

Item W 14c

CALIFORNIA COASTAL COMMISSION

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

Appeal Filed: 7/19/05
49th Day: 9/6/05
Staff: Carey
Staff Report: 7/28/05
Hearing Date: 8/12/05



RECORD PACKET COPY

STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Malibu

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-MAL-05-085

APPLICANT: William and Jacqueline Gould

APPELLANTS: Commissioners Caldwell and Kruer

PROJECT LOCATION: 20758 Pacific Coast Highway, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a two-story, 3,089 sq. ft. single-family residence including a 360 sq. ft. garage, roof deck, bulkhead, return walls, and an alternative onsite wastewater treatment system.

SUBSTANTIVE FILE DOCUMENTS: Staff Report for City of Malibu Coastal Development Permit No. 04-019/Variance No. 99-020; City of Malibu Planning Commission Resolution No. 05-33; Coastal Development Permits 4-99-237 (Gould); 5-87-695 (Condon); 5-83-122 (Condon)

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 policies of the certified Local Coastal Program (LCP). Motion and resolution can be found on **Page 4**.

I. APPEAL JURISDICTION

The project site is a beachfront parcel on Big Rock 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 04-019 and Variance 99-020 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-05-085 raises NO substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-MAL-05-085 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 04-019 and Variance 99-020 for the construction of a two-story, 3,089 sq. ft. single-family residence including a 360 sq. ft. garage, roof deck, bulkhead, return walls, and an alternative onsite wastewater treatment system on a beachfront parcel. A Minor Modification was also approved as part of the permit to allow the required front yard setback to be reduced from 8 feet to 4 feet, and to allow the side yard (opposite side yard from the 20% percent view corridor) setback to be reduced from 5 feet, 2 inches to 4 feet, 1 inch. Variance 99-020 was also approved to allow the proposed project to be constructed on slopes greater than 2 ½ :1.

The Coastal Development Permit was approved subject to 15 standard conditions and 16 special conditions (see Exhibit 5). The special conditions include the following:

landscaping, color restriction, lighting, geology, water quality (storm runoff), and solid waste recycling.

Past Commission Actions on the Project Site

The Commission has previously considered several coastal development permit applications for development on this project site. Permit 5-83-122 (Condon) was approved for the construction of a duplex to replace a duplex structure destroyed during the winter storms of 1982-1983. A lateral access easement was required as a condition of approval, but was never recorded and the permit later expired. Permit 5-87-695 (Condon) was approved for the construction of a 2,636 sq. ft. single-family dwelling, bulkhead and septic system. In order to mitigate the impacts on the sand supply and public access resulting from the construction of the proposed bulkhead, the Commission required the applicant to record an offer to dedicate a lateral access easement across the project site. The lateral access OTD was recorded, but has never been accepted by a public agency. The project was not constructed and the permit has since expired. Permit 4-99-237 (Gould) was approved for the construction of a 2,256 sq. ft. single family residence with a 360 sq. ft. garage, septic system, bulkhead, 215 cu. yds. of grading, and an offer to dedicate a lateral access easement. Special Condition No. 4 of Permit 4-99-237 required the applicants to record an easement for lateral public access in order to implement their proposal to provide such access as part of the project. Apparently, the applicants recorded an offer to dedicate an easement for lateral access. However, other requirements (subordination agreement, title report, etc.) were never provided and the condition was not considered to be satisfied. This permit was never issued and has since expired.

B. APPELLANTS' CONTENTIONS

The City's action was appealed by Commissioners Caldwell and Kruer. This appeal is attached as Exhibit 4. 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 LUP, as well as Chapter 12 of the Malibu 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 LUP contains several policies to insure 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 to LUP Policies 2.63 or 2.64, as well as Chapter 12 of the LIP. Policies 2.63 and 2.64 state as follows:

- 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 does not mitigate, through the provision of a lateral access offer to dedicate or other means, 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, which is located within the estimated wave uprush zone for the project site. Although it is not noted in the City's staff report, the wave uprush zone in the area of the project site (based on earlier reports reviewed in connection with the prior CDP application) is estimated to extend 7 feet landward of the Pacific Coast Highway right-of-way line along the entire parcel. The applicants have proposed the construction of a vertical bulkhead in order to protect the proposed septic system from wave uprush. While the proposed bulkhead would be located beneath the residence, 33 feet seaward of Pacific Coast Highway, it will be acted upon by waves periodically. Given the narrow width of Big Rock Beach, particularly coupled with projected sea level rise, it is likely that the proposed bulkhead will affect the beach profile (through accelerated erosion and scouring, increased steepness and/or inland migration of the MHTL) and thereby adversely impact the public's ability to gain access to and use state tidelands. (Adverse impacts of seawalls, bulkheads and other shoreline protection devices is discussed in more detail in the staff report on the prior permit application for this property, CDP No 4-99-237, and that discussion is incorporated herein). Therefore, in order to mitigate impacts to public access to and use of tidelands, it was appropriate in this case to require a lateral access easement 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.

The City of Malibu did not require the recordation of a lateral access offer to dedicate as a condition of approval of the coastal development permit. The staff report noted that: "The applicant has dedicated a 10-foot wide lateral public access easement for passive recreational use along the shoreline". However, this is not the whole story. As described above, the Commission previously approved Coastal Development Permit 4-99-237 for the development of a single-family residence on the proposed project site. Special Condition No. 4 of Permit 4-99-237 required the applicants to record an easement for lateral public access in order to implement their proposal to provide such access as part of the project. This condition was not met. Apparently, the applicants recorded an offer to dedicate an easement for lateral access. However, other requirements (subordination agreement, title report, etc.) were never provided and the condition was not considered to be satisfied. The lateral access condition required the offer to dedicate to be recorded free of prior liens and encumbrances. If prior liens or encumbrances are not subordinated, a bank or other lienholder has the right to foreclose in the event of a default and cause a sale of the property free and clear of the recorded offer to dedicate a lateral access easement. Therefore, such liens and encumbrances must be investigated by Commission staff through a title report provided by the applicant. This did not happen in this case. This permit was never issued and has since expired. An earlier permit (5-87-695) also included the recordation of an offer to dedicate a lateral access easement. However, there is no evidence that the project approved in this

permit was ever developed. As such, the Commission cannot conclude that an enforceable, irrevocable right to lateral access is provided on the project site. The Commission finds that this contention does raise substantial issue with respect to the allegations that the project, as approved by the City, is not consistent with the 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 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.

Although not discussed in the staff report, the project plans show that the applicant is proposing to place two tandem open parking spaces within this view corridor area. Provision of parking in this area will not be consistent with the intent of the view corridor provisions. Parking of vehicles at the same elevation as Pacific Coast Highway will prevent any ocean views from the road across the project site. 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. This is not consistent with the intent of the view corridor provisions of the LCP. The Commission finds that this contention does raise substantial issue with respect to the allegation that the project, as approved by the City, is not consistent with the visual resource policies of the LCP.

3. Water Quality

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 necessary to insure they are 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.

