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State of California
California Coastal Commission
691 Howard Street, 4th Floor
San Francisco, California 94105

85 369283

RECORDED IN OFFICIAL RECORDS
OF LOS ANGELES COUNTY, CA

APR 4 1985 AT 8 A.M.

Recorder's Office

FREE 1

IRREVOCABLE OFFER TO DEDICATE

Norman J. Ackenberg and Lisette Ackenberg,
husband and wife as Joint Tenants

I. WHEREAS, (1) Norman J. Ackenberg and Lisette Ackenberg, husband and wife as Joint Tenants is/are the record owner(s), hereinafter referred to as "owner(s)", of the real property located at (2) 22486 Pacific Coast Highway, Malibu,

California, legally described as particularly set forth in attached (3) Exhibit A hereby incorporated by reference and hereinafter referred to as the "subject property"; and

II. WHEREAS, the California Coastal Act of 1976 (hereinafter referred to as the "Act") creates the California Coastal Commission (hereinafter referred to as the "Commission") and requires that any coastal development permits approved by the Commission or local government as defined in Public Resources Code Section 30109 must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and

III. WHEREAS, the People of the State of California have a legal interest in the lands seaward of the mean high tide line; and

IV. WHEREAS, pursuant to the California Coastal Act of 1976, the owner(s) applied to the Commission for a coastal development permit for (4)

Demolition of an existing single family dwelling, guest house, swimming pool, and construction of a new two-story single family dwelling and swimming pool, and renovation of existing tennis court

on the subject property; and

V. WHEREAS, a coastal development permit no. (5) 8-84-754 was

1 granted on (6) January 24, 1985 by the Commission in accordance

2 with the provisions of the Staff Recommendation and Findings (7) (Exhibit

3 5) attached hereto and hereby incorporated by reference, subject to the

4 following conditions: (8)

5 1. Vertical Access Condition. Prior to transmittal of the permit, the Executive
6 Director shall certify in writing that the following conditions have been satis-
7 fied. The applicant shall execute and record a document, in a form and content
8 approved by the Executive Director of the Commission, irrevocably offering to
9 dedicate to an agency approved by the Executive Director, an easement for public
pedestrian access to the shoreline. Such easement shall be 10 feet wide located
along the eastern boundary of the property line and extend from the northerly
property line to the mean high tide line. Such easement shall be recorded free
of prior liens except for tax liens and free of prior encumbrances which the
Executive Director determines may affect the interest being conveyed.

10 The offer shall run with the land in favor of the People of the State of
11 California, binding successors and assigns of the applicant or landowner. The
offer of dedication shall be irrevocable for a period of 21 years, such periods
running from the date of recording.

12 2. Revised Plans. Prior to transmittal of permit, the applicant shall be
13 required to submit revised plans which conform the structural and deck string-
14 line criteria contained in the adopted Interpretive Guidelines for the Malibu/
Santa Monica Mountains.

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18 VI. WHEREAS, the subject property is a parcel located between the
19 first public road and the shoreline; and

20 VII. WHEREAS, under the policies of Sections 30210 through 30212 of
21 the California Coastal Act of 1976, public access to the shoreline and
22 along the coast is to be maximized, and in all new development projects
23 located between the first public road and the shoreline shall be provided;
24 and

25 VIII. WHEREAS, the Commission found that but for the imposition of the
26 above condition, the proposed development could not be found consistent
27 with the public access policies of Section 30210 through 30212 of the

California Coastal Act of 1976 and that therefore in the absence of such a condition, a permit could not have been granted;

NOW THEREFORE, in consideration of the granting of permit no. (9) 5-84-754 to the owner(s) by the Commission, the owner(s) hereby offer(s) to dedicate to the People of California an easement in perpetuity for the purposes of (10) public pedestrian access to the shoreline

located on the subject property (11) along the eastern boundary of the property line at a width of ten feet, and extending from the northerly property line to the mean high tide line and as specifically set forth by attached Exhibit C (12) hereby incorporated by reference.

