

11/17/05

ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION
OF ACCEPTANCE OF
IRREVOCABLE OFFER TO DEDICATE EASEMENT FOR VERTICAL PUBLIC ACCESS
AND DECLARATION OF RESTRICTIONS

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This is to certify that the State Coastal Conservancy is a public agency of the State of California acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Irrevocable Offer to Dedicate Easement for Vertical Public Access and Declaration of Restrictions executed by Barbara J. Page, Trustee of the Carvin Trust Dated May 10, 2002 on July 7, 2005, and recorded on July 20, 2005 as Instrument No 05 1708854, in the office of the County Recorder of Los Angeles County.

Dated: July 25, 2005

CALIFORNIA COASTAL COMMISSION

John Bowers
John Bowers, Staff Counsel

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On 07/25/05, before me, JEFF G. STABEN, a Notary Public personally appeared JOHN BOWERS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Jeff G. Staben
NOTARY PUBLIC



05 1819356

7/17/05

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
CALIFORNIA COASTAL COMMISSION
89 S. California St., Suite 200
Ventura, CA 93001-2801
(Legal Division)

05 1819356

3

STATE OF CALIFORNIA OFFICIAL BUSINESS
Document entitled to free recordation
Pursuant to Government Code §27383

CDP 4-95-049
Van Halen

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Irrevocable Offer to Dedicate Easement for Vertical Public Access and Declaration of Restrictions dated July 7, 2005, executed by Barbara J. Page, Trustee of the Carvin Trust Dated May 10, 2002, and recorded on July 20, 2005 as Instrument Number 05 1708854, is hereby accepted by the State of California, by and through the State Coastal Conservancy, a public agency, on the date of recording, pursuant to authority conferred by resolution of the State Coastal Conservancy adopted on January 24, 2002, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: July 22, 2005

STATE COASTAL CONSERVANCY

By: [Signature]
Steven Horn, Deputy Executive Officer

STATE OF CALIFORNIA
COUNTY OF Alameda

On July 22nd, 2005, before me, HONG LE TRUONG, a Notary Public personally appeared STEVEN HORN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

HongLeTruong
NOTARY PUBLIC



WHEN RECORDED MAIL TO:

FIRST AMERICAN TITLE COMPANY of LOS ANGELES
520 NORTH CENTRAL AVENUE
GLENDALE, CALIFORNIA 91203

05 1819356

SPACE ABOVE THIS LINE IS RESERVED FOR RECORDER'S USE

TITLE(S)

Certificate of Acceptance



FREE

CODE
30
CODE
18
CODE
3

This page is part of your document - DO NOT DISCARD

05 1819356

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
08/01/05 AT 08:00am

TITLE(S) :



LEAD SHEET

FEE

D.T.T.

FREE Z

3

CODE
20

CODE
19

CODE
9

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

THIS FORM IS NOT TO BE DUPLICATED

FIRST NATIONAL TITLE INSURANCE COMPANY

COPY of Document Recorded
JUL 20 2005
05 1708854
It has not been compared with original
Original will be returned when
processing has been completed.
LOS ANGELES COUNTY REGISTRAR - RECORDER/COUNTY CLERK

RECORDING REQUESTED BY AND

WHEN RECORDED RETURN TO:

CALIFORNIA COASTAL COMMISSION
89 S. California Street, Suite 200
Ventura, CA 93001

Attn: Legal Division

IRREVOCABLE OFFER TO DEDICATE EASEMENT
FOR VERTICAL PUBLIC ACCESS
AND
DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE EASEMENT FOR VERTICAL PUBLIC ACCESS AND DECLARATION OF RESTRICTIONS (hereinafter referred to as "the Offer") is made this 7th day of July, 2005, by BARBARA J. PAGE, TRUSTEE OF THE CARVIN TRUST DATED MAY 10, 2002, (hereinafter referred to as the "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real property located in the County of Los Angeles, State of California, legally described as set forth in attached EXHIBIT A hereby incorporated by reference (hereinafter referred to as the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as defined in § 30103 of the California Public Resources Code (hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") creates the California Coastal Commission (hereinafter referred to as the

THIS DOCUMENT SUPERSEDES AND REPLACES (1) THE DEED RESTRICTION RECORDED AS INSTRUMENT NO. 78-69946 ON JANUARY 18, 1978; AND (2) IRREVOCABLE OFFER TO DEDICATE RECORDED AS INSTRUMENT NO. 80-709137 ON JULY 25, 1980; BOTH OF THE OFFICIAL RECORDS OF LOS ANGELES COUNTY

100 859-20

"Commission") and requires that any coastal development permit approved by the Commission must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and

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

V. WHEREAS, pursuant to the Act, Grantor's predecessor-in-interest, W. Huston Lillard III, applied to the Commission for a permit; and

VI. WHEREAS, coastal development permit numbers P-2-15-77-171 and A-8-1-77-1466 were granted by the Commission on March 14, 1977 and August 25, 1977, respectively, to authorize lot consolidation and resubdivision that included a portion of the Property and development of a single family residence on the Property (hereinafter referred to as "the Permits"). The Permits are each subject to the following condition (hereinafter referred to as "the Condition"):

1. Submit a deed restriction for recording granting a vertical public accessway across the property 5 feet in width from the Broad Beach Road right-of-way to the bluff edge, and 10 feet in width down the bluff face to Sea Level Drive.

Such accessway shall not be opened to the public until such time as access has been obtained to the beach.

VII. WHEREAS, pursuant to the Condition, Grantor's predecessor-in-interest, W. Huston Lillard III, recorded in the Official Records of the County of Los Angeles: a) on July 25, 1980 an Irrevocable Offer To Dedicate as Instrument No. 80-709137, that irrevocably offers to dedicate an easement as described in the Condition along the easterly boundary of the new parcels authorized in the Permits (hereinafter referred to as "the 1980 OTD"); and b) on January 18, 1978, a Deed Restriction as Instrument Number 78-69946 that restricts the same area for use as a vertical public accessway (hereinafter referred to as "the 1978 Deed Restriction"); and

VIII. WHEREAS, in 1995 Grantor's predecessor-in-interest, Edward L. Van Halen and Valerie Bertinelli Van Halen, Trustees, and their successors as trustees of the Bertinelli and Van Halen Family Trust, a Trust Agreement dated June 7, 1988, applied to the Commission for a permit to undertake development as defined in § 30106 of the Public Resources Code on the Property; and

IX. WHEREAS, coastal development permit number 4-95-049 and coastal development permit amendment number 4-95-049-A1 (hereinafter referred to as the "Permit, as amended") were granted by the Commission on May 9, 1995 and April 10, 1997, respectively. The Permit, as amended, authorized City of Malibu Lot Line Adjustment Map No. 93-03 (hereinafter "Lot Line Adjustment No. 93-03"), and an addition to the existing residence and a new pool on the Property in the area subject to the 1980 OTD and the 1978 Deed Restriction. Lot Line Adjustment No. 93-03 included relocation of the 1980 OTD to follow the adjusted lot line; and

X. WHEREAS, consistent with the Permit, as amended, and Lot Line Adjustment No. 93-03, Grantor must relocate the public access easement area as shown on Exhibit B, referenced below.

NOW AND THEREFORE, in consideration of the granting of the Permit, as amended, by the Commission, the Grantor hereby irrevocably offers to dedicate to the People of the State of California, an easement in gross and in perpetuity over a portion of the Property as follows:

1. DESCRIPTION. The easement offered hereby (hereinafter "the Easement") affects that portion of the Property along the eastern boundary of Parcels 1 and 2 of Lot Line Adjustment Map No. 93-03, recorded as Instrument No. 96-89720 on January 17, 1996 in the Official Records of Los Angeles County, (hereinafter "the Easement Area"), as specifically shown and legally described in EXHIBIT B, attached hereto and incorporated herein by reference.

2. PURPOSE. The Easement shall be used for the sole purpose of allowing public pedestrian ingress and egress to and from Broad Beach Road and the shoreline.

