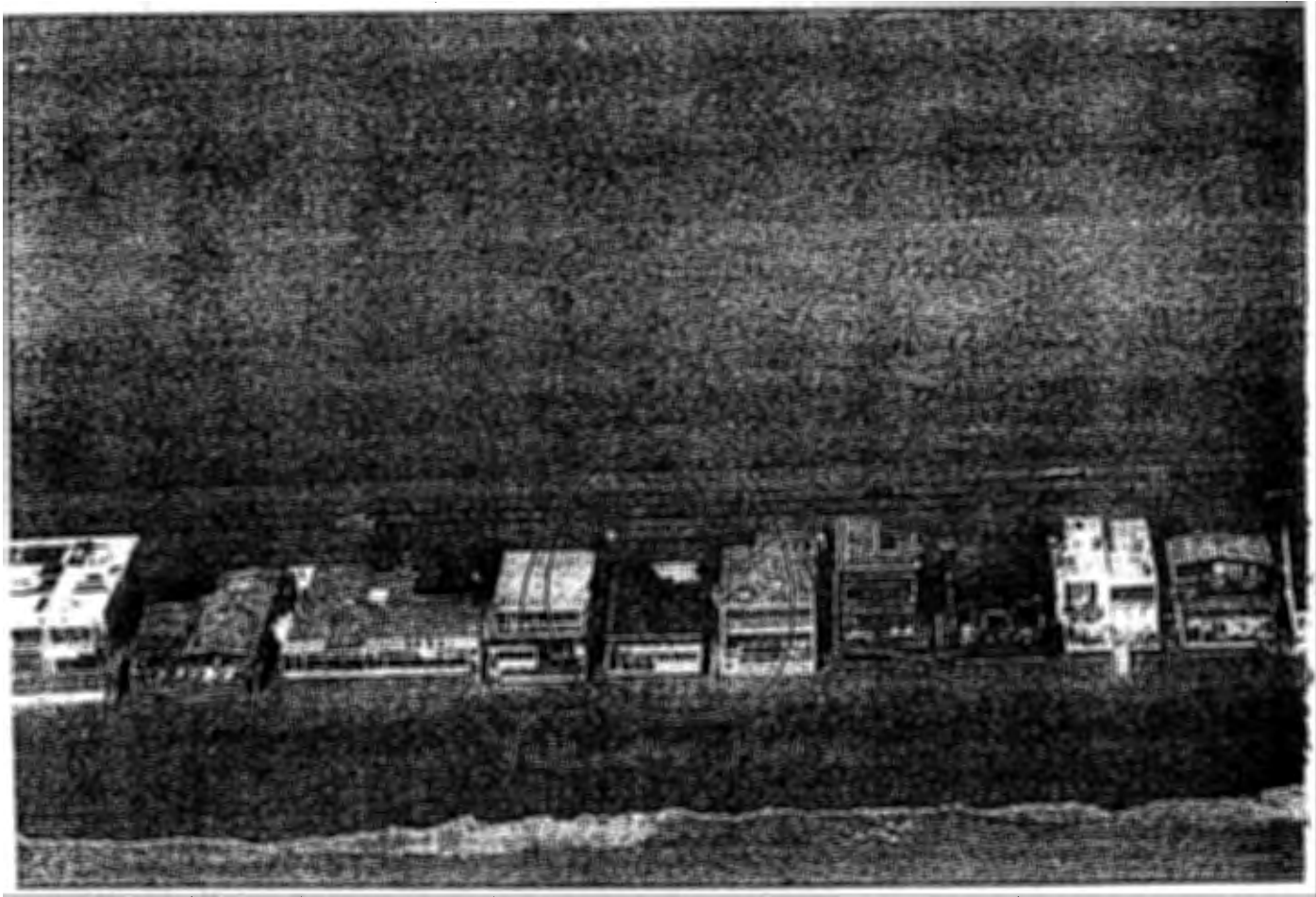
PUBLIC NOTICE: Pursuant to Malibu Local Coastal Program LIP Section 13.12.1, staff published the required 10-day public hearing notice in the Malibu Surfside News on May 5, 2005. In addition, a Notice of Public Hearing was mailed to property owners and occupants within a 500-foot radius of the subject property on May 5, 2005. Attachment 16

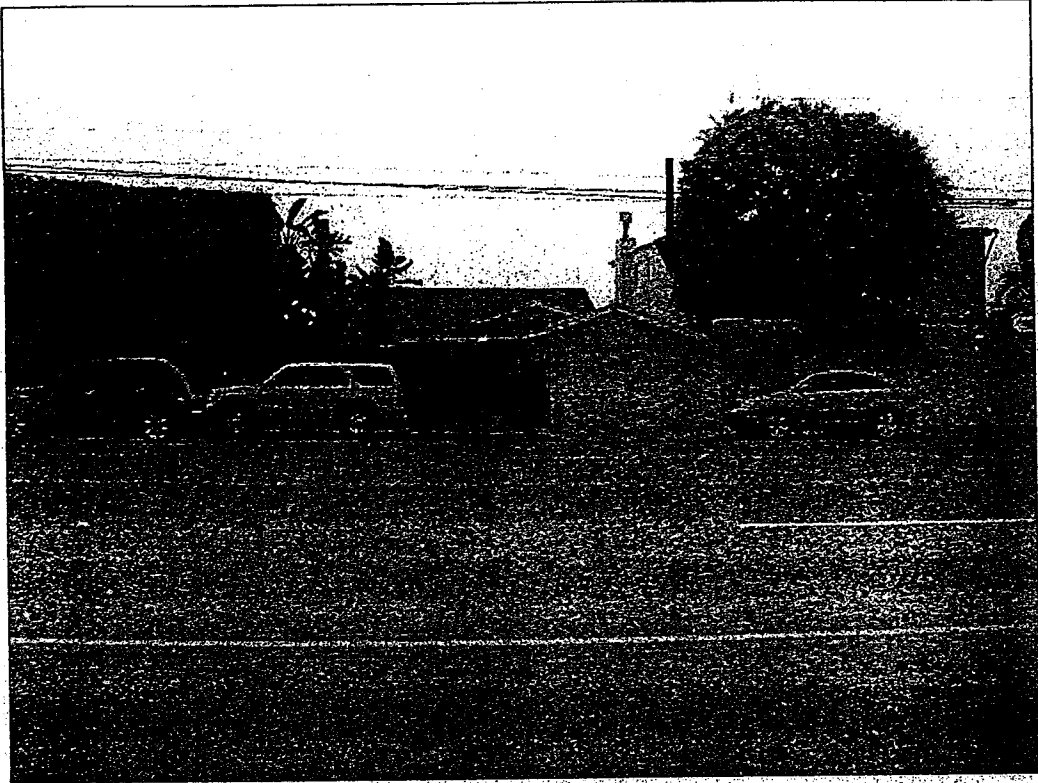
SUMMARY: The required findings can be made that the project complies with the LCP. Further, the Planning Division's findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report, staff is recommending approval of this project subject to the conditions of approval contained in Section 4 (Conditions of Approval) of Planning Commission Resolution No. 05-18. 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. 05-18
2. Aerial Photo
3. Site photographs
4. Appeal Jurisdiction Map
5. LCP ESHA Overlay Map 4
6. LCP Land Use/Zoning Map
7. Project Plans
8. Notice of Decision dated April 30, 2003
9. Department Review Sheets
10. Biological Inventory
11. Geotechnical Report dated January 31, 2003, Addendum dated January 8, 2004, and Coastal Engineering Report dated January 16, 2003
12. Geologic Cross Section A – A'
13. State Lands Commission determination
14. Coastal Conservancy Exhibits dated April 27, 2000 and December 2, 2004
15. Coastal Commission Public Access Map for Los Angeles 1998 and LCP Public Access Map 4
16. Public Hearing / Mailing Notice

F







### Permit Jurisdiction

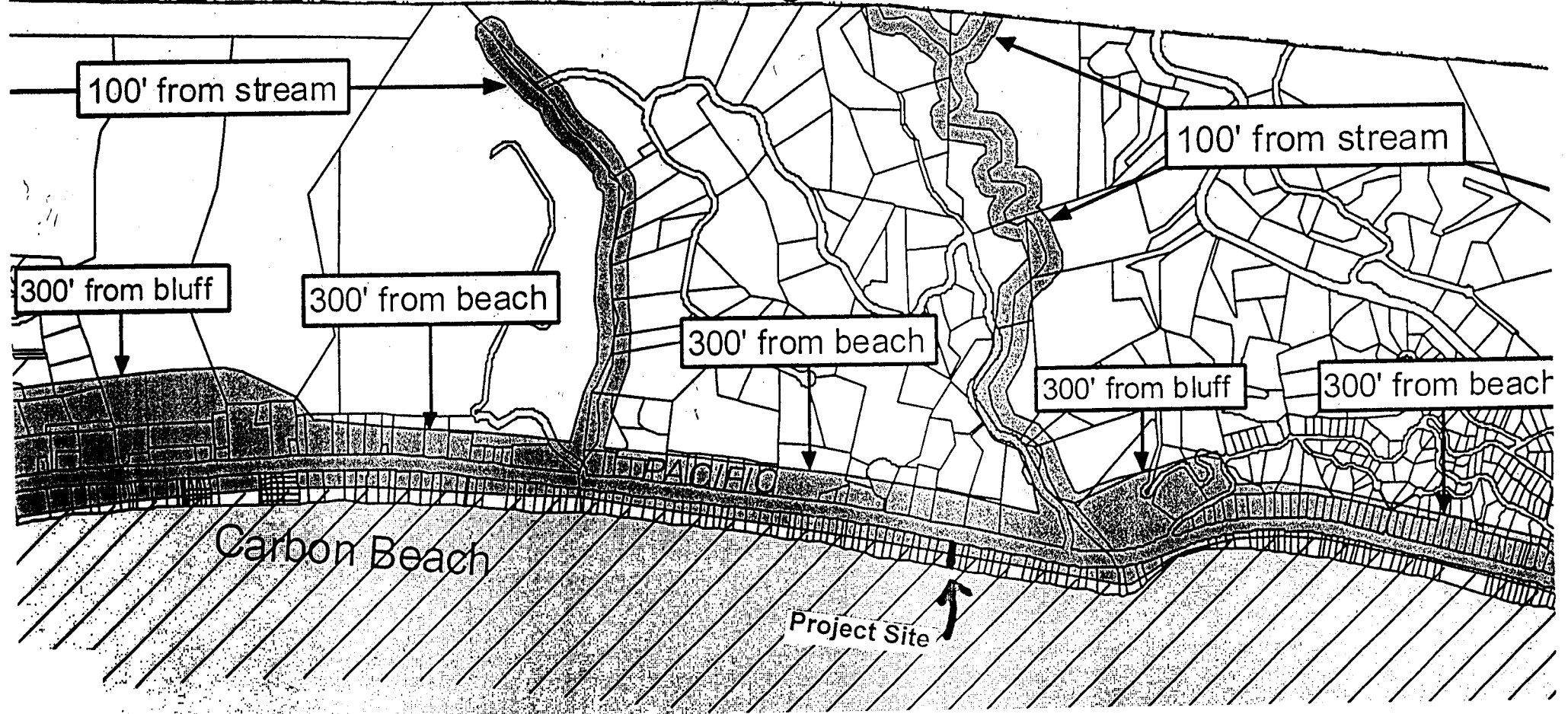
This area includes only lands below the mean high tide line and lands where the public trust may exist.



### Appeal Jurisdiction




This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.