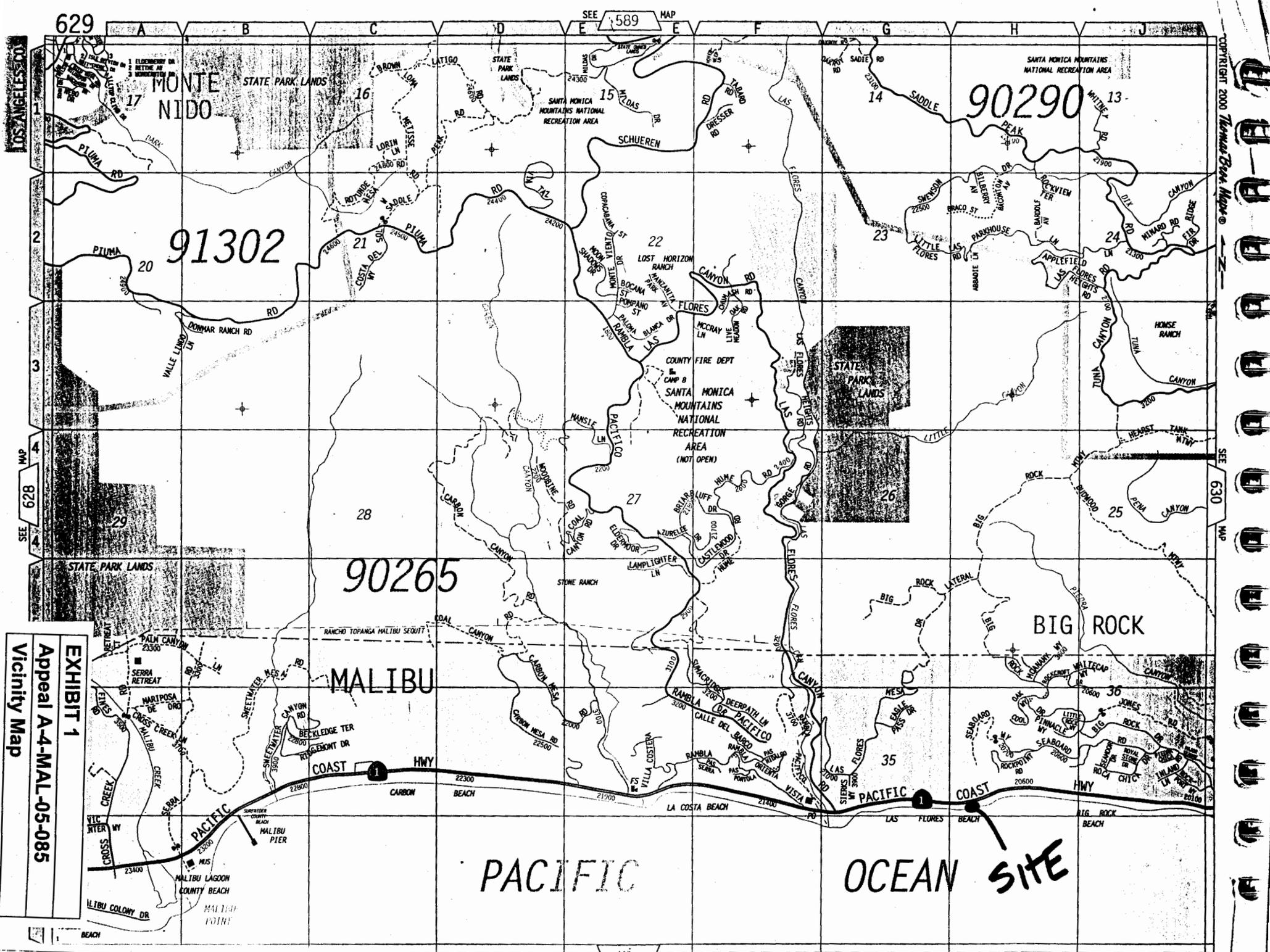


EXHIBIT 1
Appeal A-4-MAL-05-085
Vicinity Map

PACIFIC

OCEAN SITE

COPYRIGHT 2000 Thomas Bar Maps
 SEE 628 MAP
 SEE 630 MAP

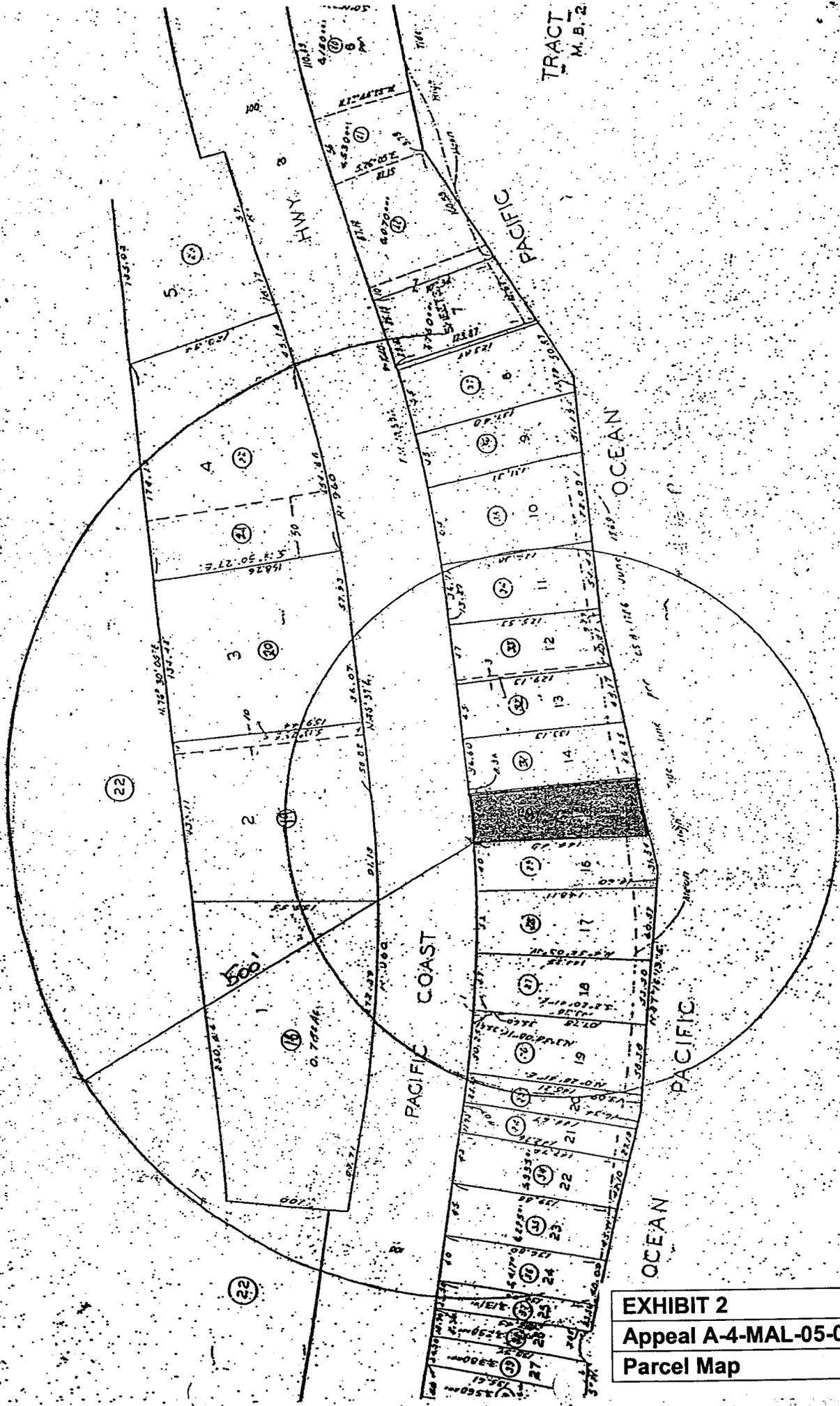


EXHIBIT 2
Appeal A-4-MAL-05-085
Parcel Map

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

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 Kruer, California Coastal Commission

Mailing Address: C/O California Coastal Commission, 89 South California Street

City: Ventura

Zip Code: 93001

Phone: 805 585-1800

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Malibu

2. Brief description of development being appealed:

Construction of a two-story, 3,089 sq. ft. single family residence including a 360 sq. ft. garage, roof deck, bulkhead, return walls, and an alternative onsite wastewater treatment system.

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

20758 Pacific Coast Highway, City of Malibu, Los Angeles County, Assessor's Parcel Number 4450-007-030

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-05-085
DATE FILED:	7/19/05
DISTRICT:	South Central

EXHIBIT 3
Appeal A-4-MAL-05-085
Appeal

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

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

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

6. Date of local government's decision: June 20, 2005

7. Local government's file number (if any): CDP No. 04-019, Variance No. 99-020

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:

William and Jacqueline Gould
C/O Tryggvi Thorsteinsson
2324 Michigan Avenue
Santa Monica, CA 90404

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 does not mitigate, through the provision of a lateral access offer to dedicate or other means, 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, which is located within the estimated wave uprush zone for the project site. Although it is not noted in the staff report, the wave uprush zone in the area of the project site (based on earlier reports considered by the Coastal Commission) is estimated to extend 7 feet landward of the Pacific Coast Highway right-of-way line along the entire parcel. The applicants have proposed the construction of a vertical bulkhead in order to protect the proposed septic system from wave uprush. While the proposed bulkhead would be located beneath the residence, 33 feet seaward of Pacific Coast Highway, it will be acted upon by waves periodically. Given the narrow width of Big Rock Beach, particularly coupled with projected sea level rise, it is likely that the proposed bulkhead will affect the beach profile and thereby impact the public's ability to gain access to state lands. Therefore, in order to mitigate impacts to public access, it was appropriate in this case to require lateral access 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.

The City of Malibu did not require the recordation of a lateral access offer to dedicate as a condition of approval of the coastal development permit. The staff report noted that "The applicant has dedicated a 10-foot wide lateral public access easement for passive recreational use along the shoreline". However, this is not the whole story. The Commission has previously approved Coastal Development Permit 4-99-237 for the development of a single-family residence on the proposed project site. Special Condition No. 4 of Permit 4-99-237 required the applicants to record an easement for lateral public access in order to implement their proposal to provide such access as part of the project. This condition was not met. Apparently, the applicants recorded an offer to dedicate an easement for lateral access. However, other requirements (subordination agreement, title report, etc.) were never provided and the condition was not considered to be satisfied. This permit was never issued and has since expired. An earlier permit (5-87-695) also included the recordation of an offer to dedicate a lateral access easement. However, there is no evidence that the project approved in this permit was ever developed. As such, the Commission cannot conclude that lateral access is provided on the project site.

VIEW CORRIDOR.

As required by Policy 6.18 of the LUP and Section 6.5(E)(2) of the LIP, the proposed project includes a

contiguous view corridor that is 20 percent of the width of the parcel (10 feet, 4 inches). Although not discussed in the staff report, it appears from the project plans (reduced copies) that the applicant is proposing to place two tandem open parking spaces within this view corridor area. Provision of parking in this area will not be consistent with the intent of the view corridor provisions. Parking of vehicles at the same elevation as Pacific Coast Highway will prevent any ocean views from the road across the project site. 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: Meg 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: _____

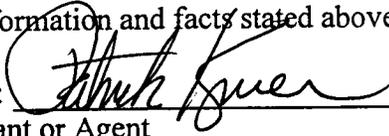
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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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-05-161

NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT

Date of Notice: July 1, 2005

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

RECEIVED
JUL 05 2005
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Contact:
Susan Villain
Senior Planning Consultant
City of Malibu
23815 Stuart Ranch Road
Malibu, CA 90265
(310) 456-2489 ext. 234

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. 04-019 / Variance No. 99-020
Property Owner: William and Jacqueline Gould
Applicant: Tryggvi Thornsteinsson, 2324 Michigan Avenue, Santa Monica, CA 90404
Project Location: 20758 Pacific Coast Highway / APN 4450-007-030
Project Description: An application for the construction of a new single-family residence including garage, two-story plus mezzanine, an alternative onsite wastewater treatment system, roof deck, bulk head and return, retaining walls, 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.F. Planning Commission Agenda Report	X	
Adopted Findings: Planning Commission Resolution No. 05-33	X	
Adopted Conditions: Planning Commission Resolution No. 05-33	X	
Site Plans	X	
Elevations	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

EXHIBIT 4
Appeal A-4-MAL-05-085
Final Local Action Notice

**CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 05-33**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING COASTAL DEVELOPMENT PERMIT NO. 04-019 AND VARIANCE NO. 99-020 TO ALLOW FOR CONSTRUCTION OF A TWO-STORY PLUS MEZZANINE, 3,089 SQUARE-FOOT SINGLE-FAMILY RESIDENCE INCLUDING 360 SQUARE-FOOT GARAGE, ROOF DECK, BULKHEAD AND RETURN, RETAINING WALLS, AND AN ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM. THE PROJECT INCLUDES A VARIANCE REQUEST FOR CONSTRUCTION ON SLOPES IN EXCESS OF 2 ½ TO 1. THE PROPOSED PROJECT IS IN THE MULTI-FAMILY BEACHFRONT (MFBF) ZONING DISTRICT LOCATED AT 20758 PACIFIC COAST HIGHWAY (GOULD)

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

Section 1. Recitals.

- A. On January 28, 1999, an application was submitted to the Planning Department for a Plot Plan Review (PPR) No. 99-016, a Site Plan Review (SPR) No. 99-004 and Minor Modification (MM) No. 99-005. On May 11, 1999 an application for Variance (VAR) No. 99-020 for construction on slopes of 2 ½:1 for the retaining wall and single family residence was submitted.
- B. On September 8, 1999, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and information in the record and adopted Planning Commission Resolution No. 99-028.
- C. During the Coastal Development Permit application review period, the Coastal Commission requested that a 20 % view corridor be provided. The applicant redesigned the project to include a 10% view corridor on each side of the property.
- D. On October 11, 1999, and October 11, 2000, extensions were granted for the City approvals of the project.
- E. On April 26, 2001, the California Coastal Commission issued a Notice of Intent. At this time the applicant chose to again re-design the project. Accordingly, on February 20, 2002, the applicant applied to the City for a variance to the parking standards, requesting a reduction in the number of parking spaces VAR No. 02-006, and a 50% reduction of the front yard setback from 8 feet to 4 feet MM No. 02-005.
- F. On May 19, 2003, the Planning Commission held a duly noticed public hearing to review the item. The Planning Commission adopted Planning Commission Resolution No. 03-05 denying the variance for parking and minor modification for the front yard setback reduction but approving the

EXHIBIT 5
Appeal A-4-MAL-05-085
Adopted Resolution

project.

G. On April 26, 2003 the Coastal Commission's Notice of Intent expired.

H. On December 30, 2003, the project was re-submitted to the Planning Department. On February 4, 2003, the project was issued a Notice of Decision. On September 2, 2004 the applicant converted his application to a Coastal Development Permit (CDP 04-019) and as such redesigned the project to provide a contiguous 20% view corridor.

I. On December 15, 2004, a Notice of Application for Coastal Development Permit No. 04-019 was posted on the subject property.

J. On May 19, 2005, the application was deemed complete for processing.

K. On June 9, 2005, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on June 9, 2005, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

L. On June 20, 2005, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Environmental Review.

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

Section 3. Coastal Development Permit Approval and Findings.

Based on substantial evidence contained within the record and pursuant to Sections 13.7.B and 13.9 of the City Malibu LCP Local Implementation Plan, the Planning Commission hereby adopts the findings in the staff report, the findings of fact below, and approves Coastal Development Permit No. 04-019.

The proposed project has been reviewed by the City's Geologist, Environmental Health Specialist, Biologist, Coastal Engineer 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 onsite wastewater treatment requirements. The project has been determined to be consistent with all applicable LCP codes, standards, goals, and policies.

A. General Coastal Development Permit (LIP – Chapter 13)

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

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

Finding B. 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, there is an existing vertical access less than 150 feet from the subject property. The location of the proposed project and related construction activities is not anticipated to interfere with the public's right to access the coast. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

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

Pursuant to the California Environmentally Quality Act (CEQA), this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment and, as discussed later in this report, 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 M.M.C. At 3,458 square feet, the structure is relatively small. The proposed single-family residence is a permitted use within the MFBF zoning classification of the subject property. Due to size constraints on the property, the proposed location is the least environmentally damaging feasible alternative.

The project will not result in any potentially significant impacts because 1) feasible mitigation measures 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. Furthermore, any other configurations of the proposed residence would not alter the project's potential to create any environmental damage, thus 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. A Biological Assessment was conducted by Holly Hill on September 9, 2004. The report confirms that no trees, native vegetation, wildlife or special status plant or animal species exist on the subject site. On November 15, 2004, the City Biologist approved the proposed project and determined that the project is not expected to result in any new biological impacts.

B. Minor Modification Findings for Reduction in Front Yard Setback and Side Yard Setback (LIP Section 13.27.5)

Pursuant to LIP Section 13.27.5, the Planning Commission may approve or condition a minor modification application only if the Planning Commission affirmatively finds that the proposal of a reduction in the front yard setback by 50%, from 8 feet to 4 feet, and a reduction in the side setback by 20%, from 5 feet 2 inches to 4 feet 1 inch, meet all of the following findings of fact:

Finding 1. That the project is consistent with policies of the Malibu LCP.