3. DECLARATION OF RESTRICTIONS. After acceptance, Grantor shall not interfere with the public's use of the Easement for the purposes specified herein nor take any action inconsistent with such use, including, without limitation, constructing or improving the Easement Area in a manner inconsistent with the public's use or enjoyment thereof; provided, however, that nothing contained herein shall be construed to obligate Grantor to remove any existing fence currently located within the Easement Area. Grantor shall not be bound to undertake any construction, maintenance or repair within the Easement Area, such right, including the right to construct or remove fencing within the Easement Area, and obligation to be solely that of Grantee. Grantor shall retain all normal rights and incidents of ownership of the underlying fee interest in the Property not inconsistent with the rights granted herein.

4. DURATION, ACCEPTANCE AND TRANSFERABILITY. The Offer shall be binding upon the Grantor and the heirs, assigns, or successors in interest to the Property described above for a period of 21 years. The Offer may be accepted by any agency of the State of California, a political subdivision, or a private association acceptable to the Executive Director of the Commission (hereinafter referred to as the "Grantee"). Such acceptance shall be effectuated by recordation by the Grantee of an acceptance of the Offer in the form attached hereto as EXHIBIT C. Upon such recordation of acceptance, the Offer and terms, conditions, and restrictions shall have the effect of a grant of vertical access easement in gross and perpetuity that shall run with the land and be binding on the heirs, assigns, and successors of the Grantor. After acceptance, the Easement may be transferred to and held by any entity which qualifies as a Grantee under the criteria hereinabove stated. Acceptance of the Offer is subject to a covenant which runs with the land, providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers said easement to an entity which qualifies as a Grantee under the criteria hereinabove stated. By

accepting the Offer, Grantee agrees that it shall be bound by all of the terms and conditions of the Offer.

5. REMEDIES. Any act, conveyance, contract, or authorization by the Grantor or Grantee, whether written or oral, which uses or would cause to be used, or would permit use of the Easement Area in a manner which is contrary to the terms of the Offer will be deemed a violation and a breach hereof. The Grantor, any Grantee of the Easement and any offeree of the Offer may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of the Offer, the Easement and their respective interests in the Property. In the event of a breach, any forbearance on the part of any such party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid all real property taxes and assessments levied or assessed against the Easement Area. It is intended that this irrevocable offer and the use restrictions contained herein shall constitute enforceable restrictions within the meaning of (a) Article XIII, § 8, of the California Constitution; and (b) § 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, the Offer, Easement and restrictions shall be deemed to constitute a servitude upon and burden to the Property within the meaning of § 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

7. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions obligations, and reservations contained in the Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

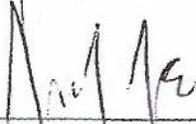
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8. SEVERABILITY. If any provision of the Offer is held to be invalid, or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 7th, day of July, 2005, at Los Angeles, CA



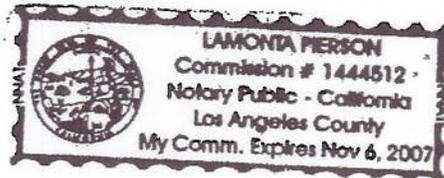
BARBARA J. PAGE, AS TRUSTEE OF
THE CARVIN TRUST DATED MAY 10, 2002

STATE OF CALIFORNIA

COUNTY OF Los Angeles

On July 7, 2005, before me, LAMONTA PIERSON,
a Notary Public personally appeared Barbara J. Page,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature Lamonta Pierson

This is to certify that the Offer to Dedicate set forth above is hereby acknowledged and approved by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it issued Coastal Development Permit Nos. P-2-15-77-171; A-8-1-77-1466; 4-95-049 and 4-95-049-A1 on March 14, 1977; August 25, 1977; May 9, 1995; and April 10, 1997, and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: June 23, 2005

John Bowers
John Bowers, Staff Counsel
California Coastal Commission

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On 06/23/05, before me, JEFF G. STABEN, a Notary Public personally appeared John Bowers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Jeff G. Staben



EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Malibu, County of Los Angeles, State of California, described as follows:

Parcel 1:

Parcel 3 of Parcel Map No. 4358, Lots 82, 83, Lot H, Vacated State Highway adjoining Lot H and portions of Lots 21, 22, 85 and Vacated State Highway Adjoining Lot 21 of Tract No. 10630, in the city of Malibu, as per map filed in Book 101 Page 34 of Parcel Maps and recorded in Book 181 Pages 6 to 11, inclusive of Maps, respectively, in the office of the county recorder of said county, lying westerly and southerly of the following described line:

Beginning at the intersection of a line parallel with and 61.15 feet distant westerly, measured at right angles to the easterly line of said Lots 21, 22, 85 and their northerly prolongation with the northerly line of said vacated state highway, 20 feet wide, said line being parallel with and 20 feet northerly, measured at right angles to the northerly line of said Lot 21; thence along said parallel line south $10^{\circ} 05' 30''$ west 120.00 feet; thence parallel with the northerly line of said vacated state highway south $79^{\circ} 54' 30''$ east 61.15 feet to the easterly line of said Lot 85.

As shown as Parcel 1 on a Lot Line Adjustment recorded January 17, 1996 as Instrument No. 96-89720.

Except all metals and minerals, and all petroleum, natural gas and other hydrocarbon substances, and all surface deposits and subsoil products of any nature or character whatsoever, in, under or upon said land, and every part thereof, as contained in the deed from the Marblehead Land Company, a corporation, recorded September 18, 1940 in Book 17800 Page 273, Official Records.

Except therefrom all metals and minerals, and all petroleum, natural gas and other hydrocarbon substances, and all surface deposits and subsoil products of any nature or character whatsoever, in, under or upon said land without, however, the right of surface entry, as reserved in the deed from Marblehead Land Company, recorded February 6, 1939 in Book 16402 page 95, Official Records.

Except all metals and minerals and all petroleum, natural gas and other hydrocarbon substances and all surface deposits and sub-soil products of any nature or character whatsoever, in, under or upon said land and every part thereof, but without the right of entry, as reserved in the deed from Marblehead Land Company, a corporation, recorded in Book 13337 Page 253, Official Records.

Parcel 2:

Those portions of Lots 21, 22, 85 and vacated state highway adjoining Lot 21 of Tract No. 10630, in the city of Malibu, as per map recorded in Book 181 Pages 6 to 11, inclusive of Maps, in the office of the county recorder of said county, lying easterly and northerly of the following described line:

Beginning at the intersection of a line parallel with and 61.15 feet distant westerly, measured at right angles to the easterly line of said Lots 21, 22 and 85 and their northerly prolongation with the northerly line of said vacated state highway, 20 feet wide, said line being parallel with and 20 feet northerly, measured at right angles to the northerly line of said Lot 21; thence along said

parallel line South 10° 05' 30" west 120 feet; thence parallel with the northerly line of said vacated state highway south 79° 54' 30" east 61.15 feet to the easterly line of said Lot 85.

As shown as Parcel 2 on a Lot Line Adjustment recorded January 17, 1996 as Instrument No. 96-89720.

Except therefrom all metals and minerals, and all petroleum, natural gas and other hydrocarbon substances, and all surface deposits and subsoil products of any nature or character whatsoever, in, under or upon said land without, however, the right of surface entry, as reserved in the deed from Marblehead Land Company, recorded February 6, 1939 in Book 16402 page 95, Official Records.

Except therefrom all metals and minerals, and all petroleum, natural gas and other hydrocarbon substances, and all surface deposits and subsoil products of any nature or character whatsoever, in, under or upon said land without, however, the right of surface entry, as reserved in the deed from Marblehead Land Company, recorded August 31, 1938 in Book 15957 Page 342, Official Records.