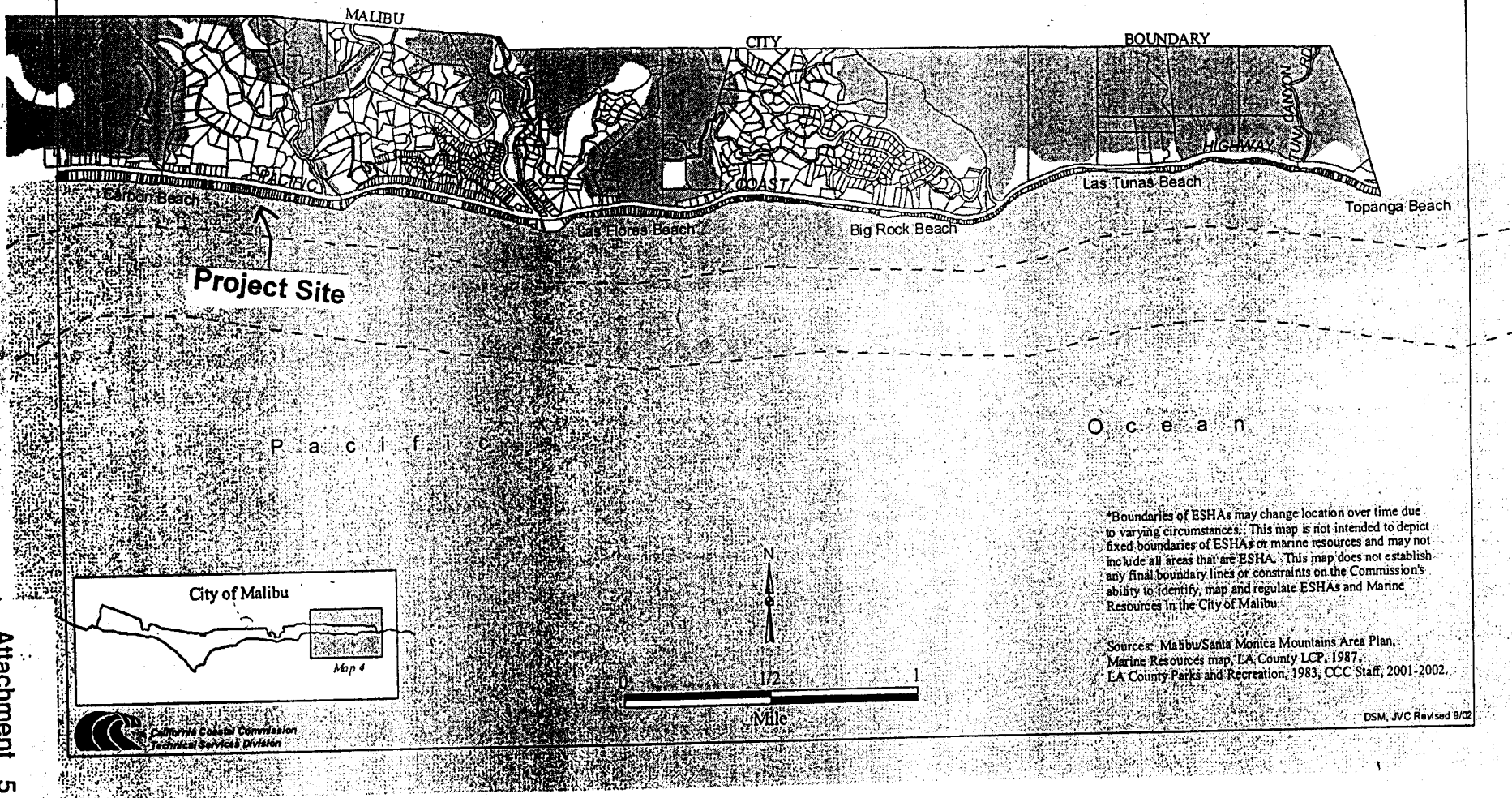
## MALIBU



# Local Coastal Program - City of Malibu

## ESHA Overlay Map 4: Carbon Beach to Topanga Beach

-  Environmentally Sensitive Habitat Areas  
Includes areas identified as coastal sage scrub and/or  
chapparral, riparian areas and wetlands.\*
-  Near Shore Shallow-water Fish Habitat
-  Streams



March Line to Map 3

\*Boundaries of ESHAs may change location over time due to varying circumstances. This map is not intended to depict fixed boundaries of ESHAs or marine resources and may not include all areas that are ESHA. This map does not establish any final boundary lines or constraints on the Commission's ability to identify, map and regulate ESHAs and Marine Resources in the City of Malibu.

Sources: Malibu/Santa Monica Mountains Area Plan, Marine Resources map, LA County LCP, 1987, LA County Parks and Recreation, 1983, CCC Staff, 2001-2002.

DSM, JVC Revised 9/02

Attachment 5





















# Local Coastal Program - City of Malibu

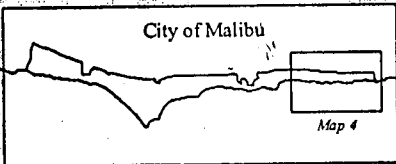
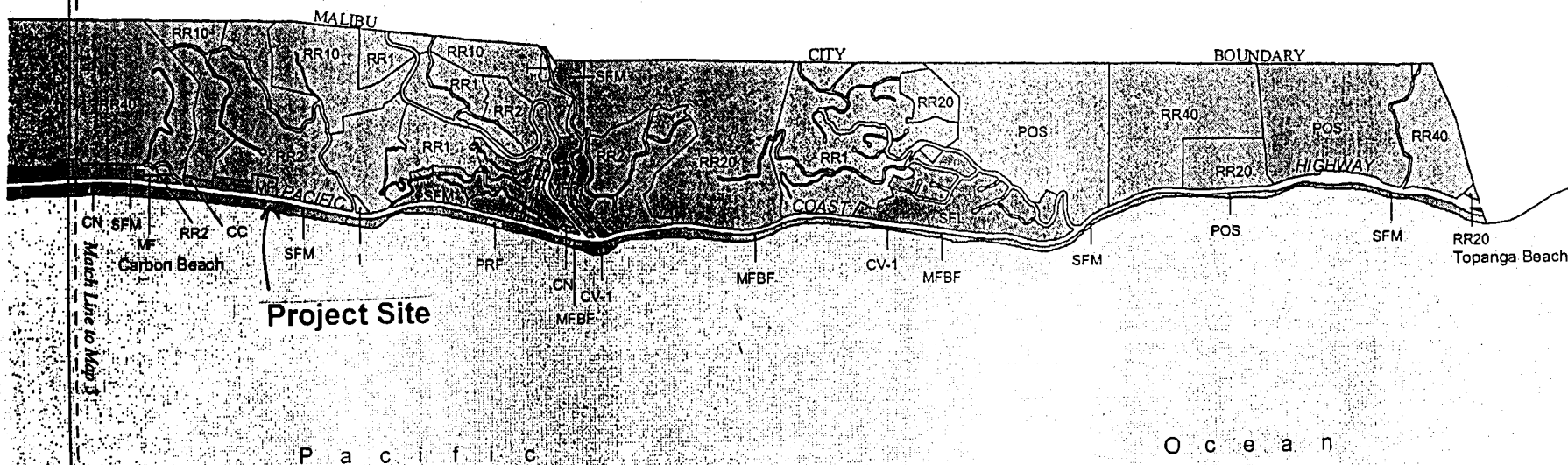
## Land Use Map 4: Carbon Beach to Topanga Beach

### Land Use Designations

-  Community Commercial
-  Commercial Neighborhood
-  Commercial Visitor Serving 1
-  Institutional
-  Multi-Family Residential - 6 du/acre

-  Multi-Family Beach Front
-  Public Open Space
-  Private Recreational Facilities
-  Rural Residential - 1 du/acre
-  Rural Residential - 1 du/2 acres
-  Rural Residential - 1 du/5 acres

-  Rural Residential - 1 du/10 acres
-  Rural Residential - 1 du/20 acres
-  Rural Residential - 1 du/40 acres
-  Single Family Low - 2 du/acre
-  Single Family Medium - 4 du/acre

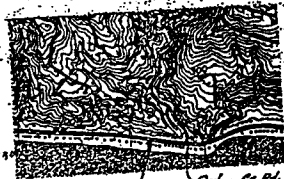


Sources: CCC Public Access Database, Malibu/Santa Monica Mountains Area Plan, LA County Parks and Recreation, 1983.

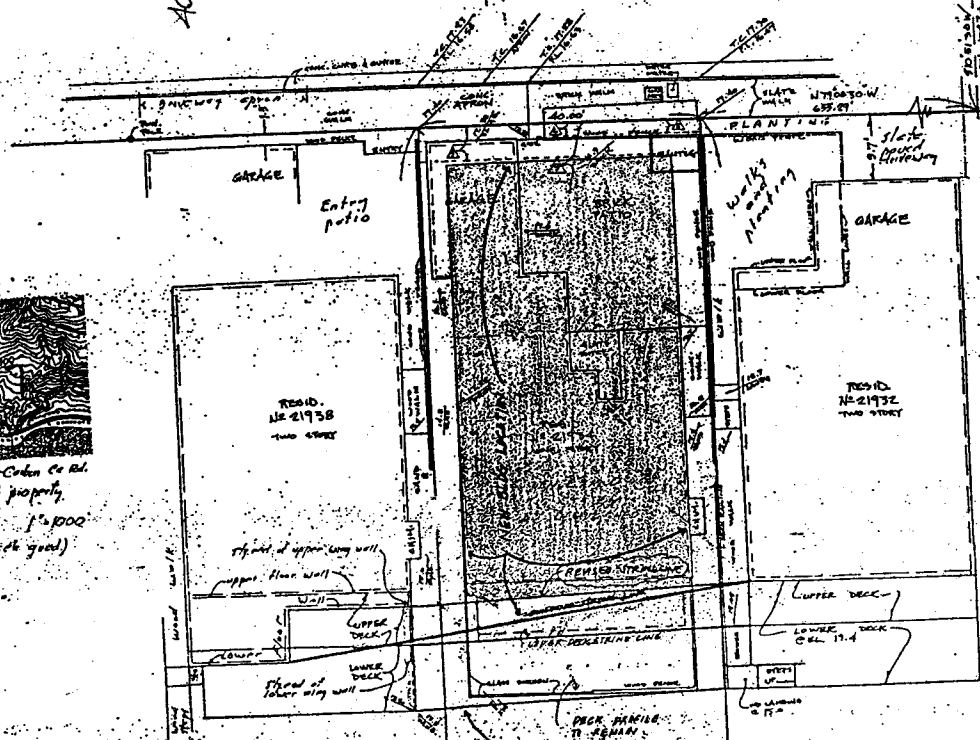
DSM, Revised 8/02

PACIFIC COAST HWY.

906-20-D



VICINITY MAP 1"=1000  
(From U.S.G.S. Map 12527-100)



LEGAL DESCRIPTION

A PORTION OF LAND BEING A PORTION OF THE TRACT OF LAND BEING THE...  
 BEING THE...  
 ALSO BEING THE...  
 ALL RIGHTS, OIL, PETROLEUM, GAS, AND OTHER...  
 ALL RIGHTS WITH THE FULL AND EXCLUSIVE RIGHT TO...  
 AND THE RIGHT TO...  
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Sandy beach  
 No slopes over 3:1

- NOTATION NOTES
1. All dimensions are in feet unless otherwise specified.
  2. All dimensions are to the center of the wall unless otherwise specified.
  3. All dimensions are to the finished surface unless otherwise specified.
  4. All dimensions are to the center of the pipe unless otherwise specified.
  5. All dimensions are to the center of the hole unless otherwise specified.
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  98. All dimensions are to the center of the footing unless otherwise specified.
  99. All dimensions are to the center of the foundation unless otherwise specified.
  100. All dimensions are to the center of the wall unless otherwise specified.

SCALE 1"=8'

PACIFIC OCEAN

SITE PLAN OF PROPERTY AT 2158 PACIFIC COAST HWY  
 CITY OF OAKLAND, COUNTY OF LOS ANGELES, CA  
 BEING AS L.A. CO. ASSessor'S MAP 451-002-008

PREPARED BY ENGINEER, ARCHITECT  
 FOR THE PROPERTY OWNER

BY: ARCHITECT/ENGINEER  
 22249 VAN PELT RD. OAKLAND, CA 94612

John C. ...  
 2.5.2743

ISSUE: Nov 27, 02 906-20-D

RECEIVED

FEB 14 2005

PLANNING DEPT.

