

JONATHAN S. HORNE

September 11, 1990

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Peter Grenell
Executive Director
California State Coastal Conservancy
1330 Broadway
Suite 1100
Oakland, California 94612

Re: 27910 Pacific Coast Highway, Malibu, California
Rebecca and Donahue Wildman

Dear Mr. Grenell:

I appreciate your courtesy in meeting with the concerned parties regarding our common interest in pursuing the most appropriate public access at Escondido Beach. In anticipation of tomorrow's meeting I thought it might be helpful to recount some of the history of this matter.

By way of background, Wendy Watanabe and I represent Rebecca and Don Wildman who own the above-referenced property which is currently encumbered by a pedestrian access easement held by the Conservancy. Recently the Coastal Commission approved the terms of a settlement with the J. A. Edwards Trust (aka "Black Tor"); wherein the Commission essentially required Black Tor to fund a \$337,928 account as a mitigation condition for the approval of a subdivision of the Black Tor property. The funds would be restricted for use to construct access improvements on the Wildman easement "unless the Executive Director of the State Coastal Conservancy and the Executive Director of the Commission determine that an alternative easement could be developed with the same funds that provides equivalent access to [the beach area between Paradise Cove and Escondido Creek]."

The Wildmans intended to take a vigorous stand in opposing the proposed Black Tor settlement on the grounds, among others, that development of the Wildman easement was demonstrably unfeasible and would be a conspicuous waste of public funds. On behalf of the Wildmans I prepared a letter opposing the proposed settlement and included a quick overview of the most significant of the many difficult problems in developing the Wildman easement. Enclosed for your consideration is an excerpt from my draft letter which sets forth some of these development problems on the site.

At the time of the hearing the Wildmans were induced not to oppose the proposed Black Tor settlement based upon an explicit recognition by Peter Douglas that development of the

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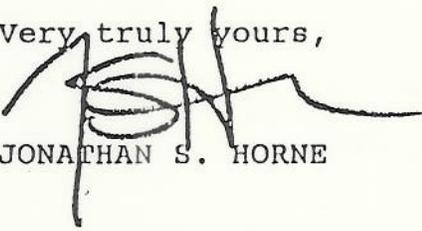
Wildman easement was highly problematic, unlikely to ever occur, and more appropriate alternatives were available for promoting public access to Escondido Beach. Mr. Douglas indicated you concurred with his assessment. Mr. Douglas then indicated the Commission would follow the Conservancy's lead in selecting a more appropriate access site for development with the Black Tor funds which could be combined with a comparable fund created by the Wildmans. Mr. Douglas indicated the funds could be used to develop existing easements or for acquisition of new easement sites.

The Wildmans will take whatever further action would facilitate resolution of this intractable problem. The Wildmans are prepared to cause the preparation of any feasibility studies or other reviews you determine to be appropriate regarding prospective alternative sites. The Wildmans are perfectly willing to utilize your own consultants (e.g. Gary Hayden) or any other reputable analysts. The Wildmans previously obtained a feasibility studies regarding the development of the vertical access easement and parking lot easement on the Wildman property. These studies are available for your review at any time.

I am also enclosing a copy of Ken Chiate's letter to the Coastal Commission which sets forth his concerns regarding the development of the Wildman easement. Ken Chiate is also highly motivated to resolve this matter and will be joining us in tomorrow's meeting.

I am pleased we are finally making progress towards resolving this matter in a way which will be beneficial to all concerned.

Very truly yours,



JONATHAN S. HORNE

cc: Donahue Wildman
Lee Marsh, Esq.
Peter Douglas
Marcia Grimm, Esq.
Wendy Watanabe, Esq.
Kenneth Chiate, Esq.
Linda Locklin

ANALYSIS OF PROBLEMS IN DEVELOPING EXISTING
PEDESTRIAN ACCESS EASEMENT
27910 PACIFIC COAST HIGHWAY, MALIBU, CA

A. Location of Easement.

The Wildman easement starts at Pacific Coast Highway and bisects and renders undevelopable a substantial portion of the Wildman Property near Pacific Coast Highway. The easement then passes within 25 feet of the Wildmans' front door and immediately adjacent to the adjoining residence at a remote and unsecured point approximately 350 feet from Pacific Coast Highway. The easement runs alongside the length of the Wildmans' living quarters and then extends directly across the Wildmans' line of sight between their home and the ocean. The easement then continues through a landscaped lawn area, directly through a mature eucalyptus tree and then over a ten foot cliff. The easement then veers over a second cliff, plunges half-way down a steep (2:1) ravine and then skirts precariously along the ravine wall to the sandy beach. At the present time it is impossible to even walk the length of the easement. In short, the easement is in an absolutely terrible location which is neither feasible nor appropriate for development as a pedestrian accessway.