APN: 4470-024-061 and 4470-024-062

LEGAL DESCRIPTION: PUBLIC ACCESS EASEMENT AREA

A STRIP OF LAND FIVE (5) FEET AND TEN (10) FEET IN WIDTH OVER THOSE PORTIONS OF PARCELS 1 AND 2 OF LOT LINE ADJUSTMENT (LLA NO. 93-03), IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER CERTIFICATE OF COMPLIANCE RECORDED JANUARY 17, 1996 AS INSTRUMENT NO. 96-89720, OFFICIAL RECORDS OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 2; THENCE, ALONG THE EASTERLY LINE OF SAID PARCEL 2 AND PARCEL 1 THE FOLLOWING THREE (3) COURSES, SOUTH 10°05'30" WEST 158.00 FEET; THENCE, SOUTH 87°58'05" WEST 32.14 FEET; THENCE, SOUTH 16°56'50" WEST 96.41 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 1; THENCE, ALONG THE SOUTHERLY LINE OF SAID PARCEL 1, NORTH 87°56'08" WEST 10.35 FEET TO A LINE PARALLEL WITH AND 10.00 FEET DISTANT WESTERLY, MEASURED AT RIGHT ANGLES TO SAID EASTERLY LINE; THENCE, ALONG SAID PARALLEL LINE, NORTH 16°56'50" EAST 100.92 FEET TO A LINE PARALLEL WITH AND 5.00 FEET DISTANT NORTHERLY, MEASURED AT RIGHT ANGLES TO SAID EASTERLY LINE; THENCE, ALONG SAID PARALLEL LINE, NORTH 87°58'05" EAST 36.96 FEET TO A LINE PARALLEL WITH AND 5.00 FEET DISTANT WESTERLY, MEASURED AT RIGHT ANGLES TO SAID EASTERLY LINE; THENCE, ALONG SAID PARALLEL LINE, NORTH 10°05'30" EAST 153.96 FEET TO THE NORTHERLY LINE OF SAID PARCEL 2; THENCE, ALONG SAID NORTHERLY LINE, SOUTH 79°54'30" EAST 5.00 FEET TO THE **POINT OF BEGINNING**.



JUN 20 2005

RECORDING REQUESTED BY AND

EXHIBIT C

WHEN RECORDED MAIL TO:
CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, 20TH FLOOR
SAN FRANCISCO, CA 94105

PERMIT NO: _____
ACCEPTANCE CERTIFICATE
PAGE ONE (1) OF TWO (2)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Offer to Dedicate dated _____, executed by _____ and recorded on _____ as Instrument Number _____, is hereby accepted by _____ a public agency/private association on _____, pursuant to authority conferred by resolution of the _____ adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

By: _____

For: _____

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION
OF ACCEPTANCE OF OFFER TO DEDICATE

This is to certify that _____ is a
public agency/private association acceptable to the Executive Director of the California Coastal
Commission to be Grantee under the Offer to Dedicate executed by
_____ on _____, and recorded on
_____, in the office of the County Recorder of
_____ County as Instrument Number _____.

Dated: _____

California Coastal Commission

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a
Notary Public personally appeared _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

**RECORDING REQUESTED BY,
AND WHEN RECORDED, MAIL TO:**
Buchalter Nemer Fields & Younger
18400 Von Karman Avenue
Suite 800
Irvine, California 92612
Attn: Adam R. Salis, Esq.

COPY of Document Recorded **JUL 20 2005**
05 1708355
Has not been compared with original
Original will be returned when
processing has been completed.
LOS ANGELES COUNTY REGISTRAR • RECORDER/COUNTY CLERK

447-246162

SPACE ABOVE LINE FOR RECORDER'S USE ONLY

AGREEMENT

THIS AGREEMENT is made as of June 30, 2005, by and among BARBARA J. PAGE, AS TRUSTEE OF THE CARVIN TRUST DATED MAY 10, 2002 ("Owner"), CALIFORNIA STATE COASTAL CONSERVANCY ("CSCC"), and MOUNTAINS RECREATION & CONSERVATION AUTHORITY, a public entity of the State of California ("MRCA").

Recitals

A. Owner is the fee simple owner of certain real property located in Malibu, California, commonly known as 31736 Broad Beach Road and legally described in Exhibit A attached hereto ("Property"). The Property is currently burdened with an irrevocable offer to dedicate ("Existing OTD") executed by and between W. Huston Lillard III (Owner's predecessor in interest) and the California Coastal Commission ("CCC") and recorded on July 25, 1980 as Instrument No. 80-709137 in the Official Records of Los Angeles County, California ("Official Records").

B. MRCA is the fee simple owner of certain real property immediately to the east of the Property, legally described in Exhibit B attached hereto ("Lot I").

C. Substantially concurrently with the execution of this Agreement, Owner and CCC are entering into that certain Irrevocable Offer to Dedicate Easement for Vertical Public Access and Declaration of Restrictions ("New OTD"), pursuant to which (among other things) Owner will be making a new offer to dedicate ("New Offer") an easement for public access over a portion of the Property located along its eastern boundary (immediately adjacent to the property line between the Property and Lot I), which New Offer shall replace and supersede the Existing OTD. The vertical access easement to be created by acceptance of the New Offer is referred to herein as the "Easement."

D. MRCA, CSCC and Owner have agreed to enter into this Agreement to balance Owner's private use of the Property with MRCA and CSCC's responsibilities and duties to provide public use of the Easement.

10 - 2005

Agreement

NOW, THEREFORE, for a good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties, the parties hereby agree as follows:

1. Acceptance of Offer to Dedicate. CSCC represents and warrants to Owner that it has the power and authority to accept the New Offer and to become the "Grantee" under the New OTD. Within ten (10) business days following the date of recordation of this Agreement, CSCC shall execute and deliver to Owner for recordation a Certificate of Acceptance in the form attached to the New OTD as Exhibit C ("Certificate"). CSCC authorizes and directs Owner to record the Certificate in the Official Records following Owners' receipt thereof from CSCC and Owner's receipt of an acknowledgement thereof duly executed by CCC as provided in the New OTD.

2. Erection of Fence. Within one hundred eighty (180) days following the Fence Trigger Date (defined below), subject to force majeure delays, MRCA shall cause the existing fence along the eastern boundary of the Property to be removed and, substantially concurrently with such removal, MRCA shall cause to be installed along the western boundary of the Easement a fence of approximately the same height as such existing fence. Such new fence shall be A-Omega fencing and covered with opaque black fence fabric to prevent pedestrians utilizing Lot I and the Easement from looking into the Property. MRCA shall take all reasonable measures to ensure that access to the Property from Lot I is restricted at all times during such construction and shall repair any damage to the Property occasioned by such fence removal and erection of new fencing. MRCA shall plant vines or other vegetation reasonably acceptable to Owner on the new fence. At such time as such vegetation grows to a sufficient extent to cover such fencing and block views to the Property, MRCA shall cause such fence fabric to be removed. CSCC and MRCA agree that they will not remove the existing fence unless and until they are prepared to construct the new fence. As used herein, the term "Fence Trigger Date" means the date on which all of the following shall have occurred: (i) Owner shall have recorded the New OTD and Certificate in the Official Records, (ii) MRCA and CSCC shall have obtained a Coastal permit (if same is required) to remove the existing fence and construct a new fence, and (iii) the period for challenge to the issuance of such permit shall have expired without a challenge being filed or any challenge which has timely been filed has been finally resolved. MRCA and CSCC agree to apply for a Coastal permit for said work (if required) within one hundred eighty (180) days after the date of recordation of the Certificate.

3. Retaining Wall. Within one hundred eighty (180) days following the Wall Trigger Date (defined below), subject to force majeure delays, MRCA shall cause a new retaining wall to be installed at or near the location designated on Exhibit C attached hereto, the exact location and specifications of which shall be based upon the recommendations of MRCA's engineer. Such location and specifications shall be subject to the prior written approval of Owner, which approval shall not be unreasonably withheld or delayed. As used herein, the term "Wall Trigger Date" means the date on which all of the following shall have occurred: (i) Owner shall have recorded the New OTD and Certificate in the Official Records, (ii) MRCA and CSCC shall have obtained a Coastal permit (if same is required) to construct said retaining wall (which permit may also encompass construction of new stairs within Lot I and the Easement), and (iii) the period for challenge to the issuance of such permit shall have expired without a challenge

being filed or any challenge which has timely been filed has been finally resolved. MRCA and CSCC agree to apply for a Coastal permit for said work (if required) within one hundred eighty (180) days after the date of recordation of the Certificate.

