

CALIFORNIA STATE COASTAL CONSERVANCY

1330 BROADWAY, SUITE 1100
OAKLAND, CA 94612-2530
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TELEPHONE (510) 286-1015
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May 22, 1996

Mr. Allan Abshez
Irell and Manella LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067-4276

Dear Mr. Abshez:

I am responding to your letter of May 15, 1996 to Brenda Buxton regarding the feasibility study for the Chiate/Wildman easement. The staff recommendation for this feasibility study was approved by the Conservancy at the May meeting and a copy of the recommendation is attached.

Our mailing list for issues regarding the Chiate/Wildman easement, in this feasibility study, has Ms. Susan McCabe as Mr. Mancuso's representative. In my attached letter of April 1, 1996, I informed Ms. McCabe and other representatives that the Conservancy would be continuing its feasibility study of the easement. In addition, Ms. Buxton faxed a copy of the staff recommendation for the feasibility study to Ms. McCabe at the Rose and Kindle office in Sacramento on May 9, 1996.

We would appreciate a letter from Mr. Mancuso clarifying who is his representative and where he would like us to direct future notices or discussions regarding this easement.

As you will see in the attached staff recommendation, the Conservancy is taking no action regarding the construction of this easement. We will be hiring technical experts to evaluate the easement's construction feasibility. Construction of the Chiate/Wildman easement would require a separate authorization by the Conservancy.

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If you need additional information regarding the easement, you are welcome to submit to us. This information will be taken into consideration when evaluating the feasibility of building this easement. For further details, please contact Linda Buxton or Lisa Ames at 510-286-1015.

Since

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Exec

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Officer

cc: Jo
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an Horne
McCabe

CALIFORNIA STATE COASTAL CONSERVANCY
1500 BROADWAY, SUITE 100
OAKLAND, CA 94612-0200
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TELEPHONE (510) 586-1015
FAX (510) 586-0470

Mr. Allan Fisher
Fell and Marcella LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067-1276

Dear Mr. Abshez:

I am responding to your letter of May 12, 1996 regarding the feasibility study for the Christ/Wilburman easement. The staff recommendation for this feasibility study was approved by the Conservancy at the May 9, 1996 meeting and a copy of the recommendation is attached.

Our mailing list for issues regarding the Christ/Wilburman easement in this feasibility study, has Mr. Susan McCabe as Mr. Mancuso's representative. In my attached letter of April 1, 1996, I informed Mr. McCabe and other representatives that the Conservancy would be continuing its feasibility study of the easement. In addition, Mr. Buxton faxed a copy of the staff recommendation for the feasibility study to Mr. McCabe at the Rose and Kinzie office in Sacramento on May 9, 1996.

We would appreciate a letter from Mr. Mancuso clarifying who is his representative and where he would like us to direct future notices or discussions regarding this easement.

As you will see in the attached staff recommendation, the Conservancy has no action regarding the construction of this easement. We will be hiring experts to evaluate the easement's construction feasibility. Construction of the Christ/Wilburman easement would require a separate authorization by the Conservancy.

IRELL & MANELLA LLP

A REGISTERED LIMITED LIABILITY LAW PARTNERSHIP
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TELEPHONE DIAL NUMBER

May 15, 1996

VIA FACSIMILE AND U.S. MAIL

Ms. Brenda Buxton
Project Manager
California State Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, California 94612

Re: Feasibility Study for Escondido Beach Access
Development

Dear Ms. Buxton:

We are writing on behalf of our client, Frank Mancuso, who is the owner of a portion of the fee ownership of the "Chiate/Wildman easement" (the "Easement"). Yesterday we learned that the Conservancy's May 16th agenda includes an action item pertaining to the Easement. Mr. Mancuso has not received any personal notice regarding such item as required by law. Accordingly, we are writing to object to the Conservancy's consideration of any action regarding the Easement at its May 16th meeting.