The project has been reviewed and analyzed for conformance with the LCP by Planning Division staff, City Geologist, City Environmental Health Specialist, City Biologist, City Public Works Department, City Coastal Engineer and the Los Angeles County Fire Department and has been determined to be consistent with the policies and provisions of the LCP. The project design proposes a 20% reduction in the side yard setback from 5 feet 2 inches to 4 feet 1 inch and a 50% reduction in the front yard setback from 8 feet to 4 feet. These reductions were designed into the project due to the lot constraints of the property boundaries. Pursuant to Malibu LIP Section 13.27.1(B) that a Minor Modification may be granted to reduce setback requirements by no more than 20% and front yard setbacks by no more than 50%. The proposed project meets these requirements.

Finding 2. That the project does not adversely affect neighborhood character.

The proposed project's height and bulk will not adversely affect neighborhood character in that the proposed residence will exist alongside other residences with similar height characteristics as noted on various site visits and photos. Furthermore, the proposed project, with the addition of the contiguous view corridor, enhances the neighborhood character by offering a public view of the Pacific Ocean. The project complies with the size limitations and setbacks of the MFBF zoning district as outlined in the Malibu LCP.

The subject property is approximately 52 feet in width and, consistent with beachfront development standards, would generally require five foot side yards. However, because the project is located along Pacific Coast Highway, a view corridor equal to 20% of the width of the lot is required to provide public views of the ocean. This development standard has the effect of requiring side yards much greater than those exhibited by any other property along Pacific Coast Highway, which were developed prior to the implementation of the City's LCP. When applied to this project, the view corridor standards require that the subject property be developed with side yards of 10' 4" on one side and 5' 2" on the other.

The project will incorporate the required 10' 4" wide contiguous view corridor along one side of the property and approval of the requested minor modification would permit a one (1) foot reduction on the other side, from 5' 2" feet to 4' 1" feet. It is anticipated that the proposed project will improve

neighborhood character through incorporation of the view corridor and the requested 1-foot reduction in side yard requirements will have an insignificant impact on neighborhood character. The project will comply with height requirements, the stringline application and other applicable beachfront development standards and is not anticipated to result in any adverse impacts to neighborhood character.

Finding 3. The proposed project complies with all applicable requirements of state and local law.

The proposed project complies with all applicable requirements of state and local law, and is conditioned to secure all relevant approvals and permits from the City of Malibu Environmental and Building Safety Division, the Los Angeles Regional Water Quality Control Board and the Los Angeles County Fire Department, prior to building permit issuance.

C. Variance (LIP – Chapter 13.26.5)

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 topography of the subject property is such that the strict application of the zoning ordinance deprives the subject property of privileges enjoyed by other properties in the vicinity and under the identical zoning classification. LIP Section 3.6 (J) limits the site of residential construction to areas containing slopes less than 2½:1, however the topography of the subject property precludes development that would not be located on slopes greater than 2½:1. The granting of the requested variance would permit the construction of a single-family residence on a vacant lot that has been determined appropriate for such use as indicated by its MFBB Zoning classification.

Development regulations limiting construction on slopes are written on a citywide basis and cannot take into account the individual and unique characteristics a property may exhibit. In this instance, the strict application of the ordinance would preclude any development of the subject property. Adjacent properties in the identical zoning classification have been developed on slopes greater than 2 ½:1 and denial of the variance would deprive the property owner of developing his property in a similar manner with respect to construction on slopes.

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 retaining wall and 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 developed on slopes in excess of 2½:1, similar to other development along Pacific Coast Highway. 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 Biologist, 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 on slopes greater than 2½:1 and this approval grants relief from a technical development standard which would otherwise preclude development of the subject property.

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 for construction on slopes in excess of 2½:1 will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary or in conflict with the goals, objectives and policies of the LCP. As stated earlier, granting the requested variance will allow the subject property to be developed similar to abutting properties and no alternatives exist that would eliminate the need for the requested variance. The proposed project has been reviewed and approved for conformance with the LCP and applicable City and County goals and policies by the Los Angeles County Fire Department, the City Biologist, Geologist, Coastal Engineering Reviewer, Environmental Health Specialist and the Public Works Department.

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 MFBF Zoning District. 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 retaining wall and a residence that is compatible with the surrounding built environment. The subject site is physically suitable for the proposed variance in that there is no alternate building site or configuration, which would eliminate the need for the variance request. As stated above, the project has been reviewed and approved by applicable agencies. Prior to the issuance of a building permit, the project will reviewed and approved for structural integrity and stability. All final recommendations of the applicant's structural and coastal engineer as well as those recommendations of the Building and Safety Division, the City Geotechnical staff and Public Works Department will be incorporated into the project.

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.

D. Environmentally Sensitive Habitat Area (LIP - Chapter 4)

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, since the subject lot is located on the beach, a potential habitat for marine life, a biological assessment was conducted by Holly Hill on September 2, 2004. The assessment verified that the parcel was not located within an ESHA.

E. 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 trees 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 Assessment prepared by Holly Hill on September 2, 2004 for the subject property, there are no native trees present on the property. Accordingly, the findings in the Native Tree Protection Ordinance are not applicable.

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

The Scenic, Visual and Hillside Resource Protection Ordinance governs those Coastal Development Permit 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 (Pacific Coast Highway); therefore, the Scenic, Visual and Hillside Resource Protection Ordinance applies and the five findings set forth in LIP Section 6.4 are hereby made as follows.

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.

The subject site is located on Pacific Coast Highway; however, it has been designed to be of similar height, bulk and material as the existing surrounding properties in order to fit into the neighborhood character. Story poles were erected on May 15, 2005 as required with the CDP application, which allowed for a review and analysis of the visual impact. The applicant also provided a visual simulation to demonstrate the bulk and mass of the project relative to nearby structures. As seen in site photos and the visual simulation (Attachment 3), the proposed property will not exceed the height of the tallest neighboring property. Furthermore, a contiguous 20% view corridor, 10'5", will be provided to allow for a public view of the Pacific Ocean.

Based on the site reconnaissance, photos, and review of architectural plans, staff determined that the residence and associated development would result in a less than significant visual impact to public views to and along the coast and from public roads and trails. The subject property is no more visually intrusive than any surrounding residences.

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 proposed project was previously designed not to include the required view corridor. As revised, the proposed residence will provide a 20% view corridor creating a beneficial impact to visual resources. There is very little existing vegetation and little landscaping proposed. A front retaining wall will not have an adverse impact on scenic or visual resources, as it is to provide stability below the natural grade. Therefore, the project will not have any significant adverse scenic or visual impacts due to project modifications, new landscaping or other conditions.

Finding 3. The project, as proposed or 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 no 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 no significant scenic and visual impacts nor contribute adversely to sensitive resource protection policies.

G. Transfer Development Credits (LIP – Chapter 7)

Pursuant to Section 7.2 of the LIP, 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.

H. Hazards (LIP - Chapter 9)

The project was analyzed by City staff, consultants, and City Department agencies including the Geology, Coastal Engineering, Public Works and Environmental Health for the hazards listed in the Local Implementation Plan Section 9.2.A.1-7. Analysis of the project for hazards included review of the City of Malibu General Plan, and several hazards reports as follows: original Coastal Engineering Report on February 1, 1983 by John S. Hale, Coastal Engineering Inc., Wave Uprush study including addendums dated November 15, 2000, and January 24, 2005 respectively, conducted by Pacific Engineering Group; Soils and Engineering Geologic Investigation Report conducted by Milton Condon on December 9, 1987, Geotechnical Consultants; Geotechnical Engineering Report and update conducted on June 6, 1993 and December 10, 1998 by RJR Engineering Group.

The project has been reviewed by the above references agencies and has been determined to be consistent with all relevant policies and regulations regarding potential hazards. The proposed project is not anticipated to result in the potential to create adverse impacts on site stability or structural integrity.

The General Plan shows that the project site is in the vicinity of extreme fire hazards areas. The project is located on the beach and could potentially be subject to hazards from wave action (LIP Section 9.2.A.5) or tsunamis (LIP Section 9.2.A.6). These hazards have been addressed in the analysis and recommendations have been provided by the Coastal Engineer for the project. Review of the project, with conditions, by staff show that there are no substantial risks to life and property provided that the recommendations of the geotechnical reports, wave uprush reports and conditions provided by City Coastal Engineer are followed.

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 proposed site was analyzed for geologic and structural integrity hazards. Based on the reports by the applicant's geotechnical consultants (RJR Engineering) and wave uprush consultants (Pacific Engineering Group), as well as a review of the Seismic Hazards Zone Maps and Earthquake Fault Zone Maps, the site is not within earthquake-induced landslide, nor is there a hazard due to fault rupture from the Malibu Coast Fault across the building site.

The proposed site was also evaluated for flood hazards and wave action hazards. These hazards have been mitigated by providing a design that includes a bulkhead (required to protect the AOWTS) and the

residence constructed 33 feet seaward on a concrete pile supported foundation into a minimum of 10 feet of bedrock, and a finished floor elevation above wave hazards. The entire City of Malibu is located within the fire hazard zone, therefore, no other alternatives were considered. Geotechnical update report conducted by RJR Engineering on December 10, 1998 states, "the stability of the site and surrounding areas will not be adversely affected by the proposed residential construction."

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 the Hazards Finding 1 above, the proposed site is not located in a geologic, landslide or wildfire hazard zone. The project has been approved by the City Coastal Engineering Department, City Geologist, City Public Works Department and the Los Angeles County Fire Department and the various departments conditioned the project to ensure that it will not have any significant adverse impacts on the site stability or structural integrity. As previously stated, the residence will be constructed on concrete piles with the bulkhead located as far landward as possible and designed for a wave impact uplift force of 339 PSF, (according to the Wave Uprush study).

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

The proposed project is the least environmentally damaging alternative, and all hazards have been mitigated by the proposed construction as indicated in Finding 1 and 2 above.

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

Based on site visits and review of the consultants' reports, it has been concluded that all recommendations and/or conditions remain applicable and the proposed project will be safe and that the site will not be affected by any hazard from landslide, wave uprush, settlement or slippage, and the completed work will not adversely affect adjacent properties. As such, there are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity. Any special conditions from the City Coastal Engineer, City Geologist, the Los Angeles County Fire Department and City Public Works Department must be met prior to issuance of a building permit.

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.

The City Geologist, after viewing the site and reviewing the geologic reports, submitted did not identify any hazards or mitigation related to the subject development. Therefore, the development will not have any adverse impacts.

I. Shoreline and Bluff Development (LIP – Chapter 10)

The project does include development of a parcel located on or along 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.

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

The proposed project is designed within the LCP standards for height, size, and beachfront setbacks; therefore, impacts on shoreline sand supply are expected to be less than significant. The rear setback for the proposed residence is in line with the stringline of the two neighboring properties and will not extend beyond. According to the Wave Uprush study conducted by Pacific Engineering Group on November 15, 2000, the bulkhead is located under the residence. In addition, the project is located 150 feet from the nearest vertical access to the beach and already provides a ten-foot wide public lateral access. The project is not anticipated to result in significant adverse impacts on public access, shoreline sand supply, or other resources.

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

The proposed project is not expected to have any significant adverse impacts to public access, shoreline sand supply or other resources due to any conditions tied with the project.

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 proposed location is the least environmentally damaging alternative.

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

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

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

The proposed development has been reviewed and/or conditioned by the City Coastal Engineer as well as various consultants who conducted wave uprush studies. These reports and/or approvals were based on the fact that the site of the shoreline protective device is the least environmentally damaging alternative. Wave Uprush study conducted on November 15, 2000 by Pacific Engineering Group states that the "proposed bulkhead location 33 feet seaward of the PCH right-of-way line represents the most landward location for the required bulkhead. At this location the proposed bulkhead will have an insignificant

effect on wave uprush, littoral drift, and other coastal processes and no effect on the adjacent properties.” Furthermore, the study states, “The bulkhead will be located under the residence where public access both lateral and vertical is not an issue.”