This offer of dedication shall be irrevocable for a period of twenty-one (21) years, measured forward from the date of recordation, and shall be binding upon the owner(s), their heirs, assigns, or successors in interest to the subject property described above. The People of the State of California shall accept this offer through the local government in whose jurisdiction the subject property lies, or through a public agency or a private association acceptable to the Executive Director of the Commission or its successor in interest.

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OFFICE OF THE ATTORNEY GENERAL
STATE OF CALIFORNIA

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2 Acceptance of the offer is subject to a covenant which runs with
3 the land, providing that any offeree to accept the easement may not abandon
4 it but must instead offer the easement to other public agencies or private
5 associations acceptable to the Executive Director of the Commission for the
6 duration of the term of the original offer to dedicate. The grant of
7 easement once made shall run with the land and shall be binding on the
8 owners, their heirs, and assigns.

9 Executed on this 5th day of March, 1985, at Palm Beach,
10 Florida.

11 Dated: March 5, 1985

12 Signed Norman J. Ackery
13 Norman J. Ackery

Type or Print Name of Above

14 Signed Lisette Ackery
15 Lisette Ackery

Type or Print Name of Above

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REVISION
4/10/85
SEP

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1 This is to certify that the Offer to Dedicate set forth above is
2 hereby acknowledged by the undersigned officer on behalf of the California
3 Coastal Commission pursuant to authority conferred by the California
4 Coastal Commission when it granted Coastal Development Permit
5 No. 5-87-757 on January 24, 1985 and the California
6 Coastal Commission consents to recordation thereof by its duly authorized
7 officer.

8 Dated: March 27, 1985

9 T.R. Gorman
10 Chief Counsel
11 California Coastal Commission

12
13 STATE OF California)

14)SS

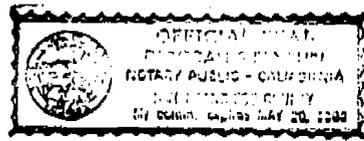
15 COUNTY OF San Francisco)

16 On March 27, 1985, before me Deborah S. Benrubi,

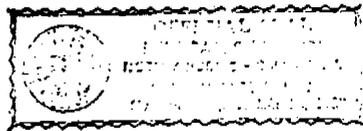
17 a Notary Public, personally appeared T.R. Gorman, personally
18 known to me to be (or proved to me on the basis of satisfactory evidence)
19 to be the person who executed this instrument as the Chief Counsel

20 TITLE

21 and authorized representative of the California Coastal Commission and
22 acknowledged to me that the California Coastal Commission executed it.



23
24 Deborah S. Benrubi
25 Notary Public in and for said County and
26 State



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EXHIBIT B

A. Project Description. The proposed project consists of the demolition of an existing single family dwelling, guest house and swimming pool and the construction of a new two-story single family dwelling with three-car garage, swimming pool and septic system. The newly proposed project involves construction of a new swimming pool on the seaward side of the residence. The previous swimming pool was located landward of the previously existing residence. In addition as part of the project, the applicant proposes to renovate an existing tennis court. Also, the proposed project will result in the relocation of the tennis court on the project site approximately 14 feet seaward.

B. Background. On June 9, 1983, the California Coastal Commission approved the construction of a 140-foot in length wood pile-supported, wood sheeted bulkhead. In its action to approve the project the Commission imposed a lateral access condition requiring an offer of dedication of an easement for public access from the mean high tide line to toe of the bulkhead. In addition the Commission required the applicants to assume the risks associated with development of the site which might result from flood or wave damage.

C. Public Access. The Coastal Act contains strong policy provisions in Sections 30210 and 30212, requiring public access to and along the shore. However, the requirements for the provision of access for the public to California's shoreline is not limited to the Coastal Act. The California Constitution in Article X, Section 4 provides:

No individual, partnership, or corporation claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this state shall be permitted to exclude the right of way to such water whenever it is required for any public purposes . . . and the Legislature shall enact such law as will give the most liberal construction to this provision so that access to the navigable waters of this state shall always be attainable for the people thereof. (Emphasis added).