B. Financial Feasibility of Development.

I would be extremely skeptical, to the point of utter disbelief, regarding the ability of any party to develop the Wildman easement for the amounts indicated in the GCH Study. This development project would present a shopping list of potential problems which will unquestionably drive up the actual cost of completion. Most of the easement is unstable, steep, sandy, rugged, remote, and overgrown with dense vegetation. The easement site does not have any provisions for water, power or vehicular access. The project will surely consume considerable pre-development time as hostile neighbors fight the development proposal. Costs will continue to rise on a monthly basis. Uncooperative neighbors will not extend licenses to provide access for heavy equipment or to permit drainage to run over adjoining properties. The construction work thus would have to be done predominately with hand tools and entirely within the narrow, ten-foot width of the easement. All excavated earth would have to be exported off the site.

The Wildmans previously submitted to the Coastal Conservancy a feasibility study prepared by ASL Consulting Engineers which looked at these difficult development issues in considerable detail. The ASL report concluded the development of the Wildman easement would cost a minimum of \$1,320,000 without any contingencies and \$1,518,000 with a

conservative 15% contingency. It is important to bear in mind these cost projections included only "hard" development costs and did not factor in all the "soft" predevelopment costs which even a state agency would be forced to incur. Furthermore, the ASL report was dated July 1988 and would have to be adjusted considerably upwards to compensate for intervening increases in all aspects of development costs. Finally, the ASL report notes their cost estimate was based upon construction of a stair system which would not provide a barrier-free access to many citizens. A copy of the ASL report is available for your review at any time.

C. Overburdening of Easement.

The Wildmans and Chiate/Wolk maintain the Coastal Conservancy lacks the legal authority to overburden the Wildman Property with the huge concrete caissons and other substantial improvements contemplated by the CGH Group feasibility study. The Wildmans' predecessors (Chiate/Wolk) dedicated a portion of the Wildman Property for the purpose of public pedestrian access. It is fair and reasonable to assume that when Chiate/Wolk made the offer to dedicate they contemplated a minimal pathway could eventually burden their property. There can be no question Chiate/Wolk never anticipated the wholesale tearing up of their property to construct suspension bridges with huge concrete caissons. The Wildmans are confident an impartial trier of fact would concur the proposed improvements greatly exceed the scope of the rights extended to the public by Chiate/Wolk. Chiate/Wolk agreed to endure a footpath, not the Brooklyn Bridge. The Commission should be extremely sensitive to not overburdening private property in this post-Nollan judicial climate.

D. Public Safety.

The configuration of the proposed Wildman accessway poses a direct and substantial public safety problem. The accessway would be extremely long (over 1,100 feet) and narrow (10 feet) with limited points of entry or escape. The accessway would be entirely unsupervised. The accessway would have minimal public presence because of the scarcity of parking. The Wildman Property is located at the westerly extreme of the local police jurisdiction and a considerable distance from the Malibu substation. All the essential elements are present for criminals to prey on unsuspecting beach users. Furthermore, it is precisely because the accessway would be so remote that law enforcement officials can anticipate the area will attract individuals who are predisposed to break the law.

E. Traffic Hazards.

The Wildman Property is located along an open stretch of Pacific Coast Highway approximately one-half mile east/downcoast from the traffic light at Paradise Cove. The Wildman Property is situated just over the crest of a vertical curve for eastbound traffic. This configuration substantially reduces the available sight distance for eastbound drivers on PCH in the vicinity of the Wildman Property.