J. Public Access (LIP - Chapter 12)

Lateral Access. The applicant has dedicated a 10-foot wide lateral public access easement for passive recreational use along the shoreline.

Vertical Access. The project site is located on Big Rock Beach, approximately one half mile west (up coast) from an existing vertical public coastal access way and approximately 150 feet east (down coast) from a vertical public coastal accessway that has been offered, but not yet accepted or opened. Furthermore, the property owner has dedicated a 10-foot wide lateral public access easement.

The following findings and analysis were conducted in accordance with LIP Section 12.8.3 regarding vertical access:

- A. Vertical access would not impact fragile coastal resources, does not raise a significant public safety concern, or have any impact on a military facility.
- B. No mitigation measures to manage the type, character, intensity, hours, season or location of a vertical access is required to protect fragile coastal resources, public safety or military security, because no impacts have been identified.
- C. Since no access to coastal resources would be obtained by imposition of the requirement for a vertical public access, no legitimate governmental or public interest would be furthered by such a requirement.

Therefore, due to the ability of the public, through another reasonable means, to reach nearby coastal resources and the fact that there are two vertical access points within close proximity to the project site, an exception for public vertical access has been determined to be appropriate for the project and no condition for vertical access has been required in accordance with LIP Section 12.6.

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

Trail Access. The project site does not include any existing or planned trails as indicated on the Trails Master Plan, and therefore no condition for trail access is required by the Local Coastal Program.

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

The subject site is located between the first public road and the sea but due to the location of the proposed development, the public’s right of access to the sea is not compromised. In addition, the proposed project and related construction activities are not anticipated to interfere with the public’s right to access the

coast.

K. 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.

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. 04-019, subject to the conditions listed below:

Standard Conditions

1. The applicants and property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Approval of this application is to allow for the construction of a two-story plus mezzanine, 3,089 square-foot, single-family residence including a 360 square-foot garage, roof deck, bulkhead and return, retaining walls and an alternative onsite wastewater treatment system. The application also includes a Minor Modification No. 03-020 for 50% reduction in the front yard setback, a Minor Modification No. 99-005 for a 20% reduction in the side yard setback, a Site Plan Review No. 99-004 for height not to exceed 28 feet and a Variance No. 99-020 for construction on slopes. 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. 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, City Coastal Engineer 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. 99-016, Minor Modification 99-005 and Site Plan Review No. 99-004 shall remain in effect.
15. The Coastal Development Permit runs with the land and binds all future owners of the property.
 - a. The property owner is required to acknowledge, by the recordation of a deed restriction, that the proposed project 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.
 - b. 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.

Special Conditions

Biology/Landscaping

16. No Landscaping has been proposed with this project. Therefore, none is approved. Should the applicant desire to install any vegetation with a potential to exceed six feet in height at maturity, a detailed landscape plan must be submitted for review by the City Biologist.
17. Vegetation shall be situated on the property so as not to obstruct significantly the primary view from private property at any time (given consideration of its future growth).

18. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of the beach. High intensity lighting of the shore is prohibited.

Site Requirements

19. Retaining walls visible from scenic highways, public viewing areas, trails, parks, and beaches shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color and material of all retaining walls shall be reviewed and approved by the Planning Division Manager and clearly indicated on all grading, improvement and/or building plans.
20. 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

21. 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.
- h. Prior to issuance of the CDP, the applicant shall be required to execute and record a deed restriction reflecting the above conditions.

Site Conditions

- 22. 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

- 23. 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.
- 24. 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.
- 25. The finished floor elevations should be adjusted to meet the project Coastal Engineer's recommendations; it appears there is a discrepancy of one inch. The Project Coastal Engineer recommends that the finished floor to be no lower than 20.5 feet MSL-NGVD, however, the plans show the finished floor elevation at 20 feet 5 inches with no datums specified.
- 26. The top of the bulkhead should be raised to meet the Project Coastal Engineers recommendations. The architectural elevations show the top of bulkhead at elevation 15 feet 5 inches, however, the Project Coastal Engineer recommends that the top of the bulkhead be at a minimum 17.0 MSL-NGVD.

Water Quality

- 27. 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.

28. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director, if required. The SWMP shall be prepared in accordance with the Malibu LCP and all other applicable ordinances and regulations.
29. A Water Quality Management Plan (WQMP) shall be submitted for review and approval of the Public Works Director, if required. The WQMP shall be prepared in accordance with the Malibu LCP and all other applicable ordinances and regulations.

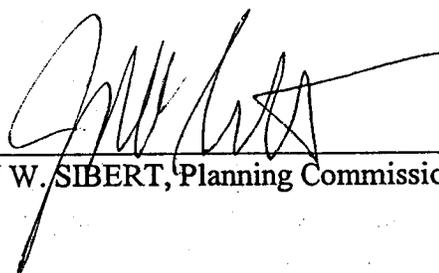
Solid Waste

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

Section 5. Certification.

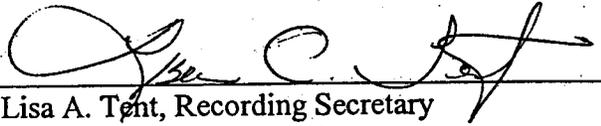
The Planning Commission shall certify the adoption of this Resolution.

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



JOHN W. SIBERT, Planning Commission Chairman

ATTEST:



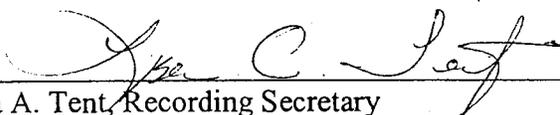
Lisa A. Tent, Recording Secretary

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>> or in person at City Hall, or by calling (310) 456-2489 ext. 245.

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

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 05-33 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:	Moss, Anthony, Randall, Schaar and Sibert
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		



Lisa A. Tent, Recording Secretary



Commission Agenda Report

Planning
Commission
06-20-05
Item
6.F.

To: Chair Sibert and Honorable Planning Commission Members

Prepared by: Susan Villain, Senior Consulting Planner

Reviewed by: Victor Peterson, Environmental and Community Development Director

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

Date prepared: June 2, 2005 Meeting Date: June 20, 2005

Subject: Coastal Development Permit No. 04-019 and Variance No. 99-020 - An application within the coastal zone to allow construction of a two-story plus mezzanine, 3,089 square-foot, single-family residence including a 360 square-foot garage, roof deck, bulkhead and return, retaining walls and an alternative onsite wastewater treatment system. The variance request is for construction on slopes in excess of 2 1/2 to 1.

RECEIVED

JUL 05 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Application Number: Coastal Development Permit No. 04-019
Variance No. 99-020

Application Filing Date: September 2, 2004

Applicant: Tryggvi Thorsteinsson

Owner: William and Jacqueline Gould

Location: 20758 Pacific Coast Highway within the coastal zone (APN: 4450-007-030)

Zoning: Multi Family Beach Front (MFBF)

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 05-33 (Attachment 1) approving Coastal Development Permit (CDP) No.04-019 and Variance (VAR) No. 99-020 (construction on slopes), for the construction of a two-story plus mezzanine, 3,089 square-foot single-family residence including 360 square-foot garage, roof deck, alternative onsite wastewater treatment system, bulkhead and return and retaining walls. The application also includes a Minor Modification (MM) for 50% reduction in the front yard setback and a Minor Modification (MM) for a 20% reduction in the side yard setback.

EXHIBIT 6
Appeal A-4-MAL-05-085
Staff Report

DISCUSSION: The issue before the Planning Commission tonight is whether to adopt Planning Commission Resolution No. 05-33 approving CDP No. 04-019 and VAR No. 99-020.

On October 11, 2000, the project was granted an Approval in Concept by Planning Commission Resolution No. 99-028 for conformance to the design and development standards of the Malibu Municipal Code (M.M.C.), Site Plan Review (SPR) No. 99-004 for height in excess of the base 18 feet, but not to exceed 28 feet for a pitched roof and Minor Modification No. 02-005 for a 50% reduction in the front yard setback.

The project proposes the construction of a new two-story plus mezzanine 3,089 square-foot single-family residence including 360 square-foot garage, roof deck, alternative onsite wastewater treatment system, bulkhead and return and retaining walls. The application also includes a MM for 50% reduction in the front yard setback, a MM for a 20% reduction in the side yard setback and a variance for construction on slopes. The subject site is located at 20758 Pacific Coast Highway and is zoned Multi Family Beach Front MFBF (One unit per 1,885 square feet). Attachment 2 (Vicinity Map); Attachment 3 (Aerial Photo) and Attachment 4 (Site Photos).

Chronology of Project

On January 28, 1999, an application was submitted to the Planning Department for a Plot Plan Review (PPR) No. 99-016, SPR No. 99-004 and MM No. 99-005. On May 11, 1999 an application for Variance (VAR) No. 99-020 for construction on slopes of 2½:1 for the retaining wall and single family residence was submitted.

On September 8, 1999, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and information in the record and adopted Planning Commission Resolution No. 99-28 approving the project.

During the Coastal Development Permit application review period, the Coastal Commission requested that a 20 % view corridor be provided. The applicant redesigned the project to include a 10% view corridor on each side of the property.

On October 11, 1999, and October 11, 2000, extensions were granted for the City approvals of the project.

On April 26, 2001, the California Coastal Commission issued a Notice of Intent. At this time the applicant chose to again re-design the project. Accordingly, on February 20, 2002, the applicant applied to the City for a variance to the parking standards, requesting a reduction in the number of parking spaces VAR No. 02-006, and a 50% reduction of the front yard setback from 8 feet to 4 feet MM No. 02-005.

On May 19, 2003, the Planning Commission held a duly noticed public hearing to review the item. The Planning Commission adopted Planning Commission Resolution No. 03-05 denying the variance for parking and minor modification for the front yard setback reduction but approving the project.

On April 26, 2003 the Coastal Commission's Notice of Intent expired.

On December 30, 2003, the project was re-submitted to the Planning Department. On February 4, 2003, the project was issued a Notice of Decision. On September 2, 2004 the applicant converted his application to a Coastal Development Permit (CDP 04-019) and as such redesigned the project to provide a contiguous 20% view corridor.

December 15, 2004, a Notice of Application for Coastal Development Permit No. 04-019 was posted on the subject property.

On May 19, 2005, the application was deemed complete for processing.

On June 9, 2005, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu. In addition, on June 9, 2005, a Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the subject property.

On June 20, 2005, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

Surrounding Land Use and Setting

The subject property lies within the Appealable Zone as depicted on the Local Coastal Plan (LCP) Certification Permit and Appeal Jurisdiction Map. The subject property does not lie within or adjacent to any Environmentally Sensitive Habitat Area (ESHA) as depicted on the LCP ESHA and Marine Resources Map. The project site located at 20758 Pacific Coast Highway is zoned Multi Family Beach Front (MFBF with one unit per 1,885 square feet) and consists of .18 acre of generally flat land sloping upward from the Pacific Ocean to a toe abutting Pacific Coast Highway. The property is bordered to the east and west with existing residential development and the north by bluff face and south by the Pacific Ocean. Properties in the immediate area are generally developed and classified as either Multi Family Beach Front (MFBF) or Rural Residential 20 acre minimum lot size (RR-20) zoning districts.

Project Description

The proposed project consists of the construction of a new two-story plus mezzanine 3,089 square-foot single-family residence including 360 square-foot garage, roof deck,

and alternative onsite wastewater treatment system, bulkhead and return walls and retaining walls. Attachment 5 (Architectural Plans). The project is broken down as follows:

- Proposed Square-footage

1,444	first floor square-footage
1,356	second floor square-footage
298	mezzanine square-footage
<u>360</u>	garage square-footage
3,458	total square-footage

- New bulkhead
- New return and retaining walls
- Alternative onsite wastewater treatment system
- A minor modification request for a 50% reduction in the front yard setback
- A minor modification request for 20% reduction in the side yard setback
- A variance request to build on slopes in excess of 2½ to 1
- Associated grading of less than 1,000 cubic yards.