NUMBER	DATE

EDWARD H. NILES ARCHITECT P.A.  
 2330 PACIFIC COAST HWY.  
 MALIBU, CALIFORNIA 90265  
 (310) 457-3002

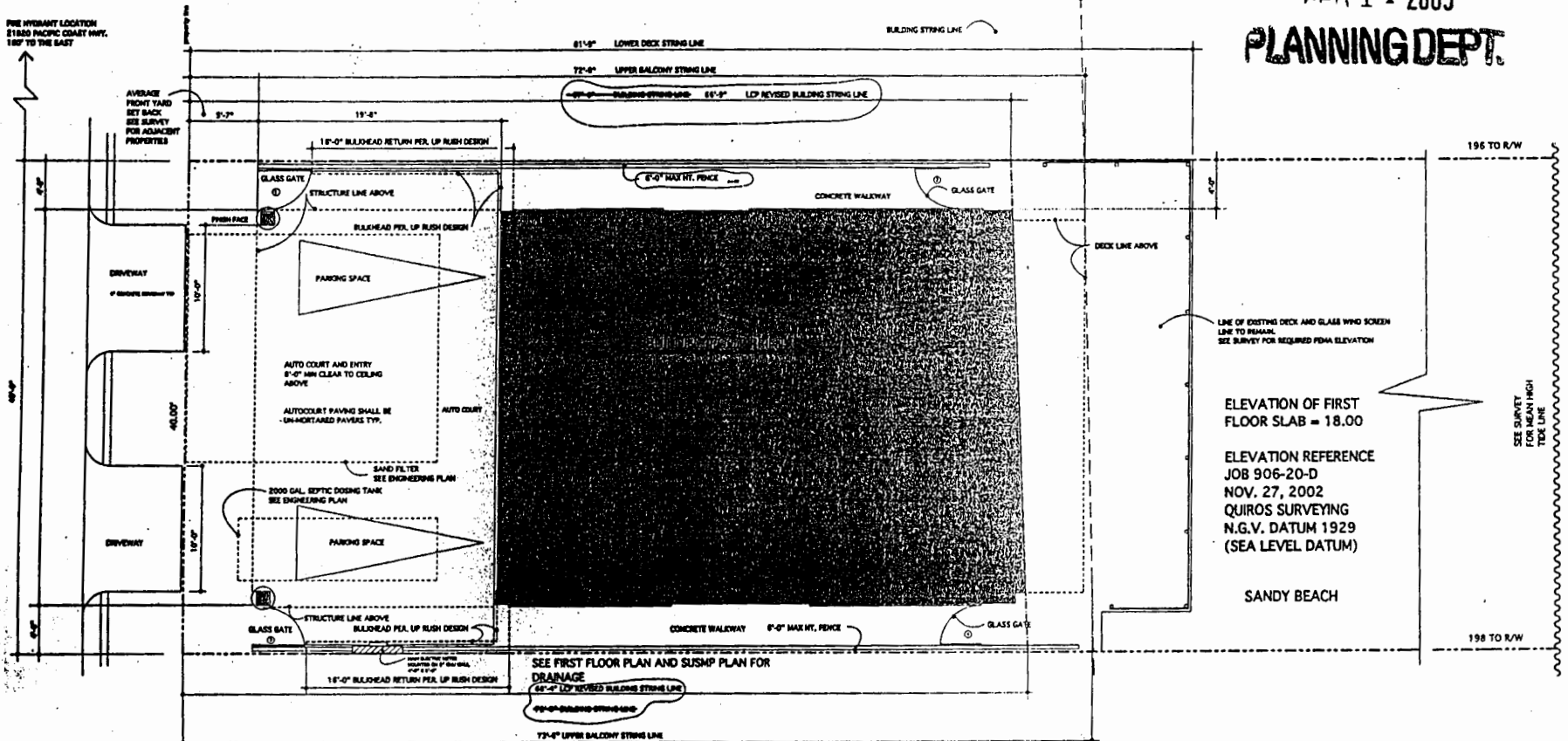
SEE SURVEY FOR REQUIRED FEMA ELEVATION  
 ELEVATION OF FIRST FLOOR SLAB = 18.00  
 ELEVATION REFERENCE  
 JOB 906-20-D  
 NOV. 27, 2002  
 QUIROS SURVEYING  
 N.G.V. DATUM 1929  
 (SEA LEVEL DATUM)  
 SANDY BEACH  
 SEE SURVEY FOR REQUIRED FEMA ELEVATION  
 SEE SURVEY FOR REQUIRED FEMA ELEVATION

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SCALE 1/4" = 1'-0"  
 SHEET 2.

SEE SURVEY FOR ADJACENT PROPERTY



**SQUARE FOOTAGE SUMMARY:**  
 EXISTING STRUCTURE TO BE DEMOLISHED 1,219 SQ. FT.  
 EXISTING GARAGE TO BE DEMOLISHED 200 SQ. FT.  
 TOTAL 1,419 SQ. FT.  
 NEW RESIDENCE 3,821 SQ. FT.  
 NEW GARAGE 400 SQ. FT.  
 TOTAL 4,221 SQ. FT.

**BIOLOGICAL CONDITIONS:**  
 1. ALL REMOVED SHALL BE DONE BY THE BUYER FROM APRIL 1, 2005 TO OCTOBER 31, 2005. THE EXISTING STRUCTURE SHALL BE DEMOLISHED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100 AND SHALL BE DEMOLISHED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE EXISTING GARAGE SHALL BE DEMOLISHED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE EXISTING DRIVEWAY SHALL BE DEMOLISHED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE EXISTING DRIVEWAY SHALL BE DEMOLISHED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE EXISTING DRIVEWAY SHALL BE DEMOLISHED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE EXISTING DRIVEWAY SHALL BE DEMOLISHED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100.

**OWNED:**  
 CREEK FAMILY  
 137 SOUTH FAIRFAX  
 LOS ANGELES, CA 90014  
**ACCESSORS PARCEL #:** 4451-005-010

**FIRE DEPARTMENT NOTES:**

- FIRE SPRINKLERS REQUIRED:**
  - SPRINKLER SHALL BE PROVIDED FOR THE ENTIRE AREA TO BE PROTECTED. REFER TO SPECIFICATIONS FOR SPRINKLER SIZES AND SPACING.
  - THE SPRINKLER SYSTEM SHALL BE DESIGNED BY A LICENSED PROFESSIONAL ENGINEER AND SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE SPRINKLER SYSTEM SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE SPRINKLER SYSTEM SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE SPRINKLER SYSTEM SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100.
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- PROVIDE A MINIMAL UNOBTAINED WIDTH OF 36 INCH CLEARANCE TO THE VEHICULAR ACCESS TO WITHIN 5 FEET OF ALL PORTIONS OF THE EXISTING WALL.
- ALL EXISTING WALLS SHALL BE REINFORCED TO MEET THE CITY OF MALIBU ORDINANCE 16.01.100. ALL EXISTING WALLS SHALL BE REINFORCED TO MEET THE CITY OF MALIBU ORDINANCE 16.01.100. ALL EXISTING WALLS SHALL BE REINFORCED TO MEET THE CITY OF MALIBU ORDINANCE 16.01.100. ALL EXISTING WALLS SHALL BE REINFORCED TO MEET THE CITY OF MALIBU ORDINANCE 16.01.100.
- ALL EXISTING PUBLIC FIRE GRABBLES SHALL BE REPLACED, TESTED AND ACCEPTED PRIOR TO CONSTRUCTION.
- VEHICULAR ACCESS SHALL BE PROVIDED AND MAINTAINED THROUGHOUT CONSTRUCTION.
- PRIVATE DRIVEWAYS FOR FIRE DEPARTMENT ACCESS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. PRIVATE DRIVEWAYS FOR FIRE DEPARTMENT ACCESS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. PRIVATE DRIVEWAYS FOR FIRE DEPARTMENT ACCESS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. PRIVATE DRIVEWAYS FOR FIRE DEPARTMENT ACCESS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100.
- TRUCKING TRAILS FOR THE FIRE DEPARTMENT ACCESS SHALL BE A MINIMUM OF 12'-0" WIDE FROM THE CENTER LINE OF ROAD.
- THE DRIVEWAY AND ACCESS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE DRIVEWAY AND ACCESS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE DRIVEWAY AND ACCESS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100. THE DRIVEWAY AND ACCESS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCE 16.01.100.
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SITE PLAN N

SITE PLAN

Attachment 7

NO.	REV.

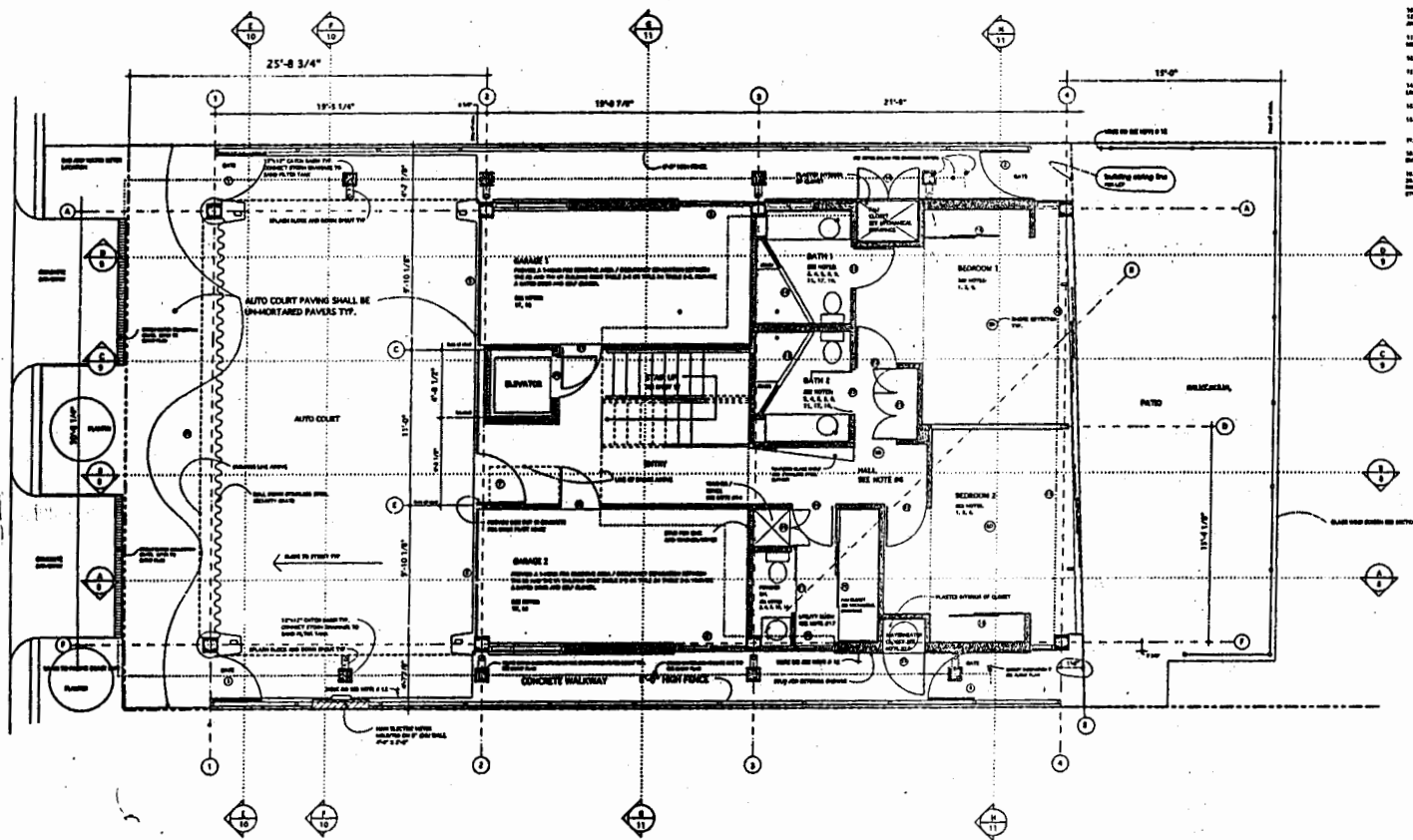
**TYPICAL NOTES: PROVIDE FIRE SPRINKLERS TYP.**

1. ALL EXTERIOR WALLS SHALL BE FINISHED WITH A MINIMUM 2" THICK CONCRETE OR OTHER SOLID MATERIAL TO A MINIMUM OF 2" AT ALL CORNERS AND INTERSECTIONS. MINIMUM CLEAR HEIGHT OF 20', UNLESS CLEAR HEIGHT OF 22' IS SHOWN ON THIS PLAN OR INDICATED BY OTHER NOTES.
2. ALL EXTERIOR WALLS SHALL BE FINISHED WITH EXTERIOR LIGHT (LINE OF THE FINISH AREA) AND VERTICAL LINE FINISH.
3. PROVIDE A MINIMUM 1" THICK CONCRETE OR OTHER SOLID MATERIAL TO A MINIMUM OF 2" AT ALL CORNERS AND INTERSECTIONS.
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20. PROVIDE A MINIMUM 1" THICK CONCRETE OR OTHER SOLID MATERIAL TO A MINIMUM OF 2" AT ALL CORNERS AND INTERSECTIONS.