4. Porta Potties. MRCA and CSCC covenant and agree that no "porta potties" or other bathroom facilities shall be located within Lot I or within the Easement so long as Lot I and the Easement are used for pedestrian access to the beach.

5. Runs with Land. The rights and obligations of the parties created in this Agreement shall run with the land and shall inure to the benefit of and be binding upon Owner, CSCC, MRCA and their respective successors and assigns.

6. Injunctive and Declaratory Relief. In the event of any violation or threatened violation by CSCC or MRCA of any of the terms contained herein contained, in addition to any other remedies available to Owner at law, Owner shall have the right to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Agreement, or restrain or enjoin a violation or breach of any provision hereof.

7. Notices. All notices, requests, demands and other communication given or required to be given hereunder shall be in writing and personally delivered or sent by United States registered mail, return receipt requested, or sent by nationally recognized courier service such as Federal Express. Any notice shall be duly addressed to the parties as follows:

To Owner: Carvin Trust
c/o Page and Associates
3500 W. Olive Avenue, Suite 300
Burbank, California 91505
Attention: Barbara J. Page, Trustee

To CSCC: California State Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, California 94612-2530
Attn: Mr. Steve Horn, Deputy Executive Officer

To MRCA: Mountains Recreation & Conservation Authority
c/o Santa Monica Mountains Conservancy
570 West Avenue 26, Suite 100
Los Angeles, California 90065
Attn: Laurie C. Collins, Staff Counsel

Delivery of any notice or other communication hereunder shall be deemed made on the date of actual delivery thereof to the address of the addressee, if personally delivered, and on the date indicated in the return receipt or courier's records as the date of delivery or as the date of first attempted delivery, if sent by mail or courier service. Any party may change its address for purposes of this Section by giving notice to the other party as herein provided.

8. Governing Law. This Agreement shall be governed by the laws of the State of California.

9. Attorneys' Fees. In the event that any party brings an action to interpret or enforce any of the obligations created hereunder, or which otherwise arises out of this Agreement, whether sounding in contract or in tort, the party prevailing in said action shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including without limitation, attorneys' fees and costs.

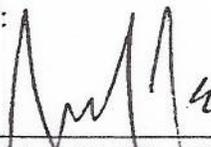
10. Time of Essence. Time is of the essence with respect to the performance of each of the covenants contained in this Agreement.

11. Authority. Each of the individuals executing this Agreement on behalf of CSCC and MRCA, respectively, hereby represents and warrants to Owner that he or she has the authority to execute this Agreement on behalf of such entity and that, once executed by him or her, this Agreement shall be binding upon and enforceable against the party for whom he or she executed this Agreement.

12. Counterparts. This Assignment may be executed in counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been made and executed as of the date first above written.

"Owner":



BARBARA J. PAGE, AS TRUSTEE OF THE
CARVIN TRUST DATED MAY 10, 2002

"CSCC":

CALIFORNIA STATE COASTAL
CONSERVANCY

By: _____

Samuel Schuchat, Executive Officer

"MRCA":

MOUNTAINS RECREATION &
CONSERVATION AUTHORITY, a public entity
of the State of California

By: _____

Its: _____

[Printed Name and Title]

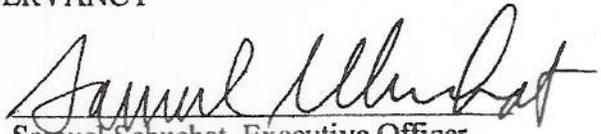
IN WITNESS WHEREOF, this Agreement has been made and executed as of the date first above written.

“Owner”:

BARBARA J. PAGE, AS TRUSTEE OF THE
CARVIN TRUST DATED MAY 10, 2002

“CSCC”:

CALIFORNIA STATE COASTAL
CONSERVANCY

By: 
Samuel Schuchat, Executive Officer

“MRCA”:

MOUNTAINS RECREATION &
CONSERVATION AUTHORITY, a public entity
of the State of California

By: _____

Its: _____
[Printed Name and Title]

IN WITNESS WHEREOF, this Agreement has been made and executed as of the date first above written.

"Owner":

BARBARA J. PAGE, AS TRUSTEE OF THE
CARVIN TRUST DATED MAY 10, 2002

"CSCC":

CALIFORNIA STATE COASTAL
CONSERVANCY

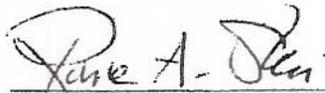
By:

Samuel Schuchat, Executive Officer

"MRCA":

MOUNTAINS RECREATION &
CONSERVATION AUTHORITY, a public entity
of the State of California

By:



Its:

RORIE A. SKEEL, Chief Deputy Exec. Officer
[Printed Name and Title]

STATE OF California
COUNTY OF Los Angeles)ss

On July 7, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Barbara J. Page, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose Name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Lamonta Pierson
NOTARY PUBLIC

STATE OF _____)
COUNTY OF _____)ss

On _____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose Name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

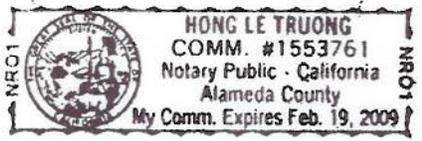
WITNESS my hand and official seal.

NOTARY PUBLIC

STATE OF California)
)ss
COUNTY OF Alameda)

On July 6th, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared SAMUEL SCHUCHAT, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose Name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Hong Le Truong
NOTARY PUBLIC

STATE OF _____)
)ss
COUNTY OF _____)

On _____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose Name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

NOTARY PUBLIC

ALL-PURPOSE ACKNOWLEDGEMENT

State of California }
 County of Los Angeles } ss.

On July 5, 2005 before me, Shannon S. Murray
(DATE) (NOTARY)
 personally appeared Rorie Skei
(SIGNER(S))

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Shannon S. Murray
NOTARY'S SIGNATURE

OPTIONAL INFORMATION

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgement to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- INDIVIDUAL
- CORPORATE OFFICER
- _____ TITLE:
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____
- _____
- _____

DESCRIPTION OF ATTACHED DOCUMENT

Agreement
TITLE OR TYPE OF DOCUMENT

5 pgs through signature pg.
NUMBER OF PAGES

6/30/05
DATE OF DOCUMENT

_____ OTHER

SIGNER IS REPRESENTING:
 NAME OF PERSON(S) OR ENTITY(ES):

RIGHT THUMBPRINT
 OF
 SIGNER

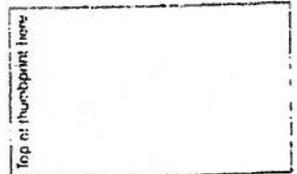


EXHIBIT A

Legal Description of Property

Real property in the City of Malibu, County of Los Angeles, State of California, described as follows:

Parcel 1:

Parcel 3 of Parcel Map No. 4358, Lots 82, 83, Lot H, Vacated State Highway adjoining Lot H and portions of Lots 21, 22, 85 and Vacated State Highway Adjoining Lot 21 of Tract No. 10630, in the City of Malibu, as per map filed in Book 101 Page 34 of Parcel Maps and recorded in Book 181 Pages 6 to 11, inclusive of Maps, respectively, in the office of the county recorder of said county, lying westerly and southerly of the following described line:

Beginning at the intersection of a line parallel with and 61.15 feet distant westerly, measured at right angles to the easterly line of said Lots 21, 22, 85 and their northerly prolongation with the northerly line of said vacated state highway, 20 feet wide, said line being parallel with and 20 feet northerly, measured at right angles to the northerly line of said Lot 21; thence along said parallel line south $10^{\circ} 05' 30''$ west 120.00 feet; thence parallel with the northerly line of said vacated state highway south $79^{\circ} 54' 30''$ east 61.15 feet to the easterly line of said Lot 85.

As shown as Parcel 1 on a Lot Line Adjustment recorded January 17, 1996 as Instrument No. 96-89720.