Existing City Approvals for Plot Plan Review and Site Plan Review

The project received prior approval from the City of Malibu for PPR No. 99-016 for the construction of a single family home and related development; SPR No. 99-004 for the structure height in excess of 18 feet but not to exceed 28 feet; MM No. 99-005 for the reduction in side yard setback from 5' 2" to 4' 1", and Variance (VAR) No. 99-020 for construction on slopes, all in conformance with the development standards of the M.M.C. Section 17.40.040.

The proposed project was reviewed by the City staff, City Biologist, City Environmental Health Specialist, City Coastal Engineer, City Geologist, City Public Works Department and the Los Angeles County Fire Department and was determined to be consistent with all applicable codes, goals, and policies at the time of their approval. Attachment 6 (Department Review Sheets) These departments have also found this project to be consistent with the Local Coastal Program Local Implementation Plan (LIP) Section 3.5.3 (General Development Standards).

Local Coastal Program

The Malibu LCP consists of a Land Use Plan (LUP) and a Local Implementation Plan (LIP). 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 including Site Plan Review; (2) Environmentally Sensitive Habitat Area (ESHA); (3) Native Tree Protection; (4) Scenic Visual and Hillside Protection (5) Transfer of Development Credits; (6) Hazards; (7) Shoreline and Bluff Development; (8) Public Access and (9) Land Division, of the LIP. Of these nine, for the reasons discussed below, only three apply to the proposed project and warrant further discussion. The applicable findings will be discussed in order as they appear here.

Conformance Analysis

Zoning

Development standards are contained in Chapter 3 of the LIP. These standards are similar to those required by the M.M.C. As shown in Table 2, the proposed project complies with the LCP development standards. Please note the two off-street parking spaces are to be provided in the 20% view corridor.

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

Table 1 – Property Data	
Lot Depth	140 feet
Lot Width	52 feet
Gross Lot Area (including driveway easements)	.18 acres (7,841 sq. ft.)
Net Lot Area*	.17 acres (7,701 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 standards as set forth under section 3.5 and 3.6 of the LIP.

Table 2 – LCP Zoning Conformance			
Development Requirement	Allowed	Proposed	Comments
SETBACKS			
Front Yard	8'	4'	Minor modification
Rear Yard	stringline	stringline	Complies
Side Yard (minimum)	5' 2"	4' 1"	Minor modification
Side Yard (maximum)	10'3" view corridor	10'5" view corridor	Complies
Side Yard (cumulative)	10' 3"	14' 6"	Complies
PARKING	2 enclosed 2 unenclosed	2 enclosed 2 unenclosed	Complies
TOTAL DEVELOPMENT SQUARE-FOOTAGE	beachfront exempt	3,458 sq. ft.	Complies
2/3RDS RULE/2nd floor sq.ft.	beachfront exempt	beachfront exempt	Complies
HEIGHT	28'-0" (pitched)	28'-0" (pitched)	Complies
IMPERMEABLE COVERAGE	Beach front exempt	Beach front exempt	Complies
NON-EXEMPT GRADING	1,000 cu. yds	215 cu. yds	Complies
CONSTRUCTION ON SLOPES	3:1	2 ½ : 1	Variance
Fence/Wall Height	Allowed	Proposed	Comments
Front	6'	undergrade	Complies
Side(s)	N/A	N/A	N/A
Rear	N/A	N/A	N/A

Grading

The proposed development 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. The maximum quantity of grading within a residential lot is limited to 1,000 cubic yards (total cut and fill). The proposed land alteration volume for this project is a total of 215 cubic yards (45 cubic yards of cut and 170 cubic yards of fill) thereby meeting these requirements.

Archaeological/Cultural Resources

The subject site is located in a designated area of low potential for archaeological resources as shown on the City of Malibu Archaeology maps.

Findings

The proposed project has been reviewed for conformance with the City of Malibu Local Coastal Program (LCP) by the Planning Division staff, the City Geologist, City Environmental Health Specialist, City Biologist, City Coastal Engineer and City Public Works Department, as well as 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 has been reviewed for conformance with the LCP. As discussed herein, and as indicated in Table 2, the project, as proposed and/or conditioned, conforms to the certified City of Malibu LCP.

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, there is an existing vertical access less than 150 feet from the subject property. Attachment 7. (Public Access Map) The location of the proposed project and related construction activities is not anticipated to interfere with the public's right to access the coast. The project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

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

Pursuant to the California Environmentally Quality Act (CEQA), this project is listed among the classes of projects that have been determined not to have a significant

adverse effect on the environment and, as discussed later in this report, 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 M.M.C. Proposed at 3,458 square feet, the structure is relatively small. The proposed single-family residence is a permitted use within the MFBF zoning classification of the subject property. Due to size constraints on the property, the proposed location is the least environmentally damaging feasible alternative.

The project will not result in any potentially significant impacts because 1) feasible mitigation measures 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. Furthermore, any other configurations of the proposed residence would not alter the project's potential to create any environmental damage, thus 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. A Biological Assessment was conducted by Holly Hill on September 9, 2004. The report confirms that no trees, native vegetation, wildlife or special status plant or animal species exist on the subject site. On November 15, 2004, the City Biologist approved the proposed project and determined that the project is not expected to result in any new biological impacts.

B. Minor Modification Findings for Reduction in Front Yard Setback and Side Yard Setback (LIP Section 13.27.5)

Pursuant to LIP Section 13.27.5, the Planning Commission may approve or condition a minor modification application only if the Planning Commission affirmatively finds that the proposal of a reduction in the front yard setback by 50%, from 8 feet to 4 feet, and a reduction in the side setback by 20%, from 5 feet 2 inches to 4 feet 1 inch, meet all of the following findings of fact:

Finding 1. That the project is consistent with policies of the Malibu LCP.

The project has been reviewed and analyzed for conformance with the LCP by Planning Division staff, the City Geologist, City Environmental Health Specialist, City Biologist, City of Malibu Public Works Department, City Coastal Engineer and the Los Angeles County Fire Department and has been determined to be consistent with the policies and provisions of the LCP (see Table 2 and accompanying discussion). The project design proposes a 20% reduction in the side yard setback from 5 feet 2 inches to 4 feet 1 inch, and a 50% reduction in the front yard setback from 8 feet to 4 feet. These reductions were designed into the project due to the lot constraints of the property boundaries. Pursuant to Malibu LIP Section 13.27.1(B) a Minor Modification may be granted to reduce setback requirements by no more than 20% and front yard setbacks by no more than 50%. The proposed project meets these requirements.

Finding 2. That the project does not adversely affect neighborhood character.

The proposed project's height and bulk will not adversely affect neighborhood character in that the proposed residence will exist alongside other residences with similar height characteristics as noted on various site visits and photos. Furthermore, the proposed project, with the addition of the contiguous view corridor, enhances the neighborhood character by offering a public view of the Pacific Ocean. The project complies with the size limitations and setbacks of the MFBF zoning district as outlined in the Malibu LCP.

The subject property is approximately 52 feet in width and, consistent with beachfront development standards, would generally require five foot side yards. However, because the project is located along Pacific Coast Highway, a view corridor equal to 20% of the width of the lot is required to provide public views of the ocean. This development standard has the effect of requiring side yards much greater than those exhibited by any other property along Pacific Coast Highway, which were developed prior to the implementation of the City's LCP. When applied to this project, the view corridor standards require that the subject property be developed with side yards of 10' 4" on one side and 5' 2" on the other.

The project will incorporate the required 10' 4" wide contiguous view corridor along one side of the property and approval of the requested minor modification would permit a one (1) foot reduction on the other side, from 5' 2" feet to 4' 1" feet. It is anticipated that the proposed project will improve neighborhood character through incorporation of the view corridor and the requested 1-foot reduction in side yard requirements will have an insignificant impact on neighborhood character. The project will comply with height requirements, the stringline application and other applicable beachfront development standards and is not anticipated to result in any adverse impacts to neighborhood character.

Finding 3. The proposed project complies with all applicable requirements of state and local law.

The proposed project complies with all applicable requirements of state and local law, and is conditioned to secure all relevant approvals and permits from the City of Malibu Environmental and Building Safety Division, the Los Angeles Regional Water Quality Control Board and the Los Angeles County Fire Department, prior to building permit issuance.

C. Variance (LIP – Chapter 13.26.5)

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 topography of the subject property is such that the strict application of the zoning ordinance deprives the subject property of privileges enjoyed by other properties in the vicinity and under the identical zoning classification. LIP Section 3.6 (J) limits the site of residential construction to areas containing slopes less than 2½:1; however, the topography of the subject property precludes development that would not be located on slopes greater than 2½:1. The granting of the requested variance would permit the construction of a single-family residence on a vacant lot that has been determined appropriate for such use as indicated by its MFBF Zoning classification.

Development regulations limiting construction on slopes are written on a citywide basis and cannot take into account the individual and unique characteristics a property may exhibit. In this instance, the strict application of the ordinance would preclude any development of the subject property. Adjacent properties in the identical zoning classification have been developed on slopes greater than 2 ½:1 and denial of the variance would deprive the property owner of developing his property in a similar manner with respect to construction on slopes.

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 retaining wall and 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 developed on slopes in excess of 2½:1, similar to other development along Pacific Coast Highway. 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 Biologist, City Geologist and City 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 on slopes greater than 2½:1 and this approval grants relief from a technical development standard which would otherwise preclude development of the subject property.

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 for construction on slopes in excess of 2½:1 will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP. As stated earlier, granting the requested variance will allow the subject property to be developed similar to abutting properties and no alternatives exist that would eliminate the need for the requested variance. The proposed project has been reviewed and approved for conformance with the LCP and applicable City and County goals and policies by the Los Angeles County Fire Department, the City Biologist, City Geologist, City Coastal Engineer, City Environmental Health Specialist and the City of Malibu Public Works Department.

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 MFBF Zoning District. 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 retaining wall and a residence that is compatible with the surrounding built environment. The subject site is physically suitable for the proposed variance in that there is no alternate building site or configuration, which would eliminate the need for the variance request. As stated above, the project has been reviewed and approved by applicable agencies. Prior to the issuance of a building permit, the project will be reviewed and approved for structural integrity and stability. All final recommendations of the applicant's structural and coastal engineer as well as those recommendations of the Building and Safety Division, the City Geotechnical staff and Public Works Department will be incorporated into the project.

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.

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

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, since the subject lot is located on the beach, a potential habitat for marine life, a biological assessment was conducted by Holly Hill on September 2, 2004. The assessment verified that the parcel was not located within an ESHA.

E. 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 trees 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 Assessment prepared by Holly Hill on September 2, 2004 for the subject property, there are no native trees present on the property. Accordingly, the findings in the Native Tree Protection Ordinance are not applicable.

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

The Scenic, Visual and Hillside Resource Protection Ordinance governs those Coastal Development Permit 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 (Pacific Coast Highway); therefore, the Scenic, Visual and Hillside Resource Protection Ordinance applies and the five findings set forth in LIP Section 6.4 are hereby made as follows.

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.

The subject site is located on Pacific Coast Highway; however, it has been designed to be of similar height, bulk and material as the existing surrounding properties in order to fit into the neighborhood character. Story poles were erected on May 15, 2005 as required with the CDP application, which allowed for a review and analysis of the visual impact. The applicant also provided a visual simulation to demonstrate the bulk and mass of the project relative to nearby structures. As seen in site photos and the visual simulation (Attachment 3), the proposed property will not exceed the height of the tallest neighboring property. Furthermore, a contiguous 20% view corridor, 10'5", will be provided to allow for a public view of the Pacific Ocean.

Based on the site reconnaissance, photos, and review of architectural plans, staff determined that the residence and associated development would result in a less than significant visual impact to public views to and along the coast and from public roads and trails. The subject property is no more visually intrusive than any surrounding residences.

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 proposed project was previously designed not to include the required view corridor. As revised, the proposed residence will provide a 20% view corridor creating a beneficial impact to visual resources. There is very little existing vegetation and little landscaping proposed. A front retaining wall will not have an adverse impact on scenic or visual resources, as it is to provide stability below the natural grade. Therefore, the project will not have any significant adverse scenic or visual impacts due to project modifications, new landscaping or other conditions.