In addition to the fact that Mr. Mancuso has not been provided with personal notice regarding the May 16th meeting, Mr. Mancuso wishes to be able to present to the Conservancy specific public safety, engineering, environmental, and legal issues associated with the Easement, which should be considered by the Conservancy prior to the Conservancy taking any action or expending any public funds in connection with the Easement. By virtue of the lack of notice, Mr. Mancuso is unable to submit these comments in time for the Conservancy's May 16th meeting.

Ms Brenda Buxton
May 5, 1996
Page 2

For all of the foregoing reasons, we respectfully request that such item be removed from the Conservancy's May 16th agenda until Mr. Mancuso is afforded proper notice and can make provision to attend or submit comments to the Conservancy.

Very truly yours,

Allan J. Abshez

cc Mr. Frank Mancuso

Ms. Brenda Buxton
Project Manager
California State Coastal Conservancy
1110 Broadway, Suite 1100
Oakland, California 94612

Re: Feasibility Study for Escondido Beach Access Development

Dear Ms. Buxton:

We are writing on behalf of our client, Frank Mancuso, who is the owner of a portion of the fee ownership in the "Chico/Wildcat" (the "Essent"). Yesterday we learned that the Conservancy's May 16th agenda included an action item pertaining to the Essent. Mr. Mancuso received no personal notice regarding such item as required by law. Accordingly, we are writing to object to the Conservancy's consideration of any action regarding the Essent at its May 16th meeting.

In addition to the fact that Mr. Mancuso has not been provided with personal notice regarding the May 16th agenda, Mr. Mancuso wishes to be able to present to the Conservancy specific public safety, engineering, environmental, and legal issues associated with the Essent, which should be considered by the Conservancy prior to the Conservancy's taking any action regarding any public funds in connection with the Essent. Due to a lack of notice, Mr. Mancuso is unable to present his comments in time for the Conservancy's May 16th meeting.

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CALIFORNIA COASTAL CONSERVANCY
OAKLAND, CALIF.

COASTAL CONSERVANCY

**Project Summary
May 16, 1996**

CHIATE/WILDMAN EASEMENT FEASIBILITY ANALYSIS

**File No. 88-046
Project Manager: Brenda Buxton and Lisa Ames**

RECOMMENDED ACTION: Authorization to disburse funds to retain technical staff to assist in the pre-project feasibility analysis and design of the Conservancy-held Chiate/Wildman access easement and adjacent, unaccepted Offer-to-Dedicate a parking easement to the

LOCATION: 27900-10 Pacific Coast Highway, Malibu, Los Angeles County (Exhibit A)

PROGRAM CATEGORY: Public Access and Dedications and Donations

ESTIMATED COST: up to \$38,500

PROJECT SUMMARY: If this authorization is approved, staff will be able to analyze construction feasibility of a Conservancy-held access easement and its accompanying Offer-to-Dedicate parking easement (currently not yet accepted by the Conservancy or any other entity) at Escondido Beach, Malibu. Before staff can evaluate the relative merit of any alternatives to the Chiate/Wildman site or return to the Conservancy with a recommendation to construct the Chiate/Wildman access easement, staff must answer the following questions about the Chiate/Wildman access and parking easements: are the easements buildable; if so, how would they be built; and how much will they cost to construct? The feasibility analysis will answer these questions by evaluating site conditions and constraints, considering various design alternatives, and estimating construction costs. Staff expects this work to cost no more than \$38,500.

The feasibility analysis will present staff with an accurate cost estimate which is needed in order to determine if the Chiate/Wildman easement can be built with the specifically designated funds (known as the "Black Tor" funds), which the Conservancy holds in a special deposit account. (The currently available cost estimate is six years old and does not include geotechnical information which is critical for formulating a reasonably accurate cost estimate.) In addition, staff needs to examine the design alternatives of the feasibility analysis in order to assess the environmental impacts created by an access construction project at the Chiate/Wildman site.