EDWARD J. KELLS ARCHITECT P.A.  
 21535 PACIFIC COAST HWY.  
 MALIBU, CALIFORNIA 90265  
 (310) 432-1100

GREENE RESIDENCE  
 21,934 PACIFIC COAST HWY.  
 MALIBU, CA. 90265

DATE	10-4-06
SCALE	1/8" = 1'-0"
NO.	3



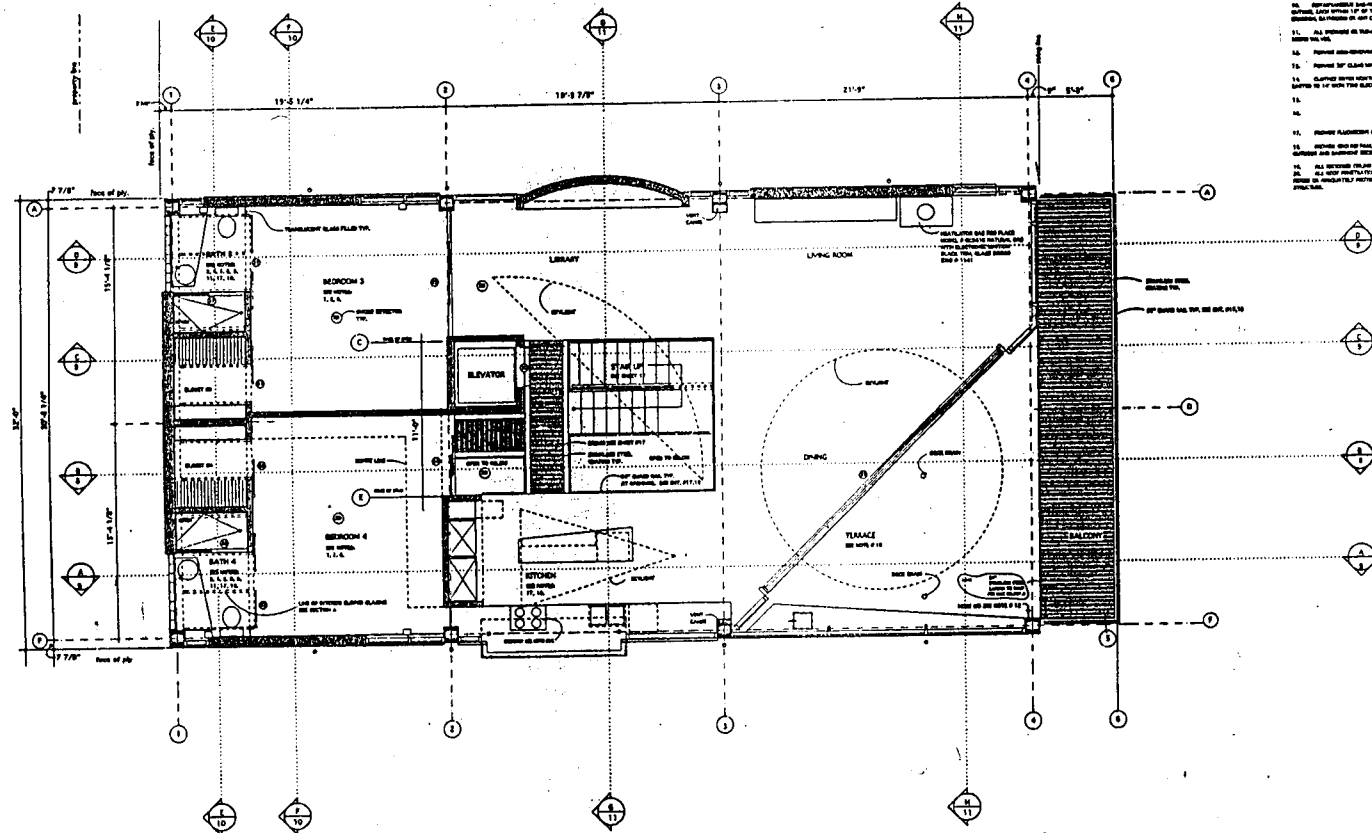
**FIRST FLOOR PLAN**

FLOOR AREA:  
 RESIDENCE = 1,013 SQ. FT  
 GARAGE = 400 SQ. FT

SEE FIRST FLOOR DIMENSION PLAN SHT. #5 FOR ADDITIONAL DIMENSIONS

**FIRST FLOOR PLAN**

PACIFIC COAST HWY



SECOND FLOOR PLAN

FLOOR AREA:  
 RESIDENCE = 1,613 SQ. FT.  
 COVERED TERRACE = 230 SQ. FT.  
 BALCONY = 162 SQ. FT.

SEE SECOND FLOOR DIMENSION PLAN SHT. #6 FOR ADDITIONAL DIMENSIONS

TYPICAL NOTES: PROVIDE FIRE SPRINKLES TYP.

1. REAR EXTERIOR WALLS TO REMAIN WITH A MAXIMUM OF 6" EXTERIOR FINISH THAT SPANS UNLESS A WALL, EXTERIOR WALL FINISH TO BE 3" OF EXTERIOR FINISH. EXTERIOR WALL FINISH TO BE 3" OF EXTERIOR FINISH. EXTERIOR WALL FINISH TO BE 3" OF EXTERIOR FINISH. EXTERIOR WALL FINISH TO BE 3" OF EXTERIOR FINISH.
2. ALL EXTERIOR WALLS MUST BE FINISHED WITH EXTERIOR FINISH (2" OF THE SLAB AREA) AND FINISHED (SEE NOTES).
3. REPAIR & REPLACE EXTERIOR FINISH OF EXTERIOR WALLS AND EXTERIOR WALLS AND EXTERIOR WALLS TO BE FINISHED. THE EXTERIOR WALLS TO BE FINISHED WITH EXTERIOR FINISH.
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DATE	BY	CHKD

EDWARD E. MILES ARCHITECT/PLA  
 23550 PACIFIC COAST HWY.  
 MALIBU, CALIFORNIA 90265  
 (310) 457-9502

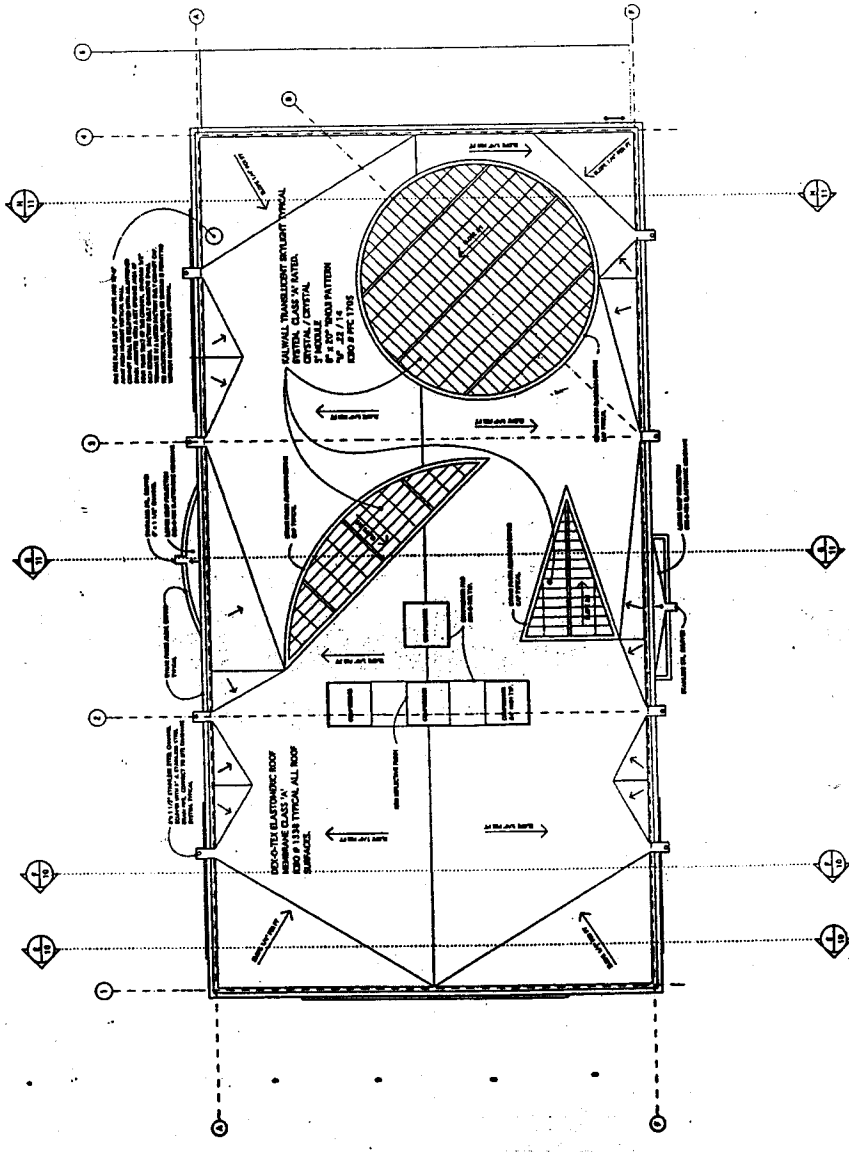
GREENE RESIDENCE  
 21934 PACIFIC COAST HWY.  
 MALIBU, CA. 90265

NO. 4

SECOND FLOOR PLAN

SHEET NO.	7
	7
DATE	10/11/04
PROJECT NO.	04088
PROJECT NAME	GREENE RESIDENCE 21934 PACIFIC COAST HWY. MALIBU, CA. 90265
ARCHITECT	EDWARD R. NILES ARCHITECT P.A./A 2950 PACIFIC COAST HWY. MALIBU, CALIFORNIA 90265 (310) 457-5802
REVISIONS	