Caltrans records confirm the great majority of vehicles at this location is exceeding the speed limit, particularly due to the downward incline of the eastbound traffic. Caltrans records also indicate most motorists are commuters who are not attentive to local and recreational users who travel at considerably lower rates of speed. This disparity in speeds is further magnified when beach users are required to pull out at a standing start from the shoulder of the road into oncoming traffic. There is no indication any road improvements or vehicular road devices or signs are proposed as part of the development of this easement.

These various factors combine to create a substantially increased risk of high-speed traffic accidents for prospective users of the Wildman easement. These risks would not be significantly reduced even in the unlikely event a parking lot were ever constructed to service the site. There are more appropriate sites for providing public access which pose less of a traffic hazard.

F. Disruption of Natural Landforms.

Standard No. 1 of the Commission and Conservancy's Standards for Access Location and Development provides in relevant part that accessways should "minimize alteration of natural landforms and be subordinate to the setting's character". The renderings of the proposed developed accessway are completely inconsistent with this standard. The easement site is located on a pristine bluff and ravine. The complex system of bridges and stairs would create an entirely conspicuous and incongruous eyesore. The seaward views of at least four private property owners (Wildman, Chiate/Wolk, Sparks, Sunset Properties) would be assaulted on a daily basis with this awful development. This is precisely what Standard No. 1 was intended to discourage.

G. Privacy.

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Standard Nos. 1 and 4 of the Commission and Conservancy's Standards for Accessway Location and Development provide the design and placement of accessways should "ensure the privacy of adjoining residences." The Wildman easement is highly intrusive into the privacy of both the Wildman family and their adjoining neighbors. The Wildman residence was designed to provide a maximum degree of openness to take advantage of its relative isolation and its extraordinary views to the east and south. The privacy and security of the Wildmans would be particularly compromised by an easement located immediately adjacent to the east and south sides of their residence.

H. Geologic Hazards.

As more evidence is discovered daily, it is becoming increasingly clear the Pacific Coast Highway area of Malibu is subject to an active and complex matrix of geologic faults. This geologic fault system poses the greatest dangers in steep slope areas such as the steep ravine area underlying the Wildman easement. Thus the proposed Wildman accessway could be constructed in an area riddled with substantial risks of hazard to public users. There is no indication the GCH study or any other "special study zone" analysis has been conducted to quantify this risk and to inquire whether the site is appropriate for public use. Until such analysis occurs it would be reckless to commit or earmark public funds for the development of the Wildman accessway.

I. Flood Hazards.

The Wildman easement runs in part near the floor of a ravine which extends from Pacific Coast Highway to the ocean. The mouth of this ravine contains a drainage ditch which channels rainwater runoff down to the ocean. The ravine is also a designated flood hazard zone. The Wildmans can attest from personal experience that a veritable torrent of water frequently rages through this ravine during heavy winter rains. Expensive storm drain improvements would be required in the lower canyon areas to protect the improvements and public safety. It is difficult to conceive how this system could be constructed within the above-described development constraints posed by the site.

J. Support Facilities.

There have been considerable problems at existing public

facilities which do not provide adequate support facilities including trashcans, toilets, and lifeguards. These problems are magnified when, as here, the public facilities are far from public roads and inaccessible to vehicles for periodic maintenance and clean-up. It would be extremely imprudent to consider developing this remote easement without a comprehensive inquiry into the ability to operate the facility in a safe and sanitary manner.

K. Excessive Grades.

The proposed easement is well in excess of the preferred maximum gradients for access trails as set forth in the Coastal Access Standards Element of the California Recreation Plan. The easement will be required to traverse steep and irregular 2:1 slopes.

L. Development and Opening of Existing Easements.

There are presently far more appropriate and desirable public accessways in this immediate area which remain closed today because of the inability to provide funds and a suitable management entity for development, maintenance, operation, and assumption of liability. It therefore makes absolutely no sense to commit an exorbitant amount of money to construct the expensive Wildman easement while more suitable resources remain undeveloped or unmaintained.

At a minimum, this dilemma compels a more thorough analysis of the most appropriate manner to expend public funds to provide a maximum of public access to Escondido Beach. The Wildmans remain convinced that money would be more effectively spent in opening less problematic easements in this area rather than pouring cash into the black hole of the Wildmans' ravine.