COASTAL CONSERVANCY

Staff Recommendation
May 16, 1996

CHIATE/WILDMAN EASEMENT FEASIBILITY ANALYSIS

File No. 88-046

Project Manager: Brenda Buxton and Lisa Ames

RECOMMEN

STAFF

RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution, pursuant to Sections 31400, 31400.3, 31404 and 31405 of the Public Resources Code:

"The Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed thirty-eight thousand five hundred dollars (\$38,500) to retain technical specialists to assist staff in the construction feasibility analysis and design of the Chiate/Wildman vertical easement and access parking."

Staff further recommends that the Conservancy adopt the following finding:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that the proposed project is consistent with the purposes and criteria set forth in Division 21 of the Public Resources Code, specifically, in Sections 31400, 31400.3, 31404 and 31405; with the Conservancy's Access Standards and Program Criteria; and with Coastal Act policies and objectives."

STAFF DISCUSSION
Project Description

DISCUSSION:

If this authorization is approved, staff will be able to use the expertise of engineers and site design consultants to further analyze construction feasibility of a Conservancy-held vertical access easement and its accompanying Offer-to-Dedicate an easement for parking, not yet accepted by the Conservancy, at Escondido Beach, Malibu. The feasibility study will answer the following questions: are the easements buildable; if they are, how would we build it; and how much will construction cost? The study will do this by evaluating site conditions and constraints, considering various design alternatives, and estimating construction costs. The feasibility analysis is expected to cost no more than \$38,500.

Until this feasibility study is completed, staff will not be able to accurately evaluate the costs and impacts associated with constructing the access improvements to the Chiate/Wildman vertical and parking easements. This lack of information makes

it difficult to recommend constructing the improvements to evaluate relative merit of any alternatives to access for the Chiate/Wildman site.

In 1983, the Conservancy accepted the Chiate/Wildman access easement. The Conservancy has authorized accepting an adjacent parking easement, but this has not been completed because of existing unauthorized improvements made by property owners in the easement area that need to be removed (by the property owners) before acceptance. Until recently, the Conservancy has been unable to develop this accessway due to the lack of a local management entity. However, in 1995 the Conejo Recreation and Conservation Authority (the "MRCA"), a joint powers agency made up of the Santa Monica Mountains Conservancy and the Conejo Recreation and Park District, offered to operate and maintain the Chiate/Wildman easement once constructed, as well as two other access easements at Escondido Beach. The Conservancy authorized entering into a management agreement with the MRCA for these accessways on September 20, 1995 (Exhibit B).

At that meeting, the Conservancy also directed staff to continue to investigate the feasibility of constructing access improvements at the Chiate/Wildman easement and, at the same time, gather information from Chiate/Wildman property owners until December to prepare a beach access alternative that would provide better or equal access to the same beach area. Since 1990, the property owners have been seeking, unsuccessfully, to locate an acceptable beach access alternative to the Chiate/Wildman easement.

In early December 1995 the property owners proposed the exchange for the Conservancy and Coastal Commission of relinquishing the Chiate/Wildman vertical and parking easements if they would dedicate parking, vertical, and lateral easements located approximately a quarter-mile upcoast, adjacent to private Paradise Cove beach. When presented to the public on March 5, 1995 Malibu meeting, local residents voiced unanimous opposition to the exchange and raised the following concerns: the proposed exchange would increase public access to an area designated environmentally sensitive in the approved Land Use Plan, impact the privacy of Pt. Dume residents, not fulfill the Conservancy's goal to provide equal or better access since the alternative would be next to an existing (although privately owned) accessway, and would take an accessway opportunity away from residents across from the Chiate/Wildman accessway.

Staff has since requested that the Chiate/Wildman property owners address these concerns as well as some problems identified by staff in the property owners proposed terms and conditions of the alternative easement. Staff will not be able to make a recommendation on this proposed exchange until these issues are more thoroughly examined. Any further actions regarding the construction of improvements at the Chiate/Wildman easement

an exchange for an alternative accessway would be the subject of a future staff recommendation. In the meantime, the staff will continue to diligently pursue the preparatory work precedent to construction of the access improvements at the easement currently held by the Conservancy.