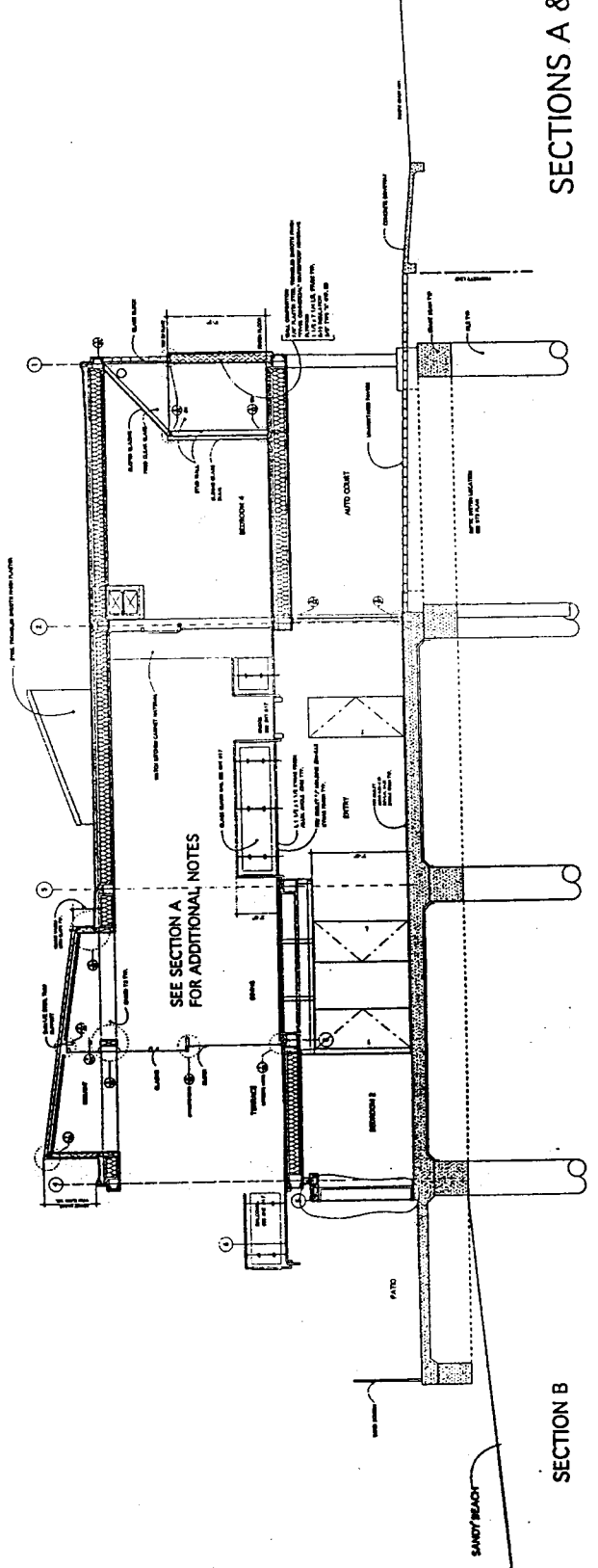
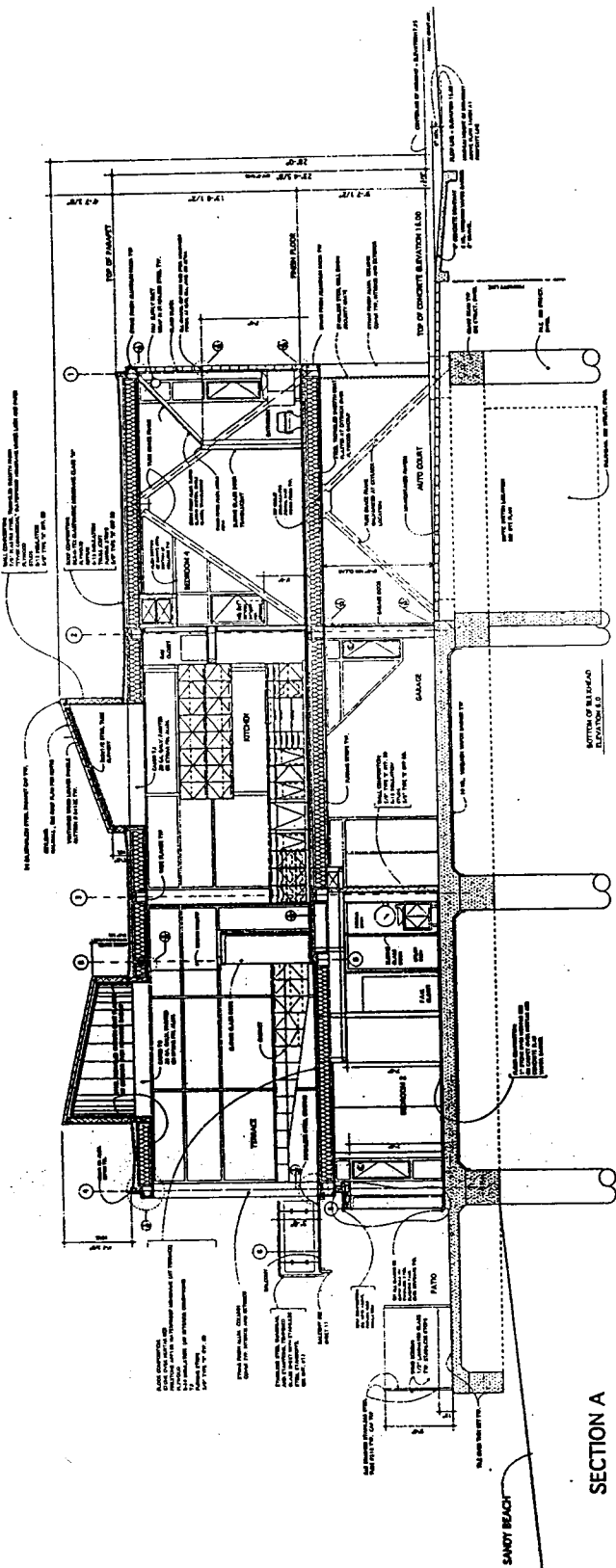
ROOF PLAN



ROOF PLAN

CONNECT ALL STORM DRAINAGE TO 18" DIA. SAND FILTER TANK.

SECTIONS A & B

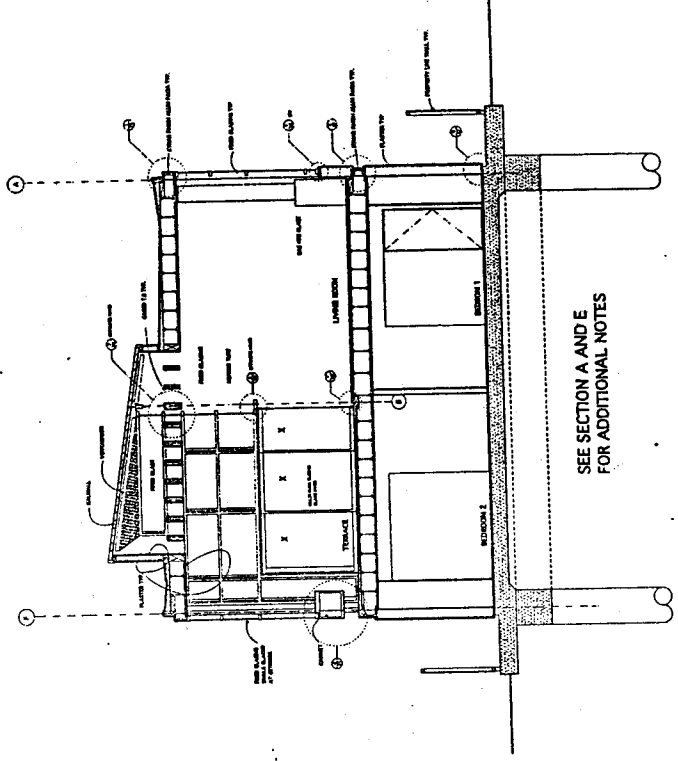


SEE SECTION A  
FOR ADDITIONAL NOTES

NO.	DESCRIPTION
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4	
5	
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9	
10	

SECTIONS G & H

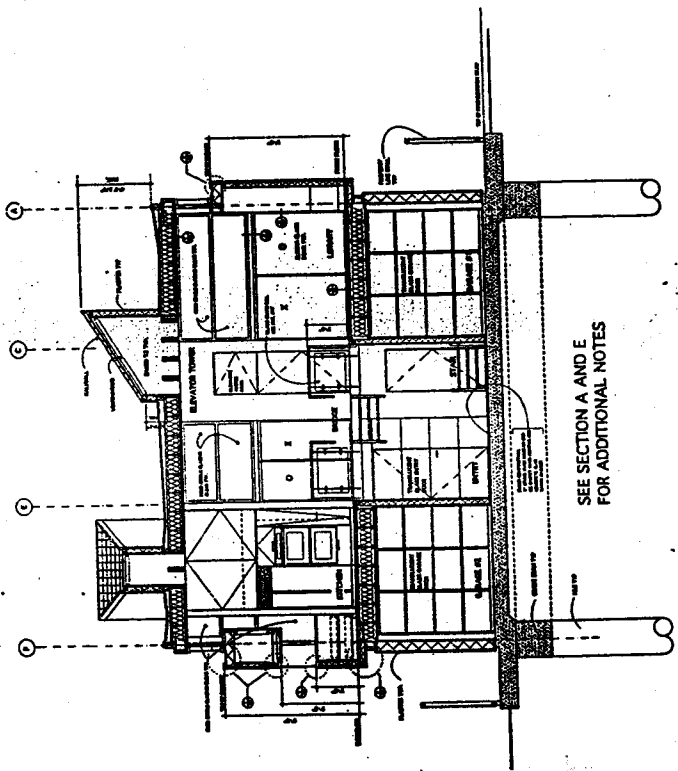
SEE SECTION A  
FOR ADDITIONAL NOTES



SEE SECTION A AND E  
FOR ADDITIONAL NOTES

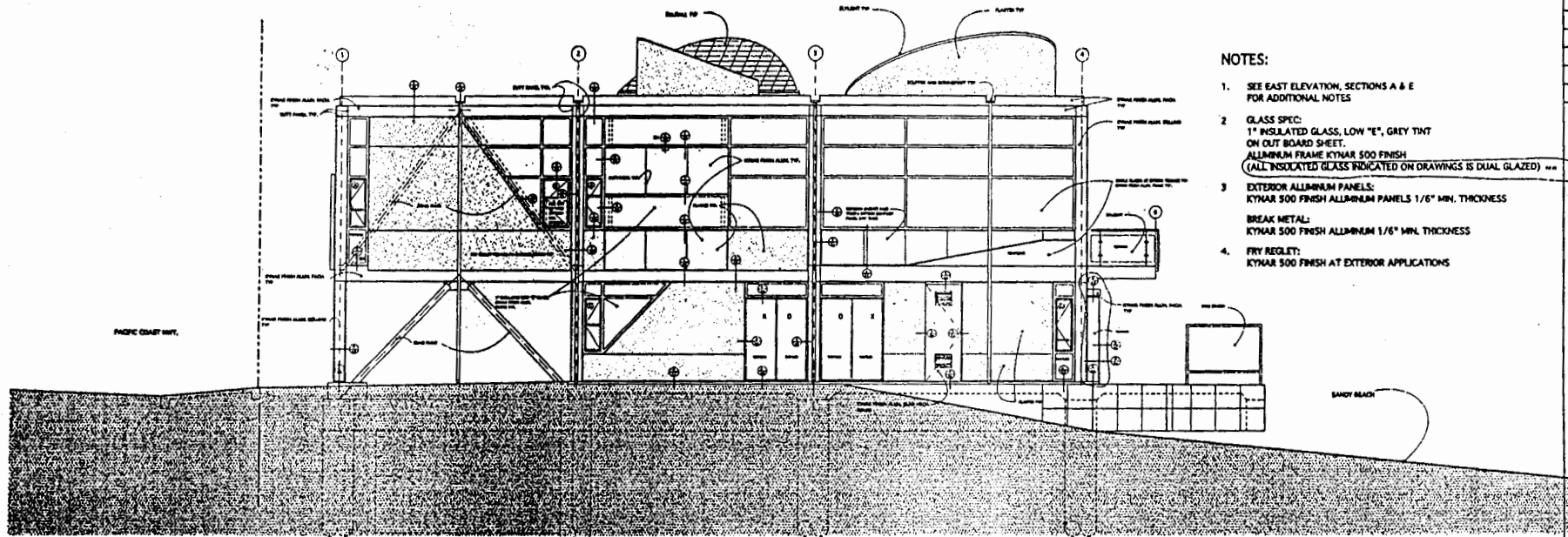
SECTION H

SEE SECTION A AND E  
FOR ADDITIONAL NOTES



SECTION G





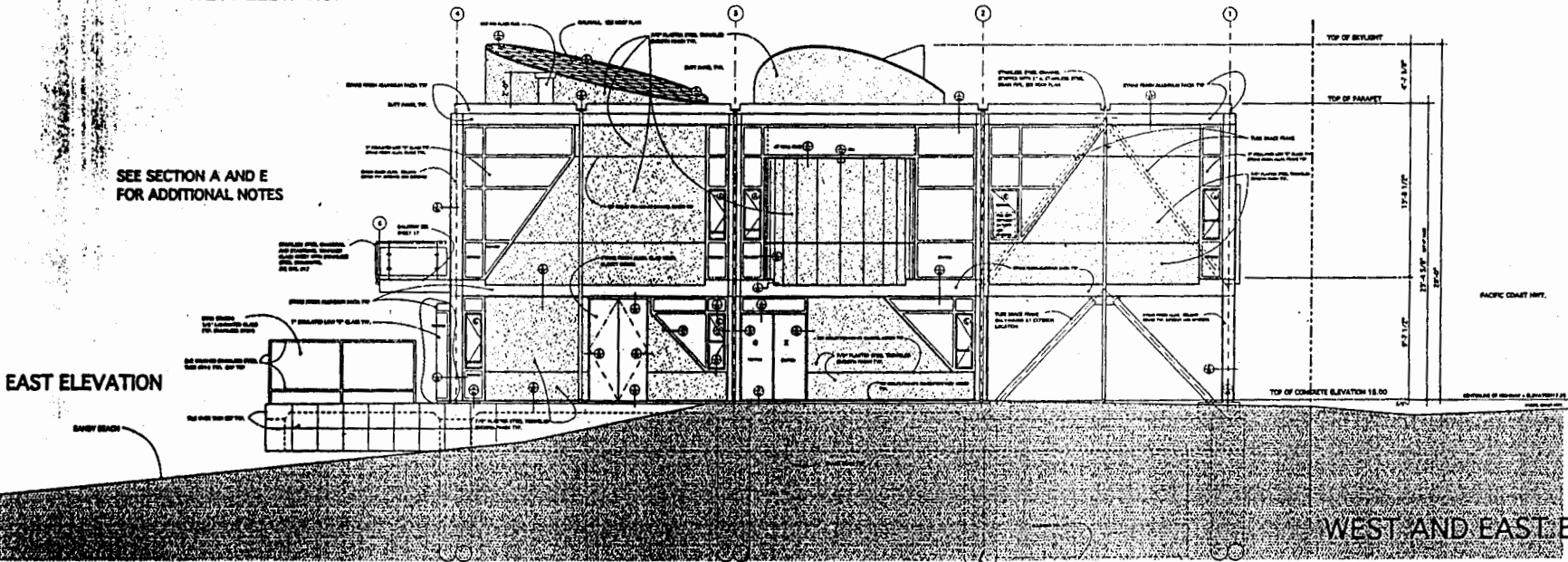
WEST ELEVATION

NOTES:

1. SEE EAST ELEVATION, SECTIONS A & E FOR ADDITIONAL NOTES
2. GLASS SPEC:  
1" INSULATED GLASS, LOW "E", GRAY TINT ON OUT BOARD SHEET.  
ALUMINUM FRAME KYNAR 500 FINISH  
(ALL INSULATED GLASS INDICATED ON DRAWINGS IS DUAL GLAZED)
3. EXTERIOR ALUMINUM PANELS:  
KYNAR 500 FINISH ALUMINUM PANELS 1/8" MIN. THICKNESS  
BREAK METAL:  
KYNAR 500 FINISH ALUMINUM 1/8" MIN. THICKNESS
4. FRY REGLET:  
KYNAR 500 FINISH AT EXTERIOR APPLICATIONS

REVISION	BY

EDWARD B. NELSON ARCHITECT P.A.  
23150 PACIFIC COAST HWY.  
UNIT # 9  
MALIBU, CALIFORNIA 90265  
(310) 457-3602



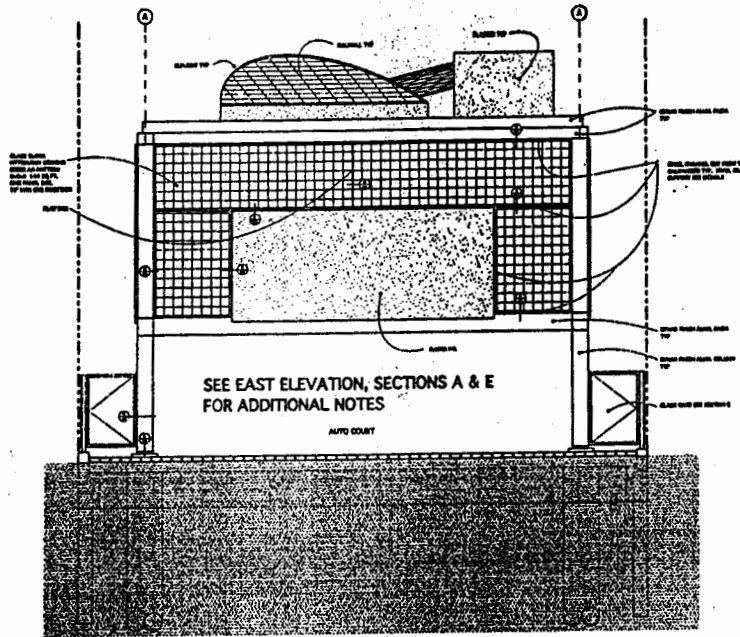
EAST ELEVATION

SEE SECTION A AND E FOR ADDITIONAL NOTES

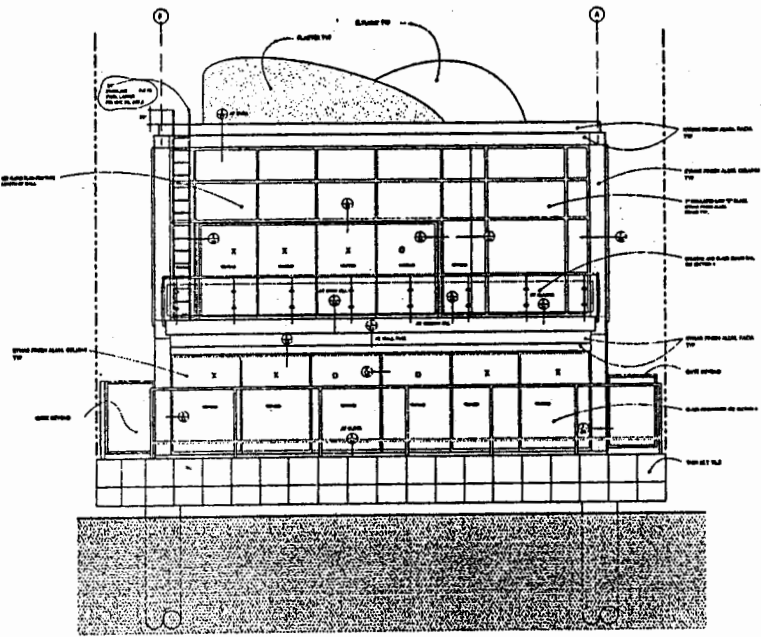
WEST AND EAST ELEVATION

GREENE RESIDENCE  
21934 PACIFIC COAST HWY.  
MALIBU, CA. 90265

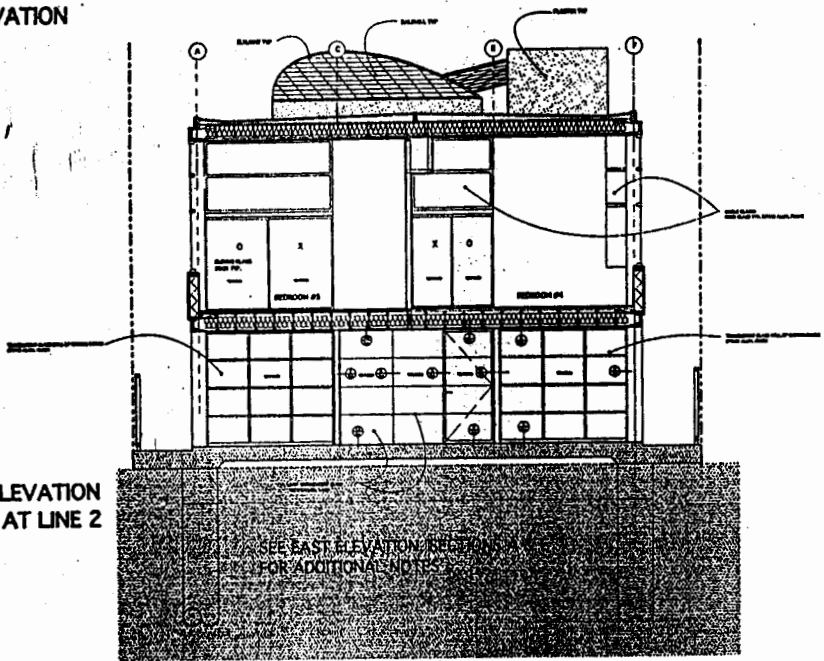
DATE	10-4-83
SCALE	1/8" = 1'-0"
BY	
IN	
NO.	
SHEET	12



NORTH ELEVATION



SOUTH ELEVATION SEE EAST ELEVATION, SECTIONS A & E FOR ADDITIONAL NOTES



NORTH ELEVATION SECTION AT LINE 2

SEE EAST ELEVATION, SECTIONS A & E FOR ADDITIONAL NOTES

NOTES:

1. SEE EAST ELEVATION, SECTIONS A & E FOR ADDITIONAL NOTES
2. GLASS SPEC:  
1" INSULATED GLASS, LOW "E", GREY TINT ON OUT BOARD SHEET.  
ALUMINUM FRAME KYNAR 500 FINISH
3. EXTERIOR ALUMINUM PANELS:  
KYNAR 500 FINISH ALUMINUM PANELS 1/8" MIN. THICKNESS  
BREAK METAL:  
KYNAR 500 FINISH ALUMINUM 1/8" MIN. THICKNESS
4. FRY REGLET:  
KYNAR 500 FINISH AT EXTERIOR APPLICATIONS

NORTH AND SOUTH ELEVATION

DATE	10-2-00
SCALE	1/8" = 1'-0"
NO.	13
EDWARD R. HINES ARCHITECT F.A.S.A. 23150 PACIFIC COAST HWY. UNIT # 2 MALIBU, CALIFORNIA 90265 (310) 457-3802	
GREENE RESIDENCE 21934 PACIFIC COAST HWY. MALIBU, CA. 90265	

Revised 07/06/05

CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 05-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING COASTAL DEVELOPMENT PERMIT NO. 04-014; VARIANCE NO. 05-014 TO ALLOW FOR THE DEMOLITION OF AN EXISTING 1,418 SQUARE-FOOT BEACHFRONT SINGLE-FAMILY RESIDENCE AND CONSTRUCTION OF A NEW 2,626 SQUARE-FOOT SINGLE-FAMILY BEACHFRONT RESIDENCE INCLUDING A 400 SQUARE-FOOT GARAGE AND AN ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM. THE APPLICATION INCLUDES A VARIANCE REQUEST TO ALLOW RELIEF FROM THE OCEAN VIEW DEVELOPMENT STANDARD WHICH REQUIRES TWENTY PERCENT OF THE LINEAL FRONTAGE BE MAINTAINED AS ONE CONTIGUOUS VIEW CORRIDOR, THE PROPOSAL IS TO PROVIDE THE TWENTY PERCENT, BUT WITH TEN PERCENT ON EACH SIDE OF THE PROPOSED STRUCTURE. THE DEVELOPMENT IS PROPOSED IN A SINGLE-FAMILY MEDIUM DENSITY RESIDENTIAL (SF-M) ZONING DISTRICT LOCATED AT 21934 PACIFIC COAST HIGHWAY (GREENE)

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

Section 1. Recitals.

A. On February 6, 2003, an application was submitted by Lisa Niles [Plot Plan Review (PPR) No. 03-014] on behalf of property owner Terry Greene to the Planning Division for demolition of an existing one-story 1,418 square-foot single-family residence and attached 200 square-foot garage and construction of a new two-story, 28 feet in height, 2,626 square-foot single-family beachfront residence with an attached 400 square-foot garage, hardscape, and alternative onsite wastewater treatment system. The application was referred to and reviewed by the City Biologist, City Coastal Engineer, City Environmental Health Specialist, City Geologist, and the Los Angeles County Fire Department.

B. On April 30, 2003, a Notice of Decision was issued approving PPR No. 03-014. Staff received the Affidavit of Acceptance of Conditions from the applicant on November 7, 2003 and subsequently project plans were stamped approved in concept on November 17, 2003.

C. On August 26, 2004, an application for Coastal Development Permit (CDP) No. 04-014 was submitted by the applicant to the Planning Division for processing. On February 14, 2005, the application was deemed complete for processing. On March 17, 2005, a Notice of Application for CDP No. 04-014 was posted on the subject property.

D. On April 20, 2005, story poles were placed on the subject property to demonstrate the height of the proposed project and to analyze visual impacts. Staff visited the site on April 21, 2005, to ensure that the story poles were placed according to plan and to evaluate potential impacts. No comments from the public have been received.

E. On May 5, 2005, a Notice of Public Hearing was published in a newspaper of general circulation with the City of Malibu. In addition, on May 5, 2005, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

### 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; therefore, shall be exempt from the provisions of CEQA. Accordingly, a CATEGORICAL EXEMPTION will be prepared and issued pursuant to CEQA Guidelines Section 15301 (I) – existing facilities – demolition and removal of a single-family residence and 15303 (a) new construction of small structures - a single-family residence. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies

### 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 hereby adopts the findings in the staff report, the findings of fact below, and approves Coastal Development Permit No. 04-002.