Finding 3. The project, as proposed or 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 no 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 no significant scenic and visual impacts nor contribute adversely to sensitive resource protection policies.

G. Transfer Development Credits (LIP - Chapter 7)

Pursuant to section 7.2 of the LIP the regulations requiring a transfer development credit apply to any action to authorize a coastal development permit for a land division. The proposed coastal development permit does not involve a land division, and is located on a vacant residential lot. Therefore, Chapter 7 of the LIP does not apply to this application.

H. Hazards (LIP - Chapter 9)

The project was analyzed by City staff, consultants, and City Department agencies including Geology, Coastal Engineering, Public Works and Environmental Health for the hazards listed in the Local Implementation Plan Section 9.2.A.1-7. Analysis of the project for hazards included review of the City of Malibu General Plan, and several hazards reports as follows: original Coastal Engineering Report dated February 1, 1983 by John S. Hale, Coastal Engineering Inc., Wave Uprush study including addendums dated November 15, 2000, and January 24, 2005 respectively, conducted by Pacific Engineering Group; Soils and Engineering Geologic Investigation Report conducted by Milton Condon on December 9, 1987, Geotechnical Consultants; Geotechnical Engineering Report and update conducted on June 6, 1993 and December 10, 1998 by RJR Engineering Group.

The project has been reviewed by the above referenced agencies and has been determined to be consistent with all relevant policies and regulations regarding potential hazards. The proposed project is not anticipated to result in the potential to create adverse impacts on site stability or structural integrity.

The General Plan shows that the project site is in the vicinity of extreme fire hazard areas. The project is located on the beach and could potentially be subject to hazards from wave action (LIP Section 9.2.A.5) or tsunamis (LIP Section 9.2.A.6). These hazards have been addressed in the analysis and recommendations have been provided by the Coastal Engineer for the project. Review of the project, with conditions, by staff show that there are no substantial risks to life and property provided that the recommendations of the geotechnical reports, wave uprush reports and conditions provided by City Coastal Engineer are followed.

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 proposed site was analyzed for geologic and structural integrity hazards. Based on the reports by the applicant's geotechnical consultants (RJR Engineering) and wave uprush consultants (Pacific Engineering Group), as well as a review of the Seismic Hazards Zone Maps and Earthquake Fault Zone Maps, the site is not within

earthquake-induced landslide, nor is there a hazard due to fault rupture from the Malibu Coast Fault across the building site.

The proposed site was also evaluated for flood hazards and wave action hazards. These hazards have been mitigated by providing a design that includes a bulkhead (required to protect the AOWTS) and the residence constructed 33 feet seaward on a concrete pile supported foundation into a minimum of 10 feet of bedrock, and a finished floor elevation above wave hazards. The entire City of Malibu is located within the fire hazard zone, therefore, no other alternatives were considered. Geotechnical update report conducted by RJR Engineering on December 10, 1998 states, "the stability of the site and surrounding areas will not be adversely affected by the proposed residential construction."

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 the Hazards Finding 1 above, the proposed site is not located in a geologic, landslide or wildfire hazard zone. The project has been approved by the City Coastal Engineering Department, City Geologist, City Public Works Department and the Los Angeles County Fire Department and the various departments conditioned the project to ensure that it will not have any significant adverse impacts on the site stability or structural integrity. As previously stated, the residence will be constructed on concrete piles with the bulkhead located as far landward as possible and designed for a wave impact uplift force of 339 PSF, (according to the Wave Uprush study).

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

The proposed project is the least environmentally damaging alternative, and all hazards have been mitigated by the proposed construction as indicated in Finding 1 and 2 above.

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

Based on site visits and review of the consultants' reports, it has been concluded that all recommendations and/or conditions remain applicable and the proposed project will be safe and that the site will not be affected by any hazard from landslide, wave uprush, settlement or slippage, and the completed work will not adversely affect adjacent properties. As such, there are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity. Any

special conditions from the City Coastal Engineer, City Geologist, the Los Angeles County Fire Department and City Public Works Department must be met prior to issuance of a building permit.

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.

The City Geologist, after viewing the site and reviewing the geologic reports submitted, did not identify any hazards or mitigation related to the subject development. Therefore, the development will not have any adverse impacts.

I. Shoreline and Bluff Development (LIP – Chapter 10)

The project does include development of a parcel located on or along 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.

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

The proposed project is designed within the LCP standards for height, size, and beachfront setbacks; therefore, impacts on shoreline sand supply are expected to be less than significant. The rear setback for the proposed residence is in line with the stringline of the two neighboring properties and will not extend beyond. According to the Wave Uprush study conducted by Pacific Engineering Group on November 15, 2000, the bulkhead is located under the residence. In addition, the project is located 150 feet from the nearest vertical access to the beach and already provides a ten-foot wide public lateral access. The California State Lands Commission has reviewed the project and did not raise any objections to the project (refer to letter dated March 2, 2005). The project is not anticipated to result in significant adverse impacts on public access, shoreline sand supply, or other resources.

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

The proposed project is not expected to have any significant adverse impacts to public access, shoreline sand supply or other resources due to any conditions tied with the project.

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 proposed location is the least environmentally damaging alternative.

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

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

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

The proposed development has been reviewed and/or conditioned by the City Coastal Engineer as well as various consultants who conducted wave uprush studies. These reports and/or approvals were based on the fact that the site of the shoreline protective device is the least environmentally damaging alternative. Wave Uprush study conducted on November 15, 2000 by Pacific Engineering Group states that the "proposed bulkhead location 33 feet seaward of the PCH right-of-way line represents the most landward location for the required bulkhead. At this location the proposed bulkhead will have an insignificant effect on wave uprush, littoral drift, and other coastal processes and no effect on the adjacent properties." Furthermore, the study states, "The bulkhead will be located under the residence where public access both lateral and vertical is not an issue."

J. Public Access (LIP - Chapter 12)

Lateral Access. The applicant has dedicated a 10-foot wide lateral public access easement for passive recreational use along the shoreline.

Vertical Access. The project site is located on Big Rock Beach, approximately one half mile west (up coast) from an existing vertical public coastal access way and approximately 150 feet east (down coast) from a vertical public coastal accessway that

has been offered, but not yet accepted or opened. Furthermore, the property owner has dedicated a 10-foot wide lateral public access easement.

The following findings and analysis were conducted in accordance with LIP Section 12.8.3 regarding vertical access:

- A. Vertical access would not impact fragile coastal resources, does not raise a significant public safety concern, or have any impact on a military facility.
- B. No mitigation measures to manage the type, character, intensity, hours, season or location of a vertical access is required to protect fragile coastal resources, public safety or military security, because no impacts have been identified.
- C. Since no access to coastal resources would be obtained by imposition of the requirement for a vertical public access, no legitimate governmental or public interest would be furthered by such a requirement.

Therefore, due to the ability of the public, through another reasonable means, to reach nearby coastal resources and the fact that there is one existing vertical access point within close proximity to the project site, an exception for public vertical access has been determined to be appropriate for the project and no condition for vertical access has been required in accordance with LIP Section 12.6.

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

Trail Access. The project site does not include any existing or planned trails as indicated on the Trails Master Plan; therefore, no condition for trail access is required by the Local Coastal Program.

Recreational Access. The project site is not adjacent to, 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.

The subject site is located between the first public road and the sea but due to the location of the proposed development, the public's right of access to the sea is not compromised. In addition, the proposed project and related construction activities are not anticipated to interfere with the public's right to access the coast.

K. 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.

Environmental Review Board

The Environmental Review Board (ERB) 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 not to have a significant adverse effect on the environment and are therefore, exempt from the provisions of CEQA. 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). Accordingly, a CATEGORICAL EXEMPTION has been prepared pursuant to CEQA Guidelines Section 15303 class 3(a) and (e) – New Construction or Conversion of Small Structures will be issued.

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 (Site Plan Review Approval and Findings) of Planning Commission Resolution No. 05-33. 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.

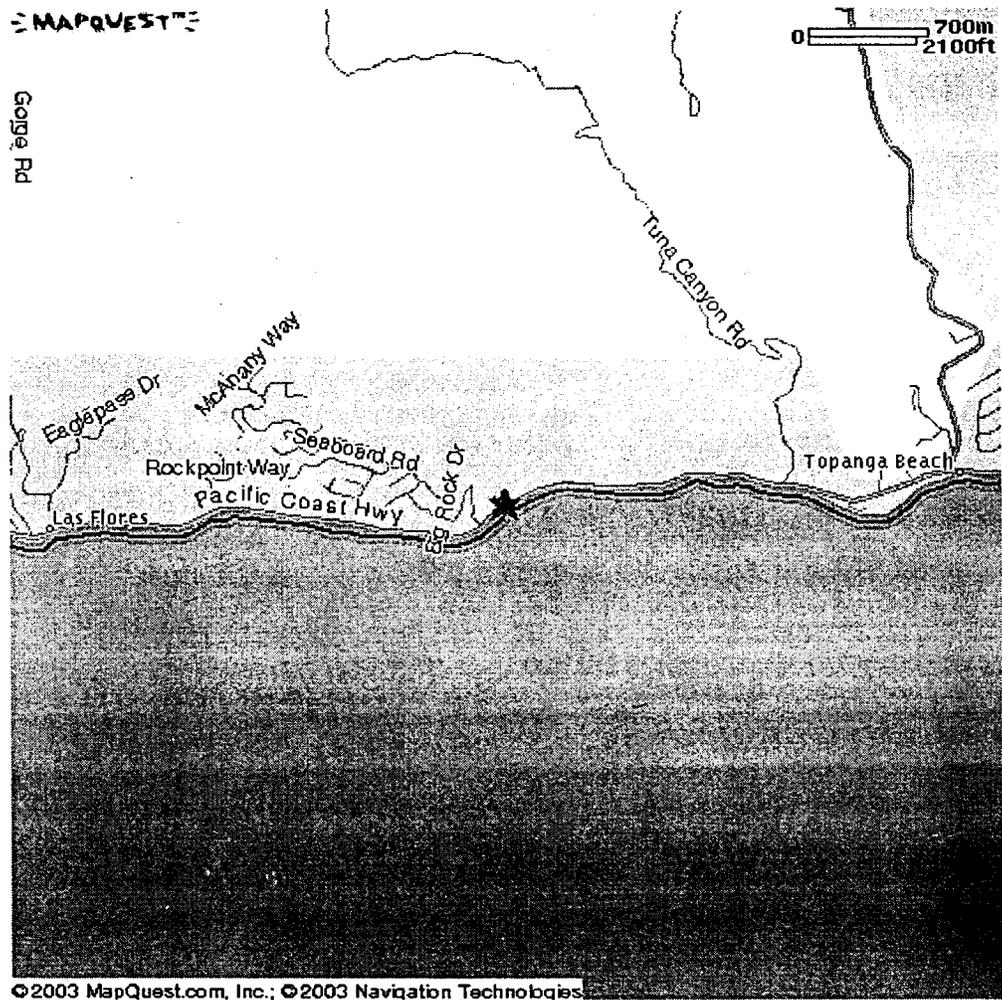
PUBLIC NOTICE: Pursuant to Malibu Local Coastal Program LIP Section 13.12.1, staff published the required 10-day public hearing notice in the Malibu Surfside News on June 9, 2005. In addition, a Notice of Public Hearing was mailed to property owners and occupants within a 500-foot radius of the subject property on June 9, 2005. Attachment 8 (Public Hearing/Mailing Notice).