Project

Financing: The feasibility study would be funded by a special deposit account, set aside pursuant to a Coastal Commission permit condition for the purpose of building the Chiate/Wildman easements. Approximately \$412,000 remains in the account, \$3,200 having been spent on the topographical survey of the vertical easement. One of the key parts of the construction feasibility study is the cost estimate which will inform the Conservancy whether or not it can construct the Chiate/Wildman easements for the amount available in the special deposit account.

Site D

Option: The Chiate/Wildman vertical easement (27900-10 Pacific Coast Highway) runs through an existing gate, driveway, and tennis court, past two houses, and then along the walls of a steep ravine. The improvements in the vertical easement were made without Conservancy authorization and would be removed at the property owner's expense. The Offer-to-Dedicate parking easement is over the eastern 25 feet of the property. Staff estimates that the Offer-to-Dedicate for a parking easement (currently not accepted by the Conservancy), if developed, would only hold about eight cars due to various constraints, such as an overlapping CalTrans easement, a ravine, and the necessity to allow the fee owner access to his property. This issue will be examined in more detail in the feasibility analysis. The topography of the parking and vertical easements will likely make construction of the easements challenging. This underscores the importance of thoroughly investigating construction feasibility before recommending construction.

Project

History: The Conservancy accepted the vertical easement in 1982 and, although the Conservancy authorized the acceptance of an accompanying Offer-to-Dedicate a parking easement, acceptance was not completed due to unauthorized improvements in the easement area that would need to be relocated before the parking area could be constructed.

In 1990, as a result of a Coastal Commission permit action, the Conservancy received funds specifically designated to construct the Chiate/Wildman vertical easement or an alternative approved by the Commission's Executive Director and the Conservancy's Executive Officer. Approximately \$412,000 is available for construction of the Chiate/Wildman easement.

Over the last six years, the property owners have presented beach access alternatives to the Conservancy in exchange for extinguishing the Chiate/Wildman vertical easement and Offer-to-Dedicate a parking easement. An "in-lieu" cash settlement was rejected because it may not have mitigated the impacts of development due to the difficulties the Conservancy would likely have in

locating a willing seller of public beach access easement also turned down other alternatives such as a parking area inland side of Pacific Coast Highway, and more recent parking area on a steep slope at the junction of Malibu Colony Drive and Pacific Coast Highway because of site constraints (no safe highway crossing, geological instability, and neighborhood opposition.

Last summer, a proposal to exchange the Chiate/Wildman easement with an alternative easement and the opening of other vertical access easements were the subject of some controversy in the local community. Staff received numerous comments regarding the potential exchange which were attached as exhibits to the September 20, 1995 staff recommendation. To summarize, some local residents objected to the concept of trading access and argued that the property owners should be forced to comply with their permit conditions (*i.e.*, allowing the construction of vertical access and parking); others pointed out that the Chiate/Wildman easement was directly across from their homes and would be a primary beach access, and finally, many, particularly those on Malibu Cove Colony Drive, opposed the specific alternative discussed at that time: a 13-car parking lot on a steep slope. That alternative since has been abandoned due to the infeasibility of constructing parking on an unstable slope.

**CONSISTENCY WITH
CONSERVANCY'S
ENABLING LEGISLATION:**

The proposed authorization is recommended pursuant to Chapter 9 of Division 21 of the Public Resources Code.

Public Resources Code Section 31400 states that the Conservancy should have a "principal role in the implementation of a system of public accessways" to guarantee the public's right to access and enjoyment of the coast. The first step in implementing the Chiate/Wildman accessway, one part of a system of accessways along the Malibu coast, is to complete a feasibility analysis.

Under Public Resources Code 31400.3, the Conservancy shall provide such assistance as is required to aid in the establishment of a system of public accessways. This feasibility analysis is necessary before the Conservancy can establish the public accessway improvements to the Chiate/Wildman easement.

Section 31404 allows the Conservancy to take title to property for public access but does not require the Conservancy to open such properties to public use if "the benefits of public use would be outweighed by the costs of development and maintenance." This feasibility study will enable Conservancy staff to make a preliminary evaluation by estimating the costs of access development.