The proposed project has been reviewed by the City's Coastal Geologist, Environmental Health Specialist, Biologist, and 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 alternative onsite wastewater treatment system 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, as conditioned, conforms to the certified City of Malibu Local Coastal Program (LCP) in that it meets the required development standards (see Table 2) with the exception of LIP Section 6.5(E) 2.b which requires that new development provide 20% of lineal frontage as one contiguous ocean view corridor. A variance has been requested to provide the 20% view corridor non-contiguously with 10% on each side of the proposed structure. The narrow lot width of the subject property is such that the strict application of the development standards including setbacks, fire code requirements, and the 20% contiguous view corridor requirement would result in a loss of 13 of the 40 foot lineal frontage. This would make 32.5% of the lot width unusable and a residence only 27 feet in width. Thereby, depriving the property owner of having a house of similar mass, bulk, and scale as allowed neighboring residences.

**Finding B.** The project is located between the first public road and the sea. 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 and the sea. However, the proposed project and related construction activities is not anticipated to interfere with the public's right to access the coast as the site offers no direct or indirect beach access. There is existing lateral access on the site to the east and the applicant has offered to provide a lateral access easement; therefore, the project conforms to the public access and recreation policies.

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. The proposed project would not result in 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 Malibu Municipal Code (M.M.C.). The proposed single-family residence and associated development is a permitted use within the Single Family Medium zoning classification of the subject property. The project will not result in potentially significant impacts on the physical environment. Due to size constraints of the subject property, the proposed location is the least environmentally damaging alternative.

The project as proposed has been found to be Categorical Exempt under CEQA Sections 15301 (1) – Existing Facilities – Demolition and removal of a single-family residence and 15303 (a) New Construction of a single-family residence. Therefore, the project as proposed has been determined to be consistent with CEQA.

There are three alternatives that were considered to determine the least environmentally damaging.

1. No Project – The no project alternative would avoid any change in the project site, and hence, any change in visual resources. However, the project site is zoned SF-M. Thus, prohibiting economic use of the property is not a legally feasible alternative.

2. Different location on the site - Other locations on the site were considered but due to the narrow lot width, setback, and fire code restrictions, and Pacific Ocean to the rear of the property, shifting the proposed location of the house proved problematic as the City development standards and Los Angeles County Fire Department regulations do not allow for a zero lot line development. The house as proposed sits precisely within the required setbacks with the exception of the 20% contiguous view corridor. A variance has been requested to provide the view corridor with 10% on each side of the structure. Relocation of the project on the site is not the least damaging alternative.

3. Proposed Project - The subject site contains an existing single-family home and is situated among other single-family homes of similar mass, bulk and scales as the proposed home. The project is proposed to be constructed on piers with a bulkhead and will not be substantially different than the existing neighborhood scale. In addition, the proposed project provides public ocean corridors (although not contiguous) where none previously existed. Therefore, the

proposed 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. However, the applicant did submit a biological inventory dated October 15, 2004, which was conducted by Consulting Biologist, Rachel Tierney. The inventory was reviewed by the City Biologist who agreed with the determination that the site is not an ESHA.

#### **B. Environmentally Sensitive Habitat Area (LIP - Chapter 4)**

As discussed above, the subject parcel is not located in the ESHA Overlay Map and the project will not result in impacts to sensitive resources, significant loss of vegetation or wildlife, or encroachments into ESHA. Therefore, according to LIP Section 4.7.6(C), the supplemental ESHA findings are not applicable.

#### **C. Native Tree Protection Ordinance- (LIP - Chapter 5)**

The provisions of the Native Tree Protection Ordinance only apply to those areas containing one or more native Oak, California Walnut, Western Sycamore, Alder or Toyon tree, that has at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, 4 ½ feet from the ground. According to the biological inventory dated October 15, 2004, no native trees exist on the property. Therefore, according to Section 5.7, the findings in the Native Tree Protection Ordinance are not applicable.

#### **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. This project is visible from a scenic road (PCH); therefore, the Scenic, Visual and Hillside Resource Protection Ordinance applies and the five findings set forth in LIP Section 6.4 are hereby made below.

In addition, LIP Section 6.5(E) 2.b requires that new development provide 20% of lineal frontage as one contiguous ocean view corridor. A variance has been requested to provide the 20% view corridor but to be non-contiguous with 10% on each side of the proposed structure.

**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.

Due to the restrictive lot dimensions, there exists no alternative building site locations where development would not be visible. However, the project has been designed to avoid any adverse or

scenic impacts by emulating the mass bulk and scale of adjoining properties. In addition, the proposed project is under the maximum development envelope allowed for the subject property. The use of non-metallic and non-glare siding, as required by the LCP will help minimize visual impacts upon viewing the subject site.

Staff conducted site visits on March 16, 2005, and May 16, 2005. Story poles were in-place to demonstrate potential visual impacts. The analysis of the project's visual impact from public viewing areas along PCH included site reconnaissance, view of the property from PCH, and review of the landscape and architectural plans. Staff determined that the proposed residence would result in a less than significant visual impact to public views from either the beach or from PCH.

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

The project has been designed to avoid any adverse or scenic impacts. The proposed residence is designed utilizing colors and materials that will be compatible with the surrounding natural and residential character and will be compatible with the architectural character of the surrounding neighborhood.

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

As discussed in A. General Coastal Development Permit, Finding C. the project as proposed or as conditioned is the least environmentally damaging alternative.

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

As discussed in A: General Coastal Development Permit, Finding C. the proposed location of the structure will result in less than significant impacts on scenic and visual resources.

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

As discussed in A. General Coastal Development Permit, Finding C. the project will have less than significant scenic and visual 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.

## **F. Hazards (LIP - Chapter 9)**

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood, and fire hazards, structural integrity or other potential hazard must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. Staff has determined that the project is located on a site or in an area where the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. Therefore, the requirements of Chapter 9 of the LIP are applicable to the project and the required findings are made below.

**Finding 1.** The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

The project was analyzed by staff for the hazards listed in the LIP Section 9.2.A. (1-7). Analysis of the project for hazards included review of the following documents/data, which are available on file with the City: 1) existing City Geologic Data maintained by the City; 2) Preliminary Geotechnical Engineering report prepared by Earth Systems Southern California dated January 31, 2003, and the Addendum No. 1 Geotechnical Engineering Report dated January 8, 2004; and 3) a Coastal Engineering Report by David C. Weiss Structural Engineers & Associates dated January 16, 2003.

The General Plan shows that the project site is in the vicinity of the Malibu Coast Fault. The Malibu Coast Fault Zone has not been recognized as an active fault by the State and no special study zones have been delineated along its length. The General Plan also shows the project site is in the vicinity of extreme fire hazards areas. The project is located approximately 17 feet above sea level and is subject to hazards from liquefaction (LIP 9.2.A.4), wave action (LIP Section 9.2.A.5) and potential tsunamis (LIP Section 9.2.A.6).

The proposed site was analyzed for geologic and structural integrity hazards. Based on the reports by the applicant's geotechnical consultants (Earth Systems) as well as a review of the Seismic Hazards Zone Maps and Earthquake Fault Zone Maps, the site is not within earthquake-induced landslide hazard zone but is within liquefaction hazard zone. There is no hazard due to fault rupture from the Malibu Coast Fault across the building site.

Per Earth Systems Southern California's Preliminary Geologic Engineering Report page 6, "While the City of Malibu Guidelines require trench studies for sites close (500' or closer) to the Malibu Coast fault, the beach location renders trenching impractical because of young loose sandy soil and high groundwater." Analysis of the site and review of geologic literature reviewed suggest that the most active trace of the Malibu Coast fault zone is offshore and an active fault does not trend across the building site.

Based on staff's review of the above referenced information, it has been determined that:

1. The project site could be subject to hazards from liquefaction;
2. The highest point of the project site is located approximately 11 feet above sea-level and could be subject to hazards from wave action and tsunami hazard;



3. The project site is in the vicinity of extreme fire hazard areas.

The City Geotechnical staff, Public Works Department, Environmental Health Specialist and Los Angeles County Fire Department have reviewed the project and found that there were no substantial risks to life and property related to any of the above hazards provided that their recommendations and those contained in the associated geotechnical and wave uprush reports are incorporated into the project design.

#### Liquefaction Hazard

The project site soils consist primarily of sandy beach deposits that are subject to liquefaction and erosion due to wave action. The proposed two-story wood frame structure will be supported by piles (piers) embedded into bedrock beneath the sandy soils. The building super-structure will be supported directly by the piers and the ground floor will consist of a structural deck also supported by the piers. Any exterior concrete slab-on-grade construction would be supported by compacted soils. The proposed structure foundations will extend into the bedrock, which is not susceptible to liquefaction thus mitigating seismically induced settlement and earth movement due to liquefaction hazards.

#### Wave Uprush Hazard

Wave Uprush analysis can be found in the Coastal Engineering Report by David C. Weiss Structural Engineers & Associates dated January 16, 2003. The wave uprush studies indicated that an average wave uprush would be to an elevation of 11 feet from the PCH right of way line. The proposed bulkhead is at 25 feet from the right of way line and is of adequate height and depth to protect the sewage disposal system. The existing bulkhead has had no effect on coastal processes such as the littoral drift of sand along the beach. Furthermore, the proposed bulkhead is located well landward of the ocean currents that carry sand along the beach. The proposed bulkhead will have no effect on adjacent properties. This bulkhead is set much further landward than the long line of bulkheads to the east. There has been no adverse effect due to the other bulkheads in the immediate area in the past; there is no reason to believe that there will be in the future (Coastal Engineering Report dated January 16, 2003, Page 9). Based on the existing plans the bulkhead and alternative onsite wastewater treatment system have been located as far landward as feasible and are consistent with LIP Chapters 8 and 10.

#### Flood/Fire Hazard

The proposed site was also evaluated for flood hazards and the project has been designed to meet the Federal Emergency Management Act's requirements for flood prone areas. In addition, the entire City of Malibu is located within the fire hazard zone so no other alternatives were considered.

Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As stated in G. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the Los Angeles County Fire Department, the project will not have any significant adverse impacts on the site stability or structural integrity.

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

As discussed previously, the project will not result in potentially significant environmental impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen and potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project is the least environmental damaging alternative.

**Finding 4.** There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

As stated in G. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the Los Angeles County Fire Department, the project will not have any significant adverse impacts on the site stability or structural integrity.

**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 Malibu LCP.

As stated in G. Hazards Finding 1 above, the proposed project as designed, conditioned, and approved by the City Coastal Engineer, City Geologist, City Public Works Department and the Los Angeles County Fire Department, the project will not have any significant adverse impacts on the site stability or structural integrity. Therefore, no adverse impacts are anticipated to hazards or to sensitive resource protection policies contained in the LCP.

#### **G. Shoreline and Bluff Development (LIP – Chapter 10)**

The project does include development of a parcel located on or along the shoreline, a coastal bluff or bluff top fronting the shoreline as defined by the Malibu Local Coastal Program. Therefore, in accordance with Section 10.2 of the Local Implementation Plan, the requirements of Chapter 10 of the LIP are applicable to the project and the required findings made 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 project currently provides no public access but the applicant will be providing a lateral easement for public access subject to project approval. Therefore, the proposed project will have no significant adverse impacts on public access.

Per Coastal Engineering Report by David C. Weiss Structural Engineers & Associates dated January 16, 2003, the existing bulkhead has had no effect on coastal processes such as the littoral drift of sand along the beach. The proposed bulkhead is located well landward of the ocean currents that carry sand along the beach. The proposed bulkhead will have no effect on adjacent properties. This bulkhead is set much further landward than the long line of bulkhead to the east. There has been no adverse effect due to the other bulkheads in the immediate area in the past; there is no reason to believe that there will be in the

future (Coastal Engineering Report dated January 16, 2003, Page 9). Therefore, it is anticipated that shoreline sand supply or other resources will not be impacted by the proposed project.

The project as designed considers 100-year worst-case storm conditions and local studies have concluded that design for these conditions mitigates predicted tsunami impacts.

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.

As stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

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

As discussed previously, the project will not result in potentially significant impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project is the least environmentally damaging alternative.

Finding 4. There are not alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources.

As stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or 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 extent 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.