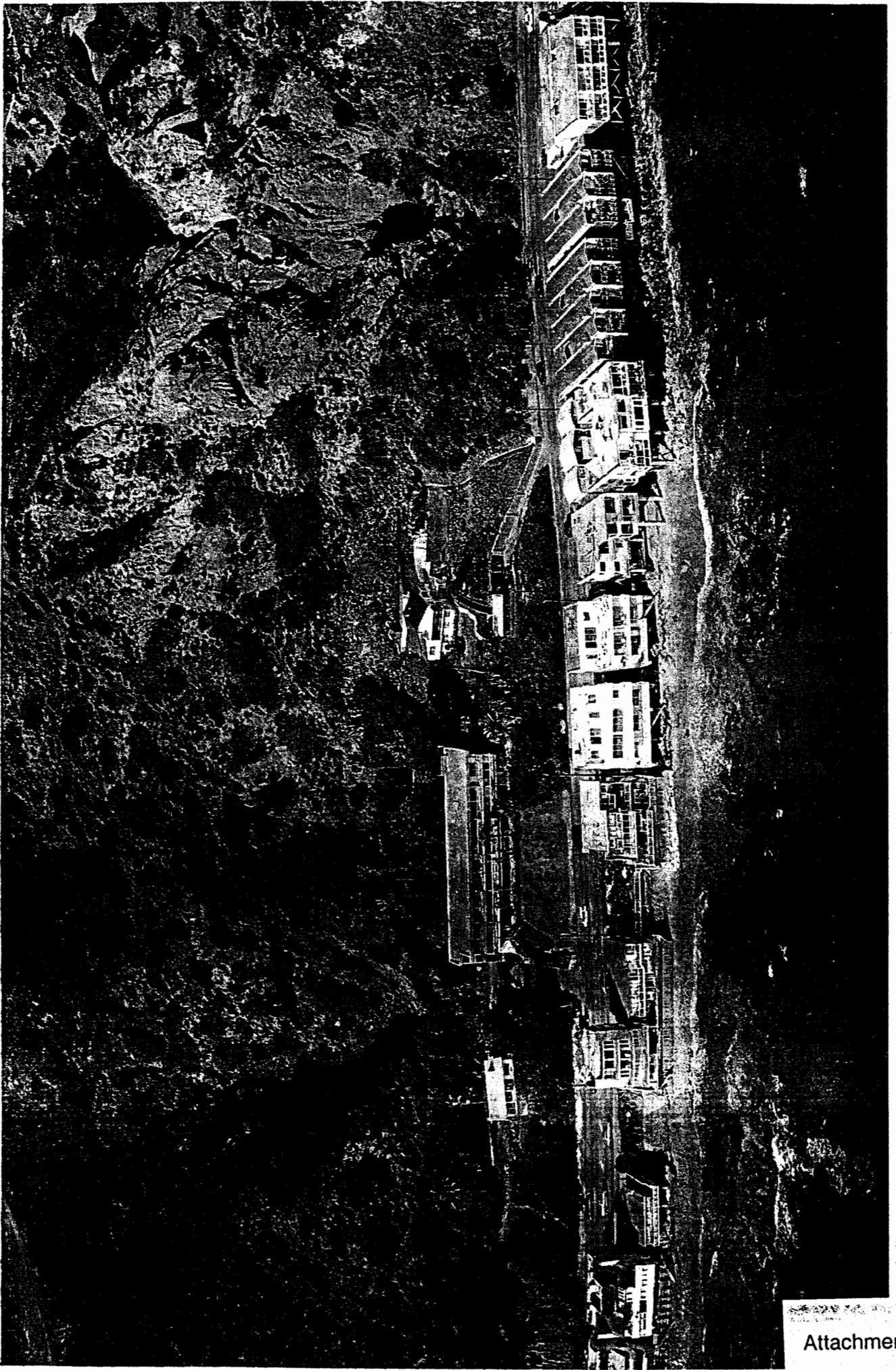
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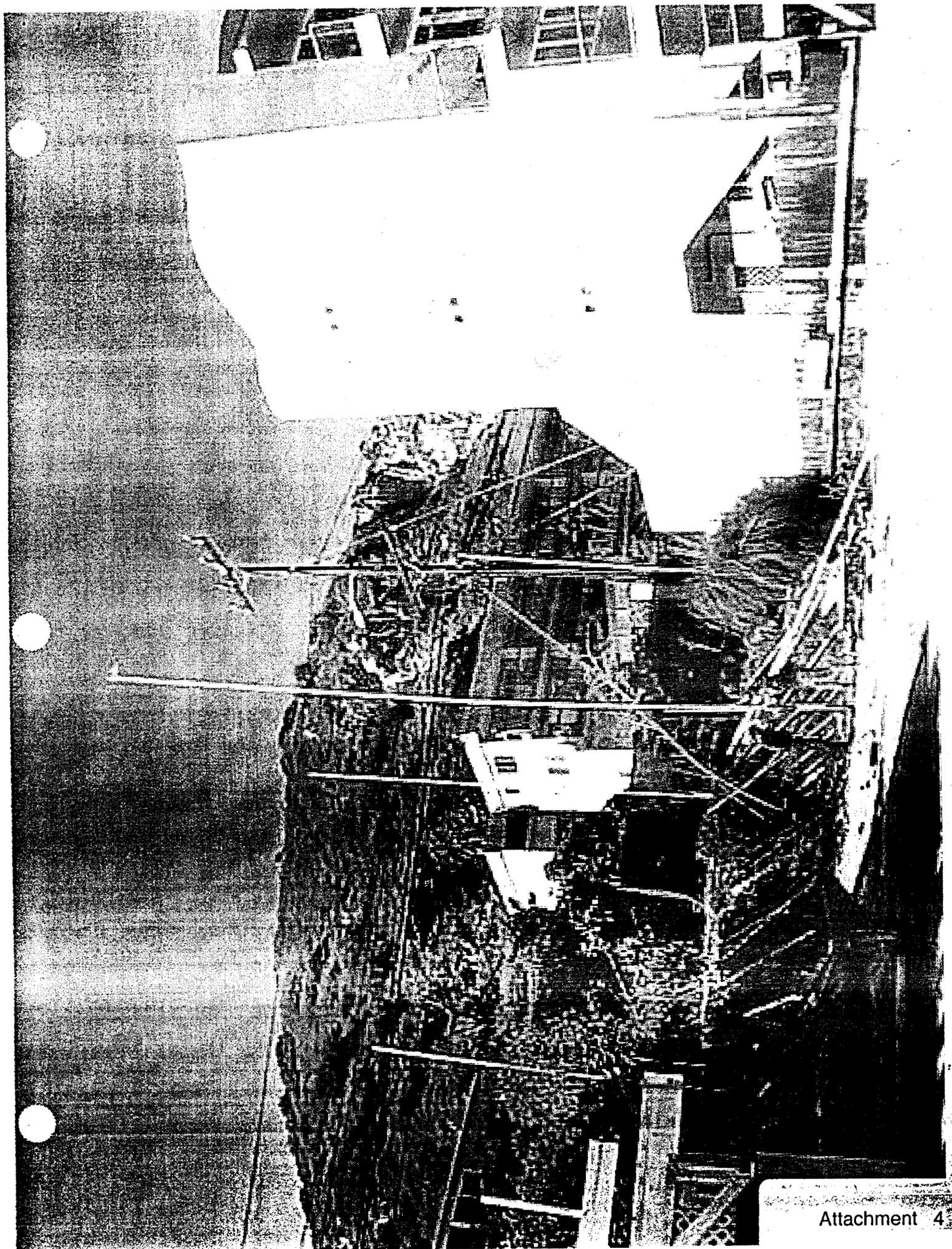
1. Planning Commission Resolution No. 05-033
2. Vicinity Map
3. Aerial Photo
4. Site Photographs and Visual Simulation
5. Architectural Plans
6. Department Review Sheets

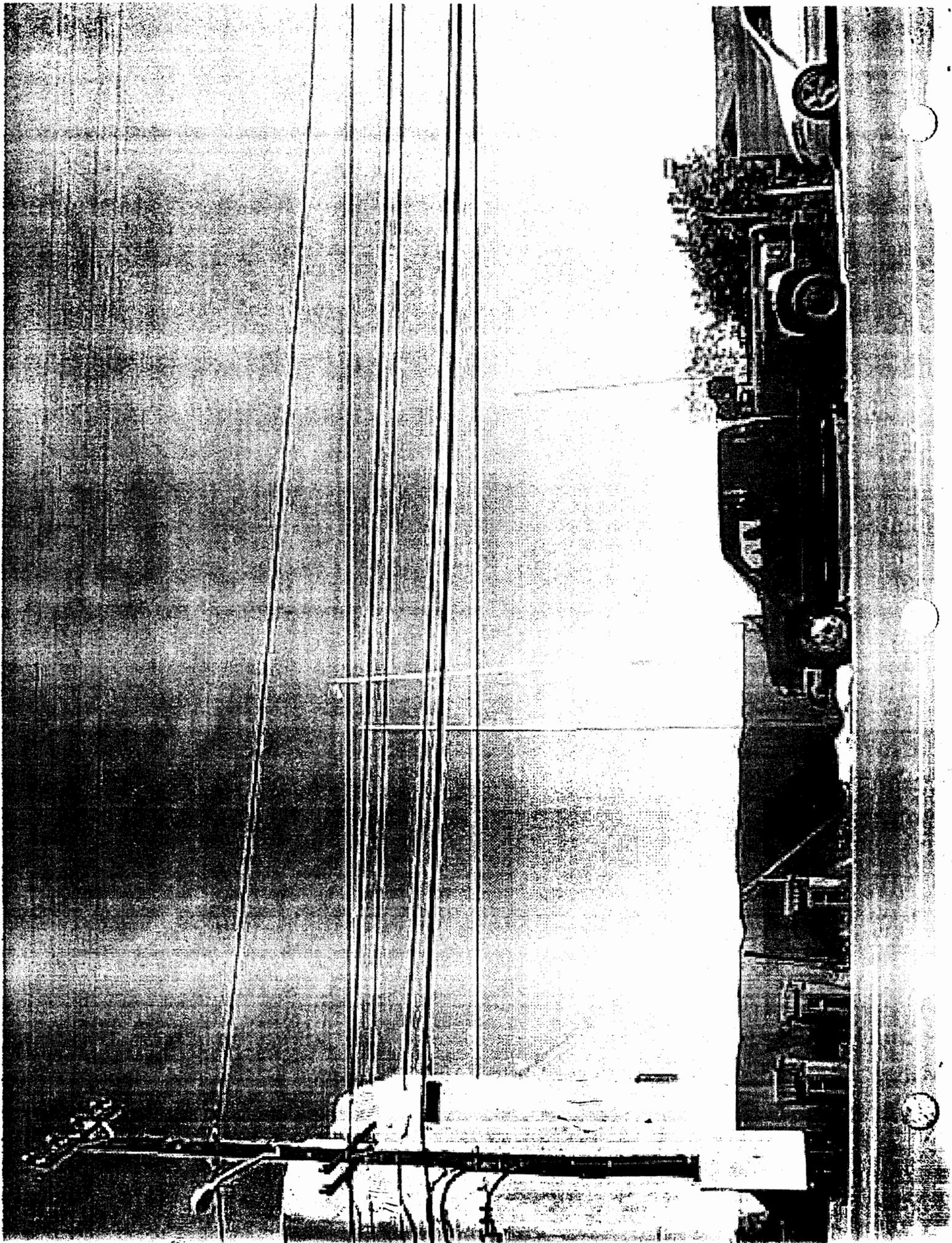
- 7. LCP Public Access Map
- 8. Public Hearing / Mailing Notice