Except all metals and minerals, and all petroleum, natural gas and other hydrocarbon substances, and all surface deposits and subsoil products of any nature or character whatsoever, in, under or upon said land, and every part thereof, as contained in the deed from the Marblehead Land Company, a corporation, recorded September 18, 1940 in Book 17800 Page 273, Official Records. Except therefrom all metals and minerals, and all petroleum, natural gas and other hydrocarbon substances, and all surface deposits and subsoil products of any nature or character whatsoever, in, under or upon said land without, however, the right of surface entry, as reserved in the deed from Marblehead Land Company, recorded February 6, 1939 in Book 16402 page 95, Official Records.

Except all metals and minerals and all petroleum, natural gas and other hydrocarbon substances and all surface deposits and sub-soil products of any nature or character whatsoever, in, under or upon said land and every part thereof, but without the right of entry, as reserved in the deed from Marblehead Land Company, a corporation, recorded in Book 13337 Page 253, Official Records.

Parcel 2:

Those portions of Lots 21, 22, 85 and vacated state highway adjoining Lot 21 of Tract No. 10630, in the city of Malibu, as per map recorded in Book 181 Pages 6 to 11, inclusive of Maps, in the office of the county recorder of said county, lying easterly and northerly of the following described line:

EXHIBIT C

Depiction of Location of New Retaining Wall

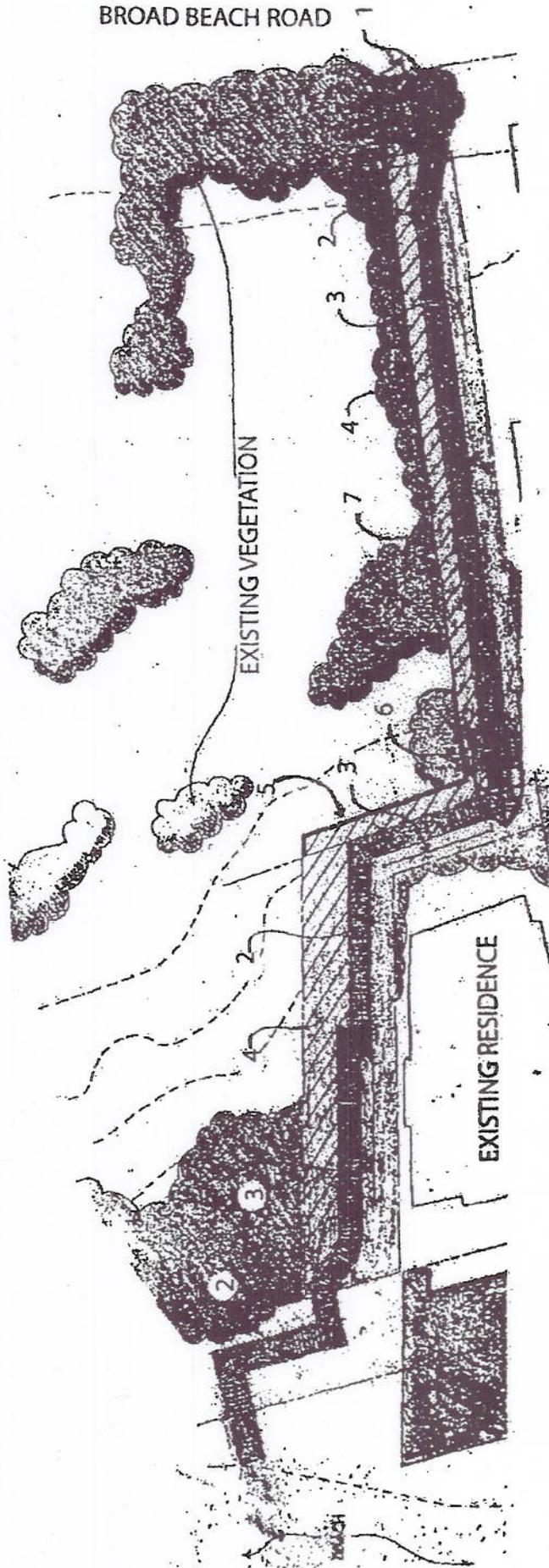
[Attached]

LECHUZA BEACH

REDEDICATION CONCEPT FOR LOT 1

SITE ELEMENTS

- 1 BROAD BEACH ROAD PEDESTRIAN ACCESS
- 2 WIDENED AND REDIRECTED STAIRS TO BEACH
- 3 BROADED CABLE VINE SUPPORTS
- 4 RELOCATED EASEMENT
- 5 NEW RETAINING WALL
- 6 NAUTICAL TRELLEIS
- 7 NEW FENCE



COASTAL CONSERVANCY
Project Summary
December 4, 2002
CONSERVANCY DELEGATION TO ITS EXECUTIVE OFFICER
TO ACCEPT OFFERS TO DEDICATE
RECORDED PURSUANT TO THE COASTAL ACT
Project Number: 02-00111

RECOMMENDED ACTION: Staff recommends that the State Coastal Conservancy delegate authority to the Executive Officer to accept any offer to dedicate public lands pursuant to the Coastal Act. The bill also provides that the bill be recorded pursuant to the Coastal Act.

LOCATION: [REDACTED]

PROGRAM CATEGORY: Public Access

ESTIMATED COST: None

PROJECT SUMMARY: Since at least 1977, the Conservancy has, at various times, delegated specified functions to its Executive Officer for reasons of practicality or efficiency. Staff is recommending that the Conservancy endorse the Executive Officer to act in an additional defined circumstances with respect to acceptance of offers to dedicate public lands that have been recorded pursuant to the provisions of the Coastal Act. This new legislation was introduced January 1, 2002, with Section 11402.2, and 11402.3 of the Conservancy's enabling statute (Division 2) of the Public Resources Code. The Conservancy is required, without exception, to accept any offer to dedicate land that has not been accepted by another entity within 90 days of its expiration date. The additional delegation proposed by this bill recommendation would endorse the Executive Officer to carry out the acceptance of these offers to dedicate as required by the legislation.

Agenda Item 9.

December 4, 2002

COASTAL CONSERVANCY

Project Summary
December 4, 2002

**CONSERVANCY DELEGATION TO ITS EXECUTIVE OFFICER
TO ACCEPT OFFERS TO DEDICATE
RECORDED PURSUANT TO THE COASTAL ACT**

Project Manager: Joan Cardellino

RECOMMENDED ACTION: Staff recommends that the State Coastal Conservancy delegate authority to the Executive Officer to accept any Offer to Dedicate public access recorded pursuant to the Coastal Act that has not been accepted within 90 days of its expiration date.

LOCATION: Statewide

PROGRAM CATEGORY: Public Access

ESTIMATED COST: None

PROJECT SUMMARY: Since at least 1977, the Conservancy has, at various times, delegated specified functions to its Executive Officer for reasons of practicality or efficiency. Staff is recommending that the Conservancy authorize the Executive Officer to act in an additional defined circumstance with respect to acceptance of offers to dedicate public access that have been recorded pursuant to the provisions of the Coastal Act. Under new legislation effective January 1, 2003, adding Sections 31402.1, 31402.2, and 31402.3 to the Conservancy's enabling statute (Division 21 of the Public Resources Code), the Conservancy is required, without exception, to accept any such offer to dedicate that has not been accepted by another entity within 90 days of its expiration date. The additional delegation proposed by this staff recommendation would authorize the Executive Officer to carry out the acceptance of these offers to dedicate as required by the legislation.

COASTAL CONSERVANCY

Staff Recommendation
December 4, 1983

CONSERVANCY BELONGING TO THE EXECUTIVE OFFICER
TO ACCEPT OFFERS TO DEEDS
RECORDED PURSUANT TO THE COASTAL ACT

Project Manager: John Cristofano

STAFF

RECOMMENDATION:

Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Section 31103 of the Public Resource Code and Section 13334 of Title 14 of the California Code of Regulations:

"Effective January 1, 1984, the State Coastal Conservancy hereby delegates to its Executive Officer the authority to take the following action, and direct the Executive Officer to exercise the delegated authority consistent with applicable law and the policies of the Conservancy, without further specific Conservancy authorization:

Accept on behalf of the State, through the Conservancy, any offer to dedicate an interest in real property that has been recorded pursuant to the Coastal Act (Division 20 of the Public Resource Code) to provide public access or to protect open space and that has not been accepted by any offer within 90 days of its completion date. Prior to exercising this delegated authority, the Executive Officer shall endeavor to provide advance notice of the Conservancy's intention to accept the offer to dedicate to the owner of the property, and if the offer to dedicate is not accepted by any other person to whom notice may be required by law.