As stated in G. Shoreline and Bluff Development Finding 1 above, as designed, conditioned, and approved by the City Geologist and City Geotechnical Engineer the project will not have any significant adverse impacts on public access or shoreline sand supply or other resources.

Per LIP 10.5 (c) (page 184), all applications for proposed development on a beach or along a shoreline, including a shoreline protection structure, shall contain written evidence of review and determination from the California State Lands Commission (CSLC) relative to the proposed project's location to or impact upon the boundary between public tidelands and private property. The determination on file for this project from the State Land Commission indicates that "the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement

in navigable waters.”

The proposed shoreline protection structure (bulkhead) is located as far landward as feasible while maintaining building and plumbing code required setbacks.

As discussed previously, the project will not result in potentially significant impacts because 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. The project is the least environmentally damaging alternative.

#### **H. Public Access (LIP - Chapter 12)**

The subject site is located between the first public road on the ocean-side of PCH between Carbon Beach and La Costa Beach. The project involved the demolition of an existing single-family residence and reconstruction of a new (with more than 10% additional square footage) single-family residence. No onsite vertical or lateral access is currently provided on the subject parcel. The project does not meet the definitions of exceptions to public access requirements identified in LIP Section 12.2.2., however, LIP Section 12.6 states that public access is not required when adequate access exists nearby and the findings addressing LIP Section 12.8.3 can be made. The following findings satisfy this requirement. Analyses required in LIP Section 12.8.2 are provided herein, and in geotechnical and coastal engineering reports referenced earlier in this resolution. Bluff top, trail, and recreational accesses are not applicable. No issue of public prescriptive rights has been raised.

The project is not located on a bluff top; therefore, no condition for bluff top access is required by the Local Coastal Program.

##### *Trail Access*

The project site does not include, or have any access ways to existing or planned public recreational areas; therefore, no condition for recreational access is required by the Local Coastal Program.

##### *Lateral Access*

A lateral public access provides public access and use along or parallel to the sea or shoreline. The applicant has agreed to provide an offer to dedicate the required lateral access subject to project approval.

Such Offer to Dedicate (OTD) shall include a site map that shows all easements, deed restrictions, or OTD and/or other dedications to public access and open space and provide documentation for said easement or dedication.

##### *Vertical Access.*

As indicated above, the project is located along the shoreline; however, as shown on the Coastal Commission Public Access Map, vertical access is adequately provided for in the following locations:

- 22466 PCH, Carbon Beach -The “Access for All” easement is 10 feet wide and extends along the eastern property line boundary.

- 22126-22132 PCH, Carbon Beach – The “Access for All” easement is 9 feet wide and approximately 200 feet long. It runs along the western property line boundary.
- 21704 PCH, Carbon/La Costa Beach – The California Coastal Conservancy owns this parcel for the sole purpose of “providing visual and vertical public access to La Costa and Carbon Beaches, see Coastal Conservancy exhibit dated April 27, 2000.
- Directly across from Rambla Vista, adjacent to 21704 PCH, the State of California owns a stretch of beach approximately 200 feet in length which is currently used by the public to access the beach, see Coastal Commission Public Access Map for Los Angeles 1998

Consistent with LIP Section 12.6, due to the ability of the public, through other reasonable means to reach nearby coastal resources, an exception for public vertical access has been determined to be appropriate for the project and no condition for vertical access has been required. Nevertheless, the following findings and analysis were conducted in accordance with LIP Section 12.8.3 regarding vertical access. Due to these findings, Section LIP Section 12.8.1 is not applicable.

**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.

Vertical access would not impact fragile coastal resources or have any impact on a military facility. The basis for the exception to the requirement for vertical access is associated with the availability of access nearby as described above.

**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.

Vertical access would not impact fragile coastal resources or have any impact on a military facility. The basis for the exception to the requirement for vertical access is associated with the availability of access nearby as described above.

**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.

The public, through other reasonable means, can reach the same area of public tidelands as would be made accessible by an access way on the subject land. The project as proposed does not block or impede existing access to the ocean. Conditioning the project to provide a vertical public access would not provide additional access to coastal resources because adequate public access is provided nearby. As indicated on the Los Angeles County Public Access Map, there are four existing vertical access ways between Carbon Beach and La Costa Beach. No legitimate governmental or public interest would be furthered by requiring access at the project site because existing public access to coastal resources is adequate and the proposed project will not impact any existing public access way.

## **I. Land Division (LIP - Chapter 15)**

This project does not involve a division of land as defined in LIP Section 15.1; therefore, Chapter 15 of

the LCP does not apply.

**J. Variance (LIP - Chapter 13)**

Pursuant to LIP Section 13.26.5, the Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes ten (10) findings of fact. Staff believes the evidence in the record supports the requested variance and the following findings of fact are made below.

**Finding 1.** There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The size of the subject property is such that the strict application of the development standards requiring a 20% contiguous view corridor would result in a loss of 13 of the 40-foot lineal frontage. This is due to the combination of the City's setback requirements, Los Angeles County Fire Department requirements and LCP requirements. The M.M.C setback requirements are 10% (4 feet) on one side of the site and the 10% on the other side (4 feet), the Los Angeles County Fire Department requires that a minimum of five feet be open to the sky and unusable as an "approved access walkway" for life safety purposes (LACFD Code Section 902.31); and the LCP requires 20% (8 feet) be provided as a public view corridor. Thus, under this scenario, the applicant must provide 20% (8 feet) on one side and 12.5% (5 feet required by LACFD unless sprinklers are installed) for a total of 13 feet (32.5% of lineal frontage). Strict application of these requirements would require a residence 27 feet in width and deprive the property owner of having a house of similar mass, bulk, and scale as neighboring residences. A variance would ensure that the applicant is not deprived of the privileges enjoyed by other properties in the vicinity.

**Finding 2.** The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The granting of the requested variance will allow the construction of a single family residence in an area that has been determined to be appropriate for such use, and will not be detrimental to the public's interest, safety, health or welfare or detrimental or injurious to the property or improvements in the same vicinity and zone as the subject property. The granting of the requested variance will allow the subject property to be constructed and still provide a view corridor on both sides on the subject property. As stated previously, the proposed project has been reviewed and approved by the Los Angeles County Fire Department, the City Public Works Department, the City Geologist and Coastal Engineer. The project, as proposed or conditioned, was found to be consistent with applicable City goals and policies.

**Finding 3.** The granting of the variance will not constitute a special privilege to the applicant or property owner.

The granting of the variance will not constitute a special privilege to the applicant or property owner in that adjacent properties have been developed without the required 20% contiguous view corridor and that the applicant is providing the required view corridor development standard just 10% on each side. Since

the applicant is supplying the view corridor in an area where none currently exist, granting the variance does not constitute a special privilege to the property owner.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The granting of the variance is not contrary to or in conflict with the general purposes or intent of the Scenic Resources Chapter in that the requirement to "protect public ocean views" is achieved in that view corridors will be provided where none currently exists. The two 10% view corridors will provide an ocean view on a pedestrian level and provide visual relief to passing motorists. Given that this view corridor provides public views where none currently exists, the proposed project with the variance meets the intent of this Chapter.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

The subject variance is not associated with environmentally sensitive habitat area buffer; therefore, this finding is not applicable.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.

The requested variance is not associated with Stringline standards; therefore this finding is not applicable.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity, which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The requested variance is for relief from a specific development standard and does not authorize a use not otherwise permitted in the Single Family – Medium Zone. The proposed project is a new single-family residence, which is permitted in the zone.

Finding 8. The subject site is physically suitable for the proposed variance.

The granting of the variance will allow construction of a residence that is compatible with the surrounding built environment and still provide a view corridor where none currently exists. The subject site is physically suitable for the proposed variance in that the narrow lot width physically constrains proposed development of the site. Strict application of the development standards requiring a 20% contiguous view corridor would result in a loss of 13 feet of the 40-foot lineal frontage. Therefore, the subject site is physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of state and local law.

The variance complies with all requirements of state and local law. Construction of the proposed

improvements will comply with all building code requirements and will incorporate all recommendations from applicable City Agencies.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The requested variance is for relief from a specific development standard and does not involve the reduction or elimination of public parking.

#### 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. 04-014, 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 project proposes the demolition of an existing one-story 1,418 square-foot single-family residence and attached 200 square-foot garage and construction of a new two-story 2,626 square-foot single-family residence with an attached 400 square-foot garage, hardscape, and alternative onsite wastewater treatment system on a 7,840 square-foot (40 feet wide by 196 feet in length) beachfront lot zoned SFM. A variance has been requested to allow relief from the ocean view development standard, which requires "20% of the lineal frontage shall be maintained as one contiguous view corridor. Subsequent submittals for this project shall be in substantial compliance with the following plans: Full set of Architectural plans stamped received February 14, 2005. In the event the project plans conflict with any condition of approval, the condition shall take precedence.
3. The permit and rights conferred in this approval shall not be effective and no building permits shall be issued until the applicant signs, has notarized the affidavit accepting the conditions set forth below. The applicant and/or property owner shall provide the City of Malibu Planning Division the notarized affidavit within 30 days of the Planning Commission's decision, no later than July 20, 2005.
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 all requirements of the City of Malibu Environmental and Building Safety Division, City Geologist, City Environmental Health Specialist, City Biologist, and Los Angeles County Fire Department, 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 Coastal Development Permit. 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. All conditions required for Plot Plan Review No. 03-014 shall remain in effect.
15. The Coastal Development Permit runs with the land and binds all future owners of the property.

### Special Conditions

#### **Site Requirements**

16. New development in scenic areas visible from scenic roads or public viewing areas 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**

17. 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. 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 in scenic areas designated for residential use shall be prohibited.

#### **Site Conditions**

- 18. The residence shall have an exterior siding of brick, wood, stucco, metal, concrete or other similar material. Reflective glossy, polished and/or roll-formed type metal siding is prohibited.

#### **Geology**

- 19. 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.
- 20. Final plans approved by the City Geologist shall be in substantial conformance with the approved Coastal Development Permit 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

#### **Water Quality**

- 21. 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.
- 22. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the Malibu LCP and all other applicable ordinances and regulations.
- 23. A Water Quality Management Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be prepared in accordance with the Malibu LCP and all other applicable ordinances and regulations.
- 24. 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.

25. 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.

#### **Public Access**

26. The applicant has agreed to provide an offer to dedicate (OTD) a lateral public access easement and passive recreational use along the shoreline as part of this project. In order to implement the applicant's proposal of an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the applicant agrees to complete the following prior to issuance of a building permit: the landowner shall execute and record a document, in a form and content acceptable to the City Attorney, irrevocably offering to dedicate to a public agency or private association approved by the City Attorney an easement for lateral public access and passive recreational use along the shoreline. Such easement shall be located along the entire width of the property (Assessor's Parcel Number 4451-005-030) from the ambulatory mean high tide line landward to ten feet from the approved deck drip line, not to exceed the width of the easements of the neighboring property owners.

The document shall be recorded free of prior liens that the City Attorney determines may affect the interest being conveyed, and free of any other encumbrances that may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions and graphic depiction of both the applicant's entire parcel and the easement area. This deed restriction shall not be removed or changed without a City-approved amendment to this coastal development permit.

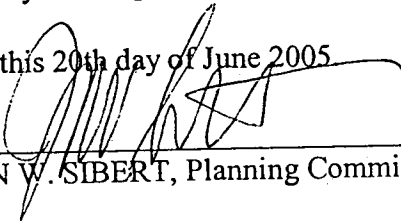
27. The property owner is required to acknowledge, by recordation of a deed restriction, that the property is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, and that the property owner assumes said risks and waives any future claims of damage or liability against the City of Malibu and agrees to indemnify the City of Malibu against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.
28. The property owner is required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. Said deed restriction shall be submitted to the Planning Division for approval prior to recordation. The deed restriction shall also acknowledge that the intended purpose of the shoreline protection structure is

location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.


Section 5. Certification.

The Planning Commission shall certify the adoption of this Resolution.

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

  
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JOHN W. SIBERT, Planning Commission Chairman

ATTEST:

  
\_\_\_\_\_  
Lisa A. Tent, Recording 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 an appeal form and 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](http://www.ci.malibu.ca.us) <<http://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](http://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. 05-18 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:	5	Commissioners:	Randall, Moss, Anthony, Schaar and Sibert
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

  
\_\_\_\_\_  
Lisa A. Tent, Recording Secretary