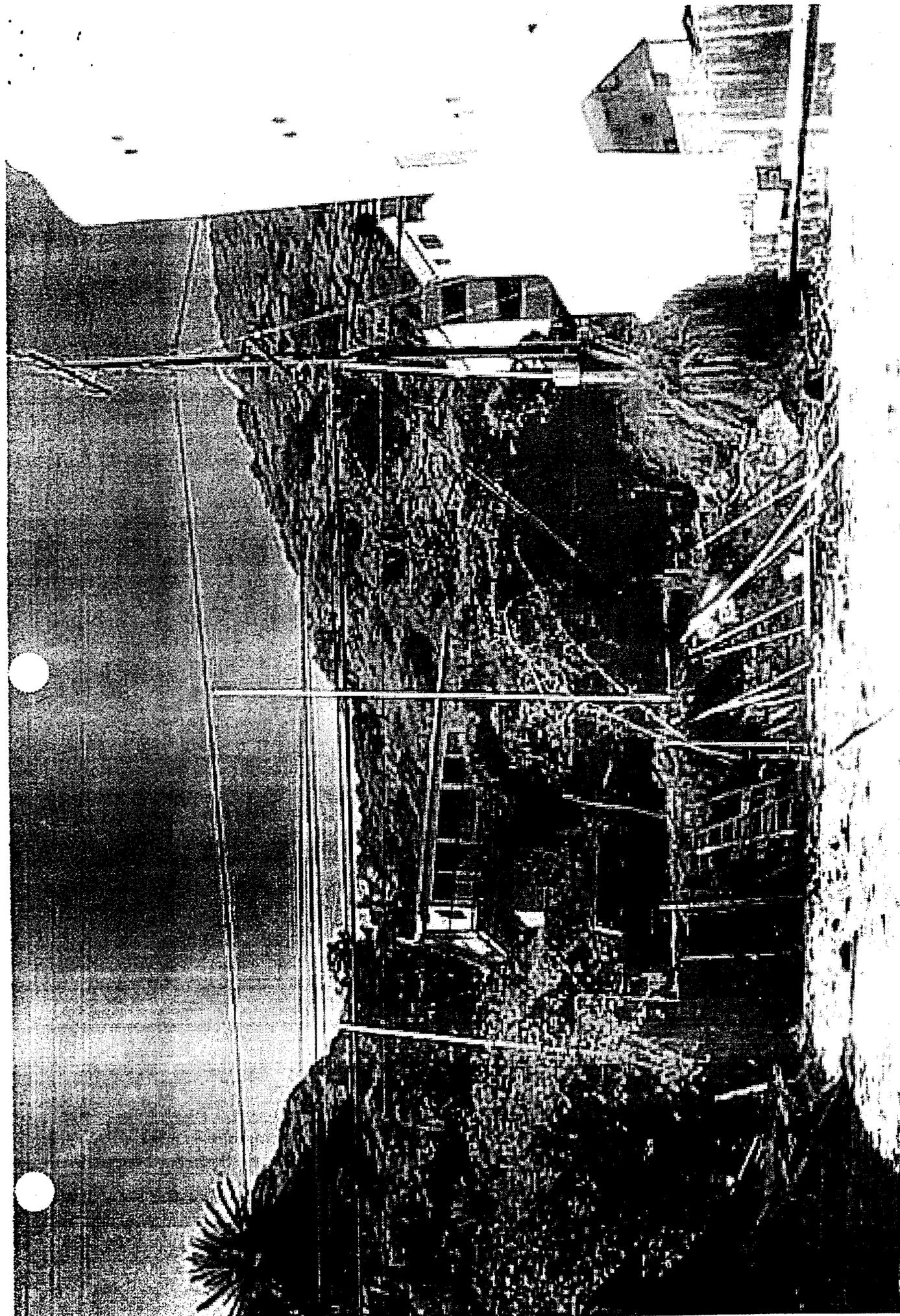
Vicinity Map
20758 Pacific Coast Hwy









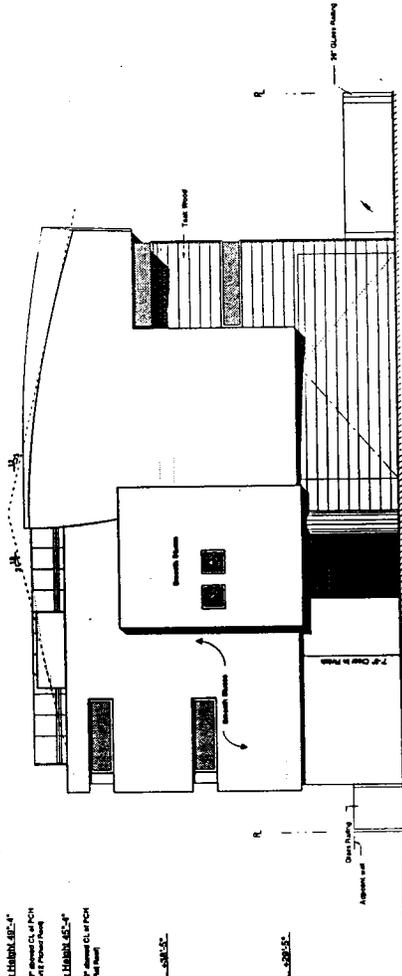


MAX HEIGHT 65'-4"
1st or 2nd floor of 1st
Floor (1st Floor Only)

MAX HEIGHT 65'-4"
2nd or 3rd floor of 1st
Floor (2nd Floor)

EFL - 65'-0"

EFL - 65'-0"



NORTH ELEVATION

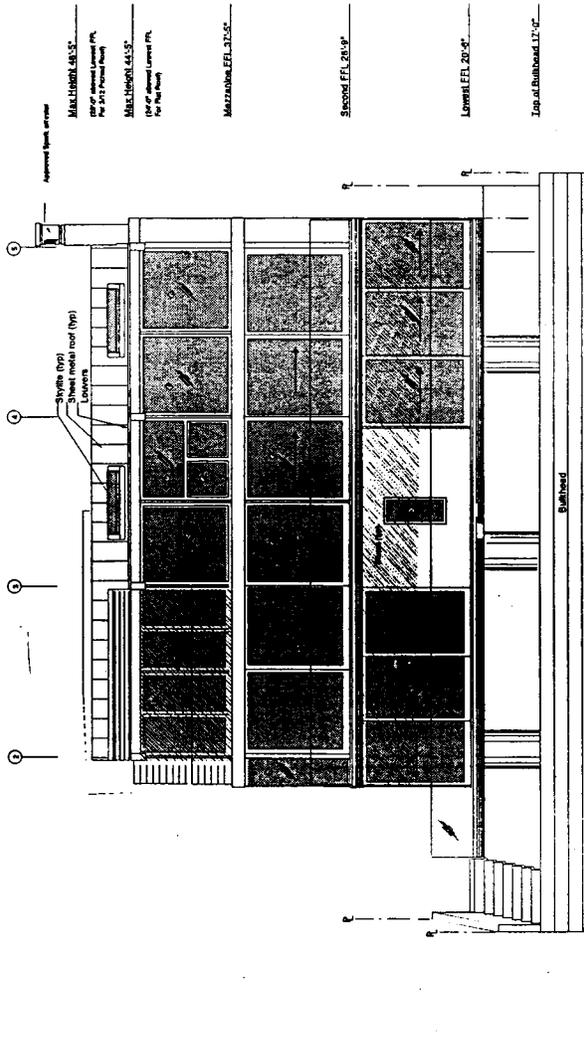
STATE OF MISSISSIPPI
DEPARTMENT OF REVENUE
SALES AND USE TAX PERMITS

PERMIT NO.	123456789
ISSUE DATE	01/01/2024
EXPIRES	12/31/2025
ISSUED TO	ABC COMPANY
ADDRESS	123 MAIN ST, JACKSON, MS 39201
SALES TAX RATE	7.75%
USE TAX RATE	7.75%
ISSUED BY	STATE OF MISSISSIPPI
REMARKS	ISSUED FOR SALES AND USE TAX PURPOSES

NOTICE TO THE PUBLIC

This document is a public record and is available for inspection and copying at the Department of Revenue, 100 North Main Street, Jackson, Mississippi 39201. The Department of Revenue is not responsible for the accuracy or completeness of the information contained herein. The Department of Revenue is not responsible for the actions of any third party who may use this information in any manner.

STATE OF MISSISSIPPI
DEPARTMENT OF REVENUE
SALES AND USE TAX PERMITS
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01/01/2024
12/31/2025
ABC COMPANY
123 MAIN ST, JACKSON, MS 39201
7.75%
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STATE OF MISSISSIPPI
ISSUED FOR SALES AND USE TAX PURPOSES



SOUTH ELEVATION

PROJECT INFORMATION

PROJECT NO.	DATE
CLIENT	ARCHITECT
PROJECT NAME	PROJECT ADDRESS
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SOUTH ELEVATIONS A 3.3

NOTES

1. SEE ALL NOTES ON SHEET A 3.1.
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93. SEE ALL NOTES ON SHEET A 3.94.
94. SEE ALL NOTES ON SHEET A 3.95.
95. SEE ALL NOTES ON SHEET A 3.96.
96. SEE ALL NOTES ON SHEET A 3.97.
97. SEE ALL NOTES ON SHEET A 3.98.
98. SEE ALL NOTES ON SHEET A 3.99.
99. SEE ALL NOTES ON SHEET A 3.100.

MAX HEIGHT 48.5'
 12'-0" Above Lowest PPL
 For 24" Pinned Posts

MAX HEIGHT 44.5'
 12'-0" Above Lowest PPL
 For 24" Posts

EEL - 38.5'

POH - 47.1'
 EEL - 38.5'

MAX HEIGHT 48.5'
 12'-0" Above Lowest PPL
 For 24" Pinned Posts

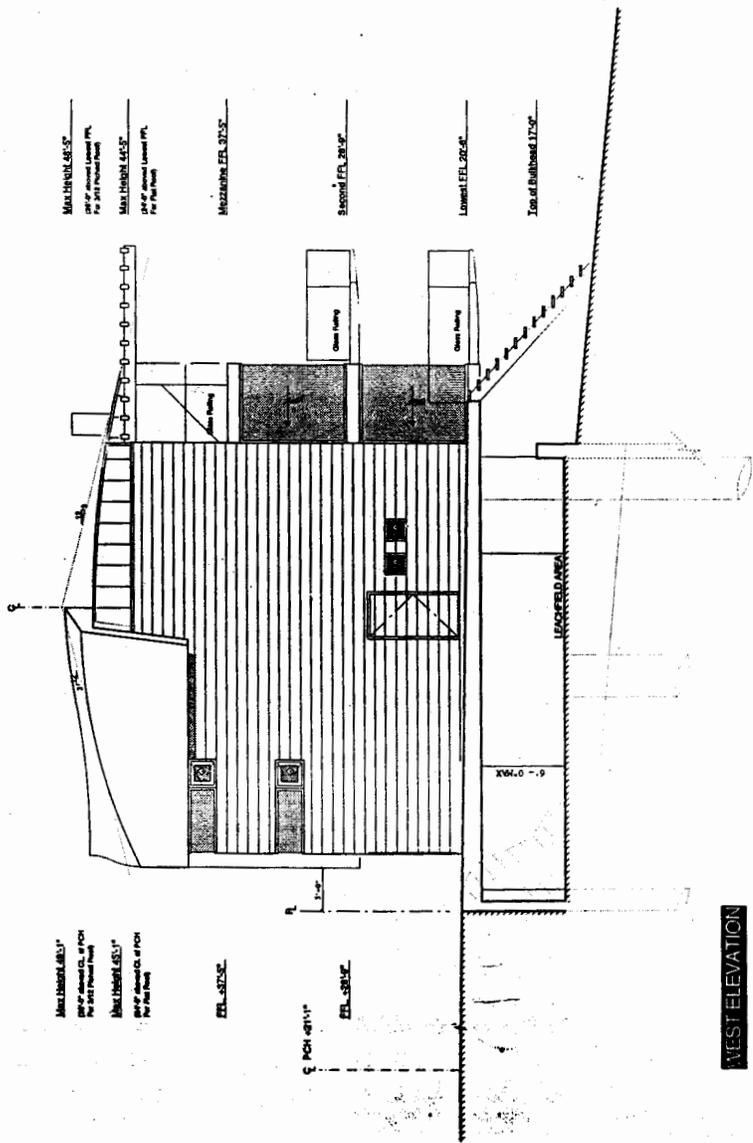
MAX HEIGHT 44.5'
 12'-0" Above Lowest PPL
 For 24" Posts

MAXIMUM EEL 37.5'

SECOND EEL 28.4'

LOWEST EEL 22.4'

Top of Bulkhead 17.0'



WEST ELEVATION

NOTE DOCUMENT

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DRAWING INFORMATION	
PROJECT NO.	100-100-100-100
DRAWING NO.	100-100-100-100
DATE	10/10/10
SCALE	AS SHOWN
DESIGNED BY	100-100-100-100
CHECKED BY	100-100-100-100
APPROVED BY	100-100-100-100
DATE	10/10/10
PROJECT NAME	100-100-100-100
SHEET NO.	100-100-100-100
TOTAL SHEETS	100-100-100-100
DATE	10/10/10

REVISED
 10/10/10
 A 3.4