Section 31405 states that the Conservancy may collect fees for the purpose of providing public access and use such funds

development of coastal accessways. The Conservancy has received funds specifically designated for the development of access improvements at the Chiate/Wildman easement and will use a portion of these funds for the feasibility analysis. The construction feasibility analysis is necessary if the Conservancy is to develop the Chiate/Wildman accessway for public use.

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INES: The project is consistent with the Conservancy's Access Program Guidelines in the following respects:

Urgency: Locating an operation and management entity to take responsibilities for new accessways in Malibu has been quite difficult. The MRCA's offer to operate and maintain the Chiate/Wildman easement represents an unique opportunity that should be taken advantage of as soon as possible. However, the Conservancy needs to first evaluate if and how it would construct the necessary physical improvements to the easement (the purpose of the feasibility analysis) and then, actually build the improvements before the MRCA can assume management responsibilities.

Consistency with Coastal Access Standards: The Conservancy's coastal access standards set forth various criteria for the development of coastal accessways, such as the accessways should safely accommodate public use, minimize the alteration of natural land forms, provide site amenities, etc. One of the purposes of this feasibility study is to determine how to construct the Chiate/Wildman accessway in a manner consistent with the Coastal Access Standards.

Cost-Effectiveness: This feasibility analysis will determine the most cost-effective way to construct the improvements at the Chiate/Wildman easement.

Local Coastal Program Consistency: Malibu does not have a certified Local Coastal Program at this time. The approved County Land Use Plan, a document used to guide coastal planning until the LCP is certified, recognizes Escondido Beach as a priority access area and calls for accessways at every 2,000 feet along the coast. Construction of the Chiate/Wildman vertical easement is consistent with the LUP because the easement is approximately 2,000 feet from either of the nearest accessways: the privately-owned Paradise Cove beach and the Seacliff accessway at 27420-28 Pacific Coast Highway. This feasibility analysis is part of the usual pre-project evaluation undertaken by the Conservancy before developing an accessway.

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CT: This feasibility study is consistent with the policies and goals of the Coastal Act. Section 30210 of the Coastal Act states that "maximum access . . . shall be provided for all the people." Construction of the Chiate/Wildman accessway improvements

would be consistent with this section since the Conservancy would be utilizing Offers-to-Dedicate Public Access to provide maximum access possible to the Escondido Beach area. If Offers-to-Dedicate were required by the Coastal Commission as conditions of permitted development, the construction of vertical and parking easements would implement specific findings of the Commission regarding the need for public access at this location. The feasibility study will assist the Conservancy in determining if and how it can fulfill this goal of maximizing access by constructing the Chiate/Wildman accessway.

COMPLIANCE WITH CEQA:

The proposed use of environmental professional services for feasibility studies involves only basic data collection, reconnaissance and resource evaluation. These activities will not result in a serious or major disturbance to an environmental resource and, thus, are categorically exempt from CEQA review pursuant to California Code of Regulations Section 15306.

In addition, the proposed authorization is statutorily exempt from CEQA pursuant to 14 California Code of Regulations, Section 15262, which provides an exemption for feasibility and planning studies for possible future actions not yet approved. Construction of the Chiate/Wildman easement or the authorization of an easement exchange will be subject to CEQA review when presented to the Conservancy for approval.

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Region of Offers-to-Dedicate Public Access