The Coastal Act contains more specific policies regarding the provision of public access to the State's shoreline. Coastal Act Section 30210 as set forth below, stipulates that in meeting the requirements of Section 4, Article X of the Constitution maximum public access, conspicuously posted shall be provided subject to certain conditions.

1. Lateral Access. The Coastal Act in Section 30210 requires the provision of public access along the shoreline in new development projects. An application for a seawall at this location in 1983 (5-83-360, Trueblood) was conditioned to provide public lateral access across the project site from the toe of the seawall to the mean high tide line. Therefore, the Commission finds that lateral access for the public has been provided for through prior permit action of the Commission and that the currently proposed project is consistent with Sections 30210 and 30212 of the Coastal Act as it relates to the provision of lateral access.

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2. Vertical Access. New development projects are required to provide public access in compliance with the public access provisions of Chapter 3 of the Coastal Act.

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212 of the Coastal Act contains several very explicit policy provisions regarding the location and type of public access to be provided.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the regional-commission-or-the commission determines that such the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

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In addition to the above provisions of the Coastal Act, Section 30214(a) addresses with a greater degree of specificity the time, place and manner of public access. Section 30214(a) states:

Section 30214.

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

Additionally, the legislature has expressed its intent that the Commission balance the rights of the individual property owner with the public's constitutional right of access to the coast. Section 30214(b) states:

(b) It is the intent of the legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article I of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article I of the California Constitution.

All projects requiring a Coastal Development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. New development on sites located between the sea and the first public road may be required to provide vertical access under the policy provisions of Section 30212 of the Coastal Act. In determining where vertical access should be required, the Commission must consider the need to gain access to the shoreline in a given area, taking into account the physical constraints of the site, including, but not limited to, safety hazards, existence of fragile coastal resources, the location of support facilities, such as parking areas and the privacy needs of residents of the project site.

As outlined in the Seventh Edition, September 1983, Coastal Access Inventory within the area identified as the Malibu Coastline (a distance of about 27 miles from Topanga State Beach on the east to Leo Cabrillo State Beach on the west) only 16 vertical accessways have been recorded as a result of Coastal permit requirements. Of these, only 4 vertical accessways have been opened to the public. Accessways obtained through the Coastal permit process cannot be developed and/or actually used by

the public until a public or private agency agrees to accept responsibility for maintenance and liability. The following is a list of vertical accessways that have been obtained via the Coastal permit process in Malibu.

<u>Coastal Permit No.</u>	<u>Street Address/Malibu</u>	<u>Width of Access</u>	<u>Open</u>
73-290	State Park/Point Dume	6'	Yes
73-511	26168 Pacific Coast Highway	6'	Yes
73-1526	22706 " " "	10'	Yes
74-2840	22626 " " "	2'	No
75-6376	22032 " " "	5'	No
76-2877	21554 " " "	6'	No
76-8957	25120 " " "	35'	Yes
77-376	19020 " " "	3'	No
77-574	26834 Malibu Cove Colony	5'	No
77-1466	31736 Broad Beach Road	5 -10'	No
77-2130	27398 Pacific Coast Highway	10'	No
78-3473	27700 " " "	10'	No
78-3591	20802 " " "	5'	No
79-4918	21202 " " "	10'	No
80-2707	27900 " " "	10'	No
5-83-136	22126-22132 Pacific Coast Highway	9'	No

In addition to the vertical accessways listed above, there are several vertical accessways in Malibu which are owned by the County of Los Angeles. One County accessway (at 22550 P. C. H.) is located within 500 feet of the project site; however, the accessway is closed and the County has no plans to open this accessway.

The project site is located in the Carbon Beach area of Malibu; one of the least publicly accessible beaches in the Malibu area. The existence of a solid row of residential structures along this stretch of Pacific Coast Highway effectively creates a private beach enclave. The residential development along Carbon Beach even precludes views of the ocean and shoreline from Pacific Coast Highway.