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report, the State Coastal Conservancy hereby finds that the proposed authorization is consistent with and will help carry out the purposes of Division 21 of the Public Resource Code."

COASTAL CONSERVANCY

Staff Recommendation
December 4, 2002

**CONSERVANCY DELEGATION TO ITS EXECUTIVE OFFICER
TO ACCEPT OFFERS TO DEDICATE
RECORDED PURSUANT TO THE COASTAL ACT**

Project Manager: Joan Cardellino

STAFF

RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Section 31103 of the Public Resources Code and Section 13734 of Title 14 of the California Code of Regulations:

“Effective January 1, 2003, the State Coastal Conservancy hereby delegates to its Executive Officer the authority to take the following actions, and directs the Executive Officer to exercise the delegated authority consistent with applicable law and the policies of the Conservancy, without further, specific Conservancy authorization:

Accept on behalf of the State, through the Conservancy, any offer to dedicate an interest in real property that has been recorded pursuant to the Coastal Act (Division 20 of the Public Resources Code) to provide public access or to protect open space and that has not been accepted by any other entity within 90 days of its expiration date. Prior to exercising this delegated authority, the Executive Officer shall endeavor to provide advance notice of the Conservancy’s intention to accept the offer to dedicate to the owner of the property burdened by the offer to dedicate and to any other persons to whom notice may be required by law.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report, the State Coastal Conservancy hereby finds that the proposed authorization is consistent with and will help carry out the purposes of Division 21 of the Public Resources Code.”

STAFF DISCUSSION: *General Sources of Delegation* Section 31103 of the Conservancy's enabling legislation (Division 21 of the California Public Resources Code) provides, in relevant part:

The conservancy shall determine the qualifications of, and it shall appoint and fix the salary of, the executive officer of the conservancy, who shall be exempt from civil service, and shall appoint such other staff as may be necessary to carry out the powers and functions set forth in this division.

Section 31103 conveys an implicit delegation to the Executive Officer "to carry out the powers and functions" of the Conservancy under Division 21, subject to ultimate direction by the Conservancy.

The Conservancy adopted the following regulation (14 Cal. Code of Regulations Section 13734) to effect this delegation of authority:

13734. Duties and Delegation of Staff.

(a) In accordance with the direction and policies of the Conservancy and pursuant to Public Resources Code Section 31103, the executive officer shall administer the affairs of the Conservancy and, subject to approval by the Conservancy, the executive officer shall, on behalf of the Conservancy and in accordance with applicable state and civil service procedures, appoint such other employees as may be necessary to carry out the functions of the Conservancy.

From time-to-time, the Conservancy has utilized these general provisions to delegate to the Executive Officer the authority to act in specific circumstances in order efficiently and effectively to carry out the basic functions of the Conservancy. The proposed additional delegation serves to accomplish these same purposes.

Delegation of Authority to Accept Offers to Dedicate.

Since at least 1977, the Conservancy has, at various times, delegated specified functions to its Executive Officer for reasons of practicality or efficiency. Staff is recommending that the Conservancy authorize the Executive Officer to act in an additional defined circumstance associated with acceptance of offers to dedicate interests in real property that have been recorded pursuant to the provisions of the Coastal Act in order to provide public access to and along the coast or to preserve coastal open space. The impetus for the proposed additional

delegation of authority is a recent amendment to the Conservancy's enabling legislation.

In September of this year, the Governor signed into law SB 1962 (Polanco), Chapter 518, Statutes of 2002. (Exhibit 1). The new legislation, which becomes effective January 1, 2003, amended the Conservancy's enabling legislation (Division 21 of the Public Resources Code), by adding Sections 31402.1, 31402.2 and 31402.3 and also amended sections of the Government Code that require further review and approval for the acquisition of property interests on behalf of the state. These amendments revise the process by which the Conservancy may accept offers to dedicate public access that have been recorded pursuant to the coastal development permit process and the process by which the property interests created by acceptance may be transferred.

Under the new law, the Conservancy is required to "accept any outstanding offer to dedicate a public accessway that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date" (Public Resources Code Section 31402.2). Section 31402.2, as added by SB 1962, allows for no exceptions and leaves the Conservancy no discretion to determine whether or not to accept an individual offer to dedicate that terminates in less than 90 days—the Conservancy *must* accept the offer to dedicate at that time.

In addition, by amending Government Code Sections 11005 and 15853 and by adding Public Resource Code Section 31402.1, SB 1962 eliminated any requirement that the Conservancy's acceptance of these offers be reviewed and approved by the Departments of Finance and General Services or by the Public Works Board. Conservancy action alone is sufficient to accept the offers to dedicate.

Given these changes in the process of acceptance there is little practical purpose to be served by continuing to require Conservancy action to formalize the acceptance of public access offers to dedicate, which must be accepted by the Conservancy under any circumstance, once within 90 days of termination. Accordingly, delegation of this function to the Executive Officer is appropriate and warranted.

The proposed delegation extends only to the mere acceptance of offers to dedicate that would otherwise expire. It does not extend to any Conservancy action to develop or improve a public accessway that has been offered for dedication. It also does not extend to any formal action by the Conservancy which may be needed to open the accessway once the offer has been ac-

cepted. (The acceptance of many offers to dedicate under the proposed delegation, however, will result in the "opening" of an accessway without any further "formal action." Offers to dedicate beach lateral access are one example). Whenever Conservancy staff proposes to develop, improve, or take formal action to open a dedicated accessway, these actions will be brought to the Conservancy for consideration and approval.

COMPLIANCE
WITH CEQA:

The proposed Conservancy action—the authorization to accept outstanding offers to dedicate that were required under the Coastal Act development permit process—has already been reviewed for environmental impact. In the course of the development permit process and as part of its statutory responsibilities, the California Coastal Commission (or its regional commissions) previously undertook review and environmental assessment of the impacts associated with each specific development giving rise to the requirement of an offer to dedicate and in doing so considered the need for and impact of the creation of the public access that was the end result of the offer. In this context, the Coastal Commission is a "certified regulatory agency," whose review is recognized as functionally equivalent to environmental assessment under the California Environmental Quality Act (CEQA). (CEQA Guidelines, 14 Cal. Code of Regulations, Section 15251(c); Public Resources Code Section 21080.5). The Conservancy's action to accept these offers to dedicate simply effectuates the prior Coastal Commission determination that has been assessed under a CEQA-equivalent process.

Nonetheless, even if CEQA is applicable to the Conservancy acceptance of Coastal Act offers to dedicate, the Conservancy action is exempt from review. Under SB 1962, the Conservancy's acceptance of an offer to dedicate public access that is within 90 days of expiration, whether delegated or not, involves absolutely no discretion. It is a purely ministerial act that the State legislature has mandated that the Conservancy undertake. As such, it is statutorily exempt from review under CEQA Guidelines, 14 Cal. Code of Regulations, Section 15628. Staff will file a Notice of Exemption upon Conservancy approval of the proposed delegation of authority.

The assignment of many other to districts under the
proposed legislative powers will result in the "opening" of
an authority without any further "limited action." Other to
districts have been (and will be) assigned. Whenever Con-
sistency shall propose to develop, improve, or take further ac-
tion to open a dedicated authority, these actions will be
brought to the Consistency for consideration and approval.

COMPLIANCE
WITH CEQA

The proposed Consistency action—the authority to accept
outstanding offers to districts that were required under the
General Act development permit process—but already been re-
viewed for environmental impact in the course of the devel-
opment permit process and as part of its statutory responsibility
that the California Coastal Commission for its regional
consistency process. This process and environmental
assessment of the project associated with each specific devel-
opment giving rise to the requirement of an offer to dedicate
and in doing so, the offer for will impact of the dis-
tion of the project as the result of the offer. In
the context of the offer is a "coordinated regulatory
agency" which is functionally equivalent
to environmental agencies under the California Environ-
mental Quality Act (CEQA) (Public Resources Code 25200-
25250). The Consistency's action to accept these offers
to dedicate shall require the prior Coastal Commission
determination that has been accepted under a CEQA-equivalent
process.