**Location of Offers-to-Dedicate Public Access
Escondido Beach, Malibu**

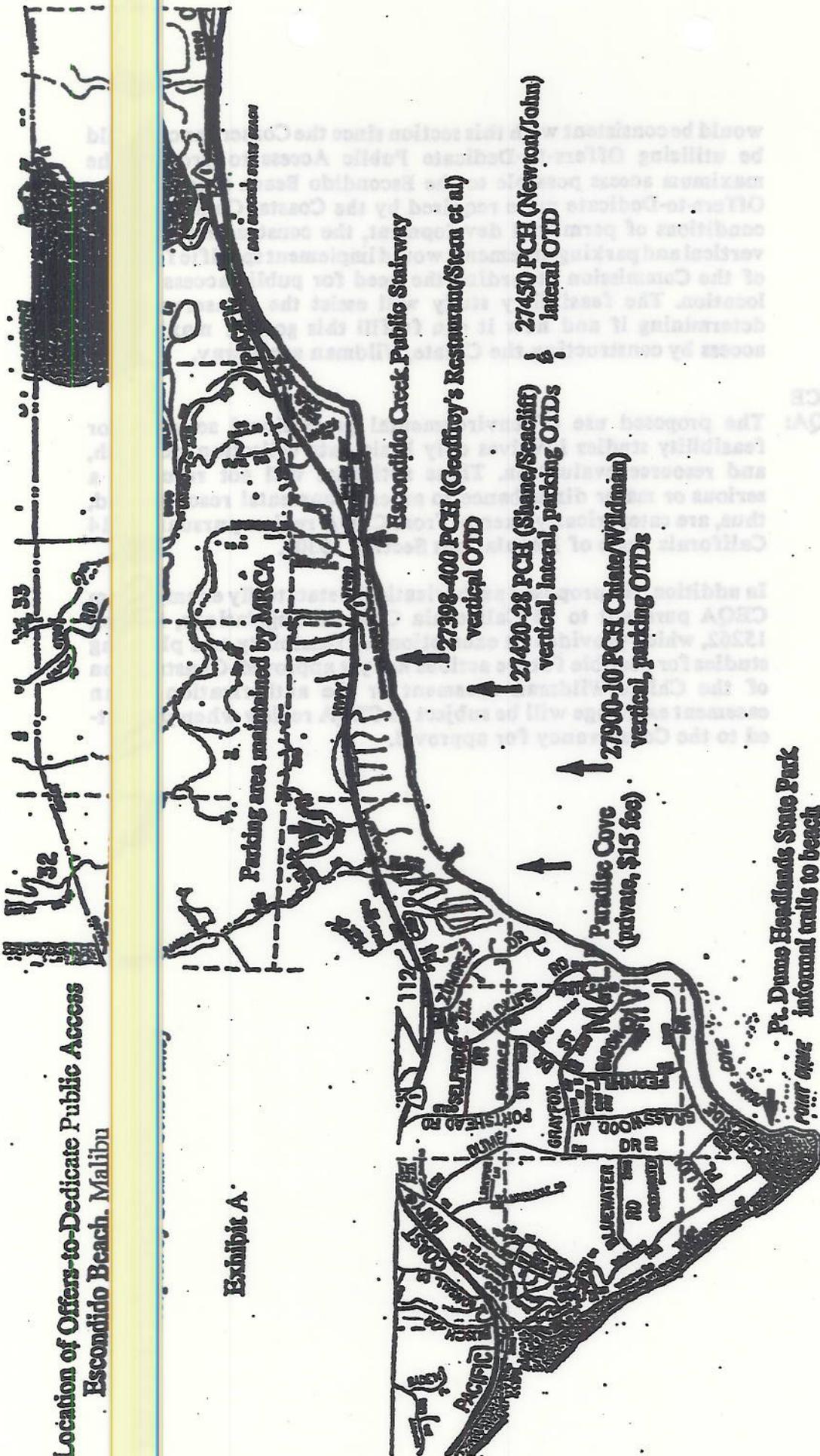


Exhibit A.



EXHIBIT B

STATE COASTAL CONSERVANCY

**Project Summary
September 20, 1995**

MALIBU ACCESS: ESCONDIDO BEACH

**File No.: 95-010
Project Manger: Brenda Buxton**

RECOMMENDED ACTION: Authorization to (1) accept two vertical access easements, lateral access easements, and one parking easement, (2) enter into a 20-year interagency agreement with the Mountains Recreation and Conservation Authority (MRCA) to operate and maintain three vertical access easements and two parking easements, and (3) disburse \$82,000 to the Mountains Recreation and Conservation Authority for operation and management.