On the inland side of Pacific Coast Highway in the vicinity of the project are multi-unit apartment buildings, small offices and commercial structures. Although this particular area of Malibu has not experienced great demand for recycling of existing structures or development of the few vacant parcels, it appears inevitable that as the pattern of growth in Malibu continues, a demand for recycling and more intensive development will occur. In turn this will create a greater demand for beach usage.

In order to determine whether the currently proposed project complies with the access provisions of the Coastal Act and more specifically with Section 30212 of the Coastal Act, the Commission must determine whether adequate access exists nearby.

The Commission has already found that the project meets the definition of new development, thus if adequate access does not exist nearby, access for the public from the nearest public roadway (P. C. H.) to the shoreline is required.

In its review of prior similar permit applications where the issue of vertical access has been raised, the Commission has used a 500-foot criteria as a guideline to determine whether adequate access exists nearby. More specifically, the Commission has previously made a determination in similar cases if open vertical access for the public exists within 500 feet of the project site, adequate access exists nearby. With respect to the currently proposed project, the Commission notes that the nearest open public vertical accessways are located 1,300 feet west of the project and 3,099 feet east of the project site. Since open vertical access for the public does not exist nearby, the Commission finds it is necessary to condition the project to provide for vertical access for the public, from Pacific Coast Highway across the project site to the shore. Only if so conditioned would the project be consistent with Section 30212 of the Coastal Act.

The Commission further finds that since the project site consists of two contiguous lots with a total frontage of 140 feet both the applicant and the Commission are afforded great flexibility in siting the vertical accessway. The Statewide Guidelines adopted by the Commission indicate that a vertical accessway when provided should be a minimum of 10 feet in width and should usually be sited along the borders of the project site. The Commission concludes the large size of the project site (40,041 square feet) affords great opportunity in the actual design of the vertical accessway across the project site benefiting both the applicant and the public. In addition, the Commission notes that there is on-street parking available on both sides on Pacific Coast Highway in the vicinity of the project. Therefore, the Commission concludes that adequate support facilities (for parking) exist within the vicinity of the project. Finally the Commission finds that if conditioned, as indicated above with a vertical accessway, the project would be in conformance with the access policies of Chapter 3 of the Coastal Act.

D. Scenic and Visual Resources/Seaward Encroachment. The Coastal Act in Section 30251 states:

Section 30251.

The scenic and visual qualities of coastal areas shall be protected and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed project consists of the demolition of an existing single family dwelling and swimming pool and the construction of a new

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two-story, 32-foot above average finished grade, single family residence with swimming pool. The project also involves renovation of an existing tennis court and the relocation of the tennis court approximately 14 feet seaward of its present location.

New development along the shoreline is of particular concern to the Commission. Section 30251 of the Coastal Act requires that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas. As one means of limiting the encroachment of residential development onto sand beach areas, the Commission has adopted a stringline guideline. With respect to this criteria, the Guidelines state:

"In a developed area where new construction is generally infilling and is otherwise consistent with Coastal Act policies, no part of a proposed new structure, including decks and bulkheads, should be built further onto a beach front than a line drawn between the nearest adjacent corners of the adjacent structures. Enclosed living space in the new unit should not extend farther seaward than a second line drawn between the most seaward portions of the nearest corner of the enclosed living space of the adjacent structure."

One of the purposes of this Guideline is to limit seaward encroachment on sandy beach areas. In the case of the currently proposed project, the applicant proposes to demolish an existing single family home and construct a significantly larger single family home. The proposed construction will occur landward of an existing seawall/bulkhead previously approved by the Commission. As proposed the new residence will conform with the Commission's stringline condition for structural development. However, other portions of the development including a solar trellis for the residence exceed the stringline. Also, the project calls for the seaward encroachment of a tennis court by 14 feet which could have a visual impact since if relocated the tennis court would be at the bulkhead line. Therefore, the Commission finds it necessary to condition the project to require revised plans which clearly indicate the project complies with both structural and deck stringlines. Only if so conditioned would the project be consistent with Section 30251 of the Coastal Act which addresses scenic and visual resources.