EXHIBIT 1

SB 1962 (Polanco)

Consistency, even if CEQA is applicable to the Consistency
action of Coastal Act offers to dedicate, the Consistency
action is exempt from review under SB 1962, the Consis-
tency's acceptance of an offer to dedicate public access that is
within 50 days of expiration, whether delegated or not, re-
quires absolutely no discretion. It is a purely ministerial act
that the State Legislature has mandated that the Consistency
industrial. As such, it is exempt from review under
CEQA (Public Resources Code 25200-25250). Section
1962 shall utilize a process of negotiation upon Consistency
approval of the proposed delegation of authority.

BILL TITLE

CHAPTER 212

FILED WITH SECRETARY OF STATE SEPTEMBER 17, 2011
APPROVED BY GOVERNOR SEPTEMBER 17, 2011
PASSED THE SENATE AUGUST 26, 2011
PASSED THE ASSEMBLY AUGUST 26, 2011
AMENDED IN ASSEMBLY AUGUST 26, 2011
AMENDED IN ASSEMBLY AUGUST 24, 2011
AMENDED IN ASSEMBLY JUNE 22, 2011
AMENDED IN SENATE MAY 20, 2011
AMENDED IN SENATE APRIL 26, 2011

INTRODUCED BY Senator Polunov
(Principal author: Assembly Member Vargas)
(Coauthor: Assembly Member Shelly)

FEBRUARY 22, 2011

An act to amend Sections 11602 and 11603 of the Government Code, and to add Sections 31402.1, 31402.2, and 31402.3 to the Public Resources Code, relating to coastal access.

LEGISLATIVE COUNCIL'S DIGEST

SB 11602, Polunov. State coastal conservation; coastal access.

(1) Existing law requires the State Coastal Conservancy to implement and administer various coastal protection programs and projects, including a system of public accessways to and along the state's coastline. Existing law authorizes the conservancy to acquire, develop, and maintain areas for public access to significant coastal resources and generally authorizes the conservancy to award grants to public agencies and nonprofit organizations for the purpose of acquiring land for public accessway purposes along the coast.

This bill would require the conservancy to accept any outstanding offer to dedicate a public accessway that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date. The bill would additionally require the conservancy to open at least 3 public accessways each year either directly or by awarding grants to public agencies or nonprofit agencies for that purpose. The bill would prohibit the use of money appropriated from the General Fund for those purposes.

This bill would additionally authorize the conservancy to transfer public access easements or other easements for interests in property to a public agency or nonprofit organization for development, management, or public use, and would authorize the conservancy to enter into agreements with those entities for those purposes.

BILL NUMBER: **SB 1962** CHAPTERED
BILL TEXT

CHAPTER 518
FILED WITH SECRETARY OF STATE SEPTEMBER 13, 2002
APPROVED BY GOVERNOR SEPTEMBER 12, 2002
PASSED THE SENATE AUGUST 30, 2002
PASSED THE ASSEMBLY AUGUST 28, 2002
AMENDED IN ASSEMBLY AUGUST 26, 2002
AMENDED IN ASSEMBLY AUGUST 24, 2002
AMENDED IN ASSEMBLY JUNE 25, 2002
AMENDED IN SENATE MAY 29, 2002
AMENDED IN SENATE APRIL 24, 2002

INTRODUCED BY Senator Polanco
(Principal coauthor: Assembly Member Vargas)
(Coauthor: Assembly Member Shelley)

FEBRUARY 22, 2002

An act to amend Sections 11005 and 15853 of the Government Code, and to add Sections 31402.1, 31402.2, and 31402.3 to the Public Resources Code, relating to coastal access.

LEGISLATIVE COUNSEL'S DIGEST

SB 1962, Polanco. State coastal conservation: coastal access.

(1) Existing law requires the State Coastal Conservancy to implement and administer various coastal protection programs and projects, including a system of public accessways to and along the state's coastline. Existing law authorizes the conservancy to acquire, develop, and maintain areas for public access to significant coast resources and generally authorizes the conservancy to award grants to public agencies and nonprofit organizations for the purpose of acquiring land for public accessway purposes along the coast.

This bill would require the conservancy to accept any outstanding offer to dedicate a public accessway that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date. The bill would additionally require the conservancy to open at least 3 public accessways each year either directly or by awarding grants to public agencies or nonprofit agencies for that purpose. The bill would prohibit the use of moneys appropriated from the General Fund for those purposes.

This bill would additionally authorize the conservancy to transfer public access easements or other less-than-fee interests in property to a public agency or nonprofit organization for development, management, or public use, and would authorize the conservancy to enter into agreements with those entities for those same purposes.

(2) With certain exceptions, existing law generally requires the approval of the Director of Finance before the state may accept a gift or dedication of personal or real property. Existing law further requires that all contracts related to acquisition of real property by the state be reviewed and approved by the Director of General Services.

This bill would exclude from the above requirement offers to dedicate public accessways made to the conservancy pursuant to the California Coastal Act.

(3) Existing law requires that all real property and interests in real property to be acquired by or for any state agency, with specified exceptions, be acquired by the State Public Works Board.

This bill would exclude from the above requirement offers to dedicate public accessways made to the conservancy pursuant to the California Coastal Act.

(4) The bill would require the Executive Director of the California Coastal Commission to determine that specified requirements are met before an offer to dedicate an interest in real property may be transferred to a nonprofit organization. The bill would additionally provide that the conservancy shall retain a power of entry with the option to reclaim or assign the interest under specified circumstances.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11005 of the Government Code is amended to read:

11005. (a) Unless the Legislature specifically provides that approval is not required, every gift or dedication to the state of personal property, or every gift to the state of real property in fee or in any lesser estate or interest, shall be approved by the Director of Finance, and every contract for the acquisition or hiring of real property in fee or in any lesser estate or interest, entered into by or on behalf of the state, shall be approved by the Director of General Services. Any contract entered into in violation of this section is void. This section applies to any state agency that, by general or specific statute, is expressly or impliedly authorized to enter into transactions referred to in this section.

(b) This section does not apply (1) to unconditional gifts of money, (2) to the acquisition or hiring by the Department of Transportation of real property in fee or in any lesser estate or interest for highway purposes, but does apply to the hiring by that department of office space in any office building, (3) to contracts entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, (4) to the receipt of donated, unencumbered personal property from private sources received in conjunction with the administration of the Federal Surplus Personal Property Program by the Department of General Services, (5) to the receipt of gifts of personal property in the form of interpretive or historical objects, each valued at fifteen thousand dollars (\$15,000) or less, by the Department of Parks and Recreation, or (6) the acceptance by the State Coastal Conservancy of offers to dedicate public accessways made pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.

SEC. 2. Section 15853 of the Government Code is amended to read:

15853. (a) The board may select and acquire, in the name of and on behalf of the state, with the consent of the state agency concerned, the fee or any lesser right or interest in any real property necessary for any state purpose or function.

(b) If moneys are appropriated by the Budget Act for any fiscal year or by any other act for the acquisition of land or other real property, either (1) subject to this part or (2) for any state agency for whom property is acquired by the board, the moneys and acquisitions are subject to this part and the moneys shall be expended in accordance with this part, notwithstanding any other provisions of law.

(c) Notwithstanding any other provisions of law, all land and other real property to be acquired by or for any state agency, other than the Department of Transportation, the Department of Water Resources, the State Reclamation Board, the Department of Fish and Game, the Wildlife Conservation Board, the Public Employees' Retirement System, the State Teachers' Retirement System, the Department of Housing and Community Development, the State Lands Commission, except for property to be acquired for the State Lands Commission pursuant to an appropriation from the General Fund, and the State Coastal Conservancy with respect to acceptance of offers to dedicate public accessways made pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code, shall be acquired by the State Public Works Board in accordance with this part.