LOCATION: 27398-400, 27420-28, 27450, and 27900-10 Pacific Coast Highway, Escondido Beach, Malibu, Los Angeles County

PROGRAM CATEGORY: Public Access

COST ESTIMATE: Coastal Commission Malibu Beach Access Fund: \$82,000

PROJECT SUMMARY: If approved, this project would open up three new access points along Escondido Beach in Malibu and require no Conservation Bond funds.

Despite the existence of well-known beaches, such as Zuma and Topanga, many miles of the Malibu coast are inaccessible to the public. Along some sections of the coast, development precludes beach access, while in other areas the beaches suffer from extensive erosion, leaving little space for public access between houses and the ocean. This lack of coastal access could be ameliorated by the acceptance and opening of Malibu's 12 vertical Offers-to-Dedicate (OTDs), but to date, most vertical OTDs are unaccepted and closed due to the lack of a management agency capable of operating and maintaining them. The Los Angeles County Department of Beaches and Harbors and the Department of Parks and Recreation are unwilling to operate smaller, non-revenue-generating accessways such as these. The City of Malibu currently is writing its Local Coastal Plan and has not yet developed any access policies. The City has not assumed operation and maintenance responsibilities for any dedicated accessways at this time.

The Coastal Conservancy has been working to open up key access points along the Malibu coast since 1979. Escondido Beach has long been a priority because it is a wide sandy beach with public access available only at the extreme ends of the mile-long beach: the privately-owned Paradise Cove (with a \$15 fee for day parking) at the western end of the beach and Los Angeles

County's Escondido Creek accessway at the eastern end (Exhibit A). In addition, this beach has three dedicated vertical accessways that, if opened, would provide public access; two are unaccepted, but constructed, and one has been accepted by the Conservancy, but not yet constructed. Until now, the Conservancy has been unable to open up these important beach access points due to the lack of a management agency.

Recently, however, the Mountains Recreation and Conservation Authority (MRCA) has offered to assume responsibility for operation and maintenance of the accessways on Escondido Beach. MRCA is a joint powers agency consisting of the Santa Monica Mountains Conservancy and the Conejo Recreation and Park District. The MRCA operates rural and urban parks in the Malibu area and the San Fernando Valley and has construction and maintenance crews as well as rangers on its staff. The MRCA prefers to focus on Escondido Beach easements since it maintains facilities along the nearby Escondido Falls trail. At this time, the MRCA lacks the resources to take on management responsibilities for other accessways in Malibu. Additionally, the MRCA is not willing to accept the OTDs. For this reason, Conservancy staff recommends that the Conservancy accept the outstanding OTDs, enter into a 20-year interagency agreement with the MRCA for their management, and disburse \$82,000 to the MRCA for at least the first five years of operation and maintenance costs.

The local community has several concerns regarding management and pedestrian safety which the staff of the Conservancy and the MRCA have attempted to address. In order to allay some of the concerns about privacy and safety, Conservancy and MRCA staff have designed a maintenance program that will include locking the gates at night, regular inspections of the stairs, ranger services available on an on-call basis, and weekly trash pick up. Local residents are also concerned about the possibility of beachgoers parking on the inland side of Pacific Coast Highway and crossing this busy highway. However, as is discussed in the project description, there is extensive oceanside parking adjacent to or near the accessways which will minimize the necessity to cross the highway.

In the past, the Conservancy has sought to increase and improve access by assisting with the costs of acquisition of property and/or construction of stairs, trails, and other facilities. At Escondido Beach, acquisition and construction costs are not an issue. The accessways are already dedicated for public use; two of the accessways are built; and the third accessway, owned by the Conservancy, could be constructed with funds set aside for this purpose in a designated account. Furthermore, the Coastal Commission's Malibu Beach Access Fund could be used to cover the expenses of an operation and maintenance entity. In Malibu, the main obstacle to creating new access has been the lack of a management agency, not the lack of funds or property interests. The Conservancy can best carry out its mandate to implement a system of public coastal accessways by enabling a local entity, in this case the MRCA, to assume management responsibilities.