E. Hazards. Section 30253 (1) of the Coastal Act specifies that new development minimize risks to life and property in areas of high geologic flood and fire hazard. That an emergency permit was requested by the prior owner of the project site for construction of a 140-foot in length wood seawall attests to the potential flood hazard on the site. In approving the regular permit for construction of a seawall on the site, the Commission required the seawall to meet storm design criteria and for the project applicant to assume the risks associated with development of the site. Therefore, the Commission finds that the

seawall will serve to mitigate the flood hazard which previously existed on the site and that as previously conditioned, the project is consistent with Section 30253 (1) of the Coastal Act.

F. Local Coastal Program. Section 30604(a) of the Coastal Act states in Part:

Section 30604.

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

The County of Los Angeles adopted the Land Use Plan portion of the Malibu/Santa Monica Mountains area Local Coastal Program on December 28, 1982, for submittal to the Commission for certification. On March 24, 1983 the Commission voted to find that the Land Use Plan raised a "Substantial Issue" in terms of conformity with the Coastal Act and voted to deny the Land Use Plan as submitted.

At the time of this writing the Commission is scheduled to consider suggested modifications to the Malibu Land Use Plan at the Commission hearing in early January.

Among the suggested modifications which the Commission is scheduled to consider are access policies proposed as modifications to the County's Land Use Plan. With respect to beach access in general and vertical access specifically, the suggested modifications state:

4.1.2 COASTAL ACCESS

1. GENERAL POLICIES

- P49 In accordance with Section 30214(a) of the Coastal Act, the time, place, and manner of public beach access requirements for new development will depend on individual facts and circumstances, including topographic and site characteristics, the capacity of the site to sustain use at the intensity proposed, the proximity to adjacent residential uses, the privacy of adjacent owners, the feasibility to provide for litter collection, and safety of local residents and beach users.
- P50 In accordance with Section 30214(b) of the Coastal Act, the requirement of access shall be reasonable and equitable, balancing the rights of the individual property owner and the public.

Vertical Access

P51 For all land divisions, non-residential new development, and residential new development on lots with 75 or more feet of frontage or with an existing drainage or utility easement connecting a public street with the shoreline or on groups of two or more undeveloped lots with 50 feet or more of frontage per lot, an irrevocable offer of dedication of an easement to allow public vertical access to the mean high tide line shall be required, unless public access is already available at an existing developed accessway within 500 feet of the project site measured along the shoreline. Such offer of dedication shall be valid for a period of 21 years, and shall be recorded free of prior liens. The access easement shall measure at least 10 feet wide. Where two or more offers of dedication within 500 feet of each other have been made pursuant to this policy, the physical improvement and opening to public use of one offered accessway shall result in the abandonment of other offers located within 500 feet of the improved accessway.

* Exceptions to the above requirement for offers of dedication may be made regarding beaches identified in the Land Use Plan's Area-Specific Marine Resource Policies (P111 through P113) as requiring limitations on access in order to protect sensitive marine resources.

* P51b On the basis of a Beach Management Plan prepared by the County and approved by the Coastal Commission which takes into account beach recreation opportunities, the width of the beach, the presence of immediately adjacent residences or sensitive natural resources, local parking conditions, beach support facilities, the feasibility of emergency vehicle access to the beach, and related factors, accessways at greater intervals than would be required by P51 may be required, up to a maximum standard of separation for new vertical accessways of one accessway per 2000 feet of shoreline. Such a Beach Management Plan, which may be submitted to the Commission for its review at the same time as the implementing ordinances, shall assure that lateral access offers made in connection with coastal permits previously approved (as well as in connection with future permits and vertical access offers sufficient to meet the standard of separation included in the Plan) are accepted for maintenance and liability purposes by the County or other responsible entity acceptable to the Executive Director of the Coastal Commission. Reasonable restrictions on use of the beach to protect sensitive marine resources, minimize risks to public safety due to geologic and wave hazards and reduce potential conflicts with the privacy of nearby residences while promoting reasonable public access may be adopted by the accepting agency as part of the Beach Management Plan.

If the Commission were to approve the currently proposed project without a vertical access condition in advance of the development of a Beach

Revenue recovery system so that the costs of new accessways and adjacent beach operations are wholly covered to the extent possible.

New accessways should be obtained in conjunction with off-highway property where it is feasible to develop parking or public transit facilities and safe pedestrian systems.

(3) Beach access opportunities requiring vertical pedestrian pathways shall not be opened until the improvements are in place and a public agency is willing to accept management and liability for such accessways.

(c) The frequency of public access locations shall vary according to localized beach settings and conditions as set forth for Policy ES P51 below. Vertical access standards and related dedication requirements may range from none in areas of major public beach holdings to one accessway per 1,000 feet of shoreline where accessways would be short and directly link roadways with adequate parking or transit access and the beach.

The Beach Access Program proposed above is directly related to the access policies of the suggested modifications. Thus, if the Commission were to approve the project, as proposed without a vertical access condition, the ability of the County to prepare a LCP in conformance with Chapter 3 of the Coastal Act would be prejudiced.

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Management Plan as indicated in proposed suggested modification P51G above, the ability of the County to prepare a Local Coastal Program in conformance with the policies of Chapter 3 of the Coastal Act would be prejudiced.

In addition to the proposed suggested modifications to the County of Los Angeles Land Use Plan access policies listed above, the suggested modifications also call for development of a beach access program to be implemented in conjunction with the proposed policies on public access. With respect to the beach access program the suggested modifications state:

2. BEACH ACCESS PROGRAM

Objectives

(a) The principal means of maximizing public access is to create and improve major accessways at locations where adequate parking and other necessary public improvements, including parking or public transit facilities where appropriate, can be provided to ensure adequate safety for users, traffic safety, security and privacy for adjacent residents, and clear public identification.

(b) Priorities for improved vertical public access in the Malibu Coastal Zone shall be in accordance with the ranking as depicted in Figure 5. Other criteria for determining priority for this new beach access are:

(1) First priority shall go to expanding safe off-highway parking at existing beaches with lifeguards.

(2) New accessway priorities shall feature:

Improvement of access to sandy beaches where there is no current public access.

Improvement of access to sandy beaches where the distance between existing accessways exceeds one-half mile.

Improvement of accessways using offers of dedication which were already made pursuant to the conditions of coastal permits issued by the Coastal Commission or the County where to do so would allow the County to avoid requiring future offers of dedication as provided by P51.

Capacity to allow emergency vehicle passage from highway to beach and return, except where steepness or the existence of stairs would not allow vehicle use.

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Add this paragraph to the findings on Ackerberg:

On page 7, after last paragraph just before Section D, insert:

The Commission further finds that notwithstanding the fact the County of Los Angeles owns a vertical accessway within 500 feet of the project, that accessway has not been opened to the public and therefore the Commission cannot make a finding that "adequate access exists nearby." In addition, although the Commission has, in some cases, found that if an accessway is open to the public within 500 feet, new offers of vertical access dedication will not be required, such an approach is not appropriate here. The appropriate vehicle for establishing the policy relative to the precise spacing of vertical accessways and whether previously secured offers to dedicate vertical accessways can be extinguished if another vertical accessway is improved and opened within 500 feet of the subject property in the LUP. The Malibu LUP staff recommendation suggests a policy on this point. The Commission believes that as a matter of policy, publically owned vertical accessways should be improved and opened to public use before additional offers to dedicate vertical access easements are opened. This position assumes that the publically owned accessway is within 500 feet of the subject property, that it is equally suitable for public use based on management and safety concerns, and that improvements to accomplish public use are feasible. Once a public accessway has been improved and opened for public use, and a suitable policy and mechanism has been developed and adopted to ensure that such a vertical accessway remains open and available for public use and assuming the Commission has approved a policy that outstanding offers to dedicate additional

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vertical access easements within 500 feet of an opened vertical accessway can then be extinguished, staff will initiate actions to notify affected property owners that they can take steps to extinguish such offers to dedicate. As part of the Commission's public access program, procedures will be developed to implement this directive.

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