(d) (1) Notwithstanding subdivision (a), the board shall acquire, on behalf of and for the Department of Parks and Recreation, in accordance with this part, any interests in real property, including options to purchase, which have been appraised, selected, and settled through purchase negotiations by the Department of Parks and Recreation pursuant to subdivision (b) of Section 5006 of the Public Resources Code. Out of moneys appropriated for the acquisition of options to purchase, no more than ten thousand dollars (\$10,000) may be expended for the acquisition of any single option unless otherwise provided by the Legislature.

(2) Notwithstanding Section 15854, purchase negotiations for interests in real property for the state park system pursuant to subdivision (d) of Section 5006 of the Public Resources Code shall be initiated within six months of the effective date of the act that appropriates funds for the acquisition. Purchase negotiations on all projects not proposed pursuant to subdivision (d) of Section 5006 of the Public Resources Code shall be initiated within 12 months of the effective date of the act appropriating funds for the acquisition. Either title shall be conveyed or a written agreement to transfer title shall be executed within the appropriate authorization period unless the Department of Parks and Recreation formally abandons the acquisition prior to the conclusion of the appropriate authorization period. For the purposes of this section, in order for the Department of Parks and Recreation to "formally abandon" an acquisition, it shall transmit written notification to the board of its intent not to proceed with the acquisition.

(3) The board, at any time during the periods specified in paragraph (2), may commence condemnation proceedings if it finds it to be appropriate. However, if, during the appropriate authorization period, title is not conveyed or a written agreement to transfer

title is not signed, the acquisition has not been formally abandoned, or condemnation proceedings have not been commenced, the Department of Parks and Recreation shall notify, by letter, the chair of the committee in each house of the Legislature that considers appropriations, the Chair of the Joint Legislative Budget Committee, and the Members of the Legislature within whose district any part of the land or other real property is located of the status of the acquisition. For the purpose of this paragraph, condemnation proceedings shall be deemed to be commenced as of the date the board authorizes acquisition by condemnation.

(4) The board may schedule special meetings as are necessary to expedite the acquisition of options to purchase real property for the state park system.

(e) The board may acquire furnishings that the owner thereof agrees to sell and that are contained within improvements acquired by the board. Cost of acquisition of furnishings shall be charged to the appropriation available for acquisition of the real property.

SEC. 3. Section 31402.1 is added to the Public Resources Code, to read:

31402.1. (a) It is the intent of the Legislature to provide for timely acceptance of offers to dedicate interests in property, recorded pursuant to Division 20 (commencing with Section 30000) and needed to provide public access to and along the ocean shoreline.

(b) The Legislature finds and declares all of the following:

(1) In order to prevent the potential loss of public accessways to and along the state's coastline, it is in the best interest of the state to accept all offers to dedicate real property that protect open space or have the potential to provide access to public tidelands, including any beach, shoreline, or view area, or that provide a connection to other easements or public properties providing this access.

(2) Offers to dedicate interests in property that are required and recorded pursuant to Division 20 (commencing with Section 30000) provide mitigation necessary for approved development to occur consistent with the policies and objectives of that division and are not gifts to the state or acquisitions of property interests within the meaning of Section 31105.

SEC. 4. Section 31402.2 is added to the Public Resources Code, to read:

31402.2. The conservancy shall accept any outstanding offer to dedicate a public accessway that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date.

SEC. 5. Section 31402.3 is added to the Public Resources Code, to read:

31402.3. (a) The conservancy shall open at least three public accessways each year either directly or by awarding grants to public agencies or nonprofit organizations.

(b) The conservancy may transfer public access easements or other less-than-fee interests in property to any appropriate public agency or nonprofit organization for development, management, or public use, or may enter into agreements with public agencies and nonprofit organizations for the development, management, or public use of the accessway.

(c) No public accessway accepted pursuant to Section 31402.2 shall be developed, improved, or formally opened for public use until its transfer, development, or public use has been authorized by the conservancy.

(d) The conservancy may not use moneys appropriated from the General Fund for the purposes of this section.

SEC. 6. (a) Before approving the conveyance by the conservancy to a nonprofit organization of an offer to dedicate an interest in real property under Division 20 (commencing with Section 30000) of the Public Resources Code, the Executive Director of the California Coastal Commission shall determine the following:

(1) The nonprofit organization qualifies and is in good standing as a nonprofit organization under Section 501(c)(3) of the United States Internal Revenue Code.

(2) The nonprofit organization has filed a Form 990 with the Internal Revenue Service.

(b) The nonprofit organization shall submit to the California Coastal Commission a management plan that describes the nonprofit organization's planned management and operation of the interest.

(c) The conservancy shall retain a power of entry, with the option to reclaim or assign the interest, if the commission determines that the nonprofit organization is not managing or operating the interest consistent with the management plan developed pursuant to subdivision (b).

COASTAL CONSERVANCY

Project Summary
January 24, 2002

ACCEPTANCE OF PUBLIC ACCESS EASEMENTS

SOUTH COAST

File No. 02-011

Project Manager: Jean Coulter

RECOMMENDED ACTION: Conservancy supports and possible future transfer of seven
Odds to District public access easements.

**ACCEPTANCE OF PUBLIC ACCESS EASEMENTS
CENTRAL AND SOUTH COAST**

Agenda Item 8.

January 24, 2002

The Coastal Conservancy's proposed Odds to District Public
Access easements adopted by the Conservancy in December
2001, states that the Conservancy will seek to transfer the equi-
valent of any ODD by transferring any unassigned ODDs at
least six months prior to their date of expiration. The Conser-
vancy's policy is to accept any such ODD after giving the con-
sideration to the feasibility of public use of the dedicated ac-
cessway, as well as any opinions of Conservancy legal staff or
the Attorney General that the ODD is fairly valued or likely to
be determined market.

The ODDs are the result of conditions applied to coastal devel-
opment permits to mitigate the loss of potential public access to
the east. Coastal Commission and Coastal Conservancy staff
members have been working to secure the location of seven
ODDs awarded through this process by the appropriate local
government or state government agency. Because the prop-
erty of any of these ODDs by the Conservancy is subject to
review and approval by the Department of General Services
and the Public Works Board, it is timely for the Conservancy to
consider acceptance of these ODDs now so that the review and
acceptance process can be completed prior to their expiration.

COASTAL CONSERVANCY

Project Summary
January 24, 2002

**ACCEPTANCE OF PUBLIC ACCESS EASEMENTS
SOUTH COAST**

File No. 02-011
Project Manager: Joan Cardellino

RECOMMENDED ACTION: Conservancy acceptance, and possible future transfer, of seven Offers to Dedicate public access easements.

LOCATION: Oceanfront sites in Los Angeles and San Diego Counties

PROGRAM CATEGORY: Dedications/Public Access

ESTIMATED COST: Staff costs only.

PROJECT SUMMARY: The Coastal Conservancy's policy on Offers to Dedicate Public Access easements, adopted by the Conservancy in December 2001, states that the Conservancy will seek to prevent the expiration of any OTD by considering any unaccepted OTDs at least six months prior to their date of expiration. The Conservancy's policy is to accept any such OTD after giving due consideration to the feasibility of public use of the dedicated accessway, as well as any opinions of Conservancy legal staff or the Attorney General that the OTD is fatally flawed or likely to be determined invalid.

The OTDs are the result of conditions applied to coastal development permits to mitigate the loss of potential public access to the coast. Coastal Commission and Coastal Conservancy staff members have been working to secure the acceptance of seven OTDs recorded through this process by the appropriate local government or state government agency. Because the acceptance of any of these OTDs by the Conservancy is subject to review and approval by the Department of General Services and the Public Works Board, it is timely for the Conservancy to consider acceptance of these OTDs now so that the review and acceptance process can be concluded prior to their expiration.

The seven OTDs under consideration are the following (names refer to original permit applicant):

- *Santa Catalina Island Company*: two easements separately offered: a vertical easement and a lateral easement in the Hamilton Cove neighborhood on Catalina Island, City of Avalon, Los Angeles County (Exhibit 1)
- *Brown*: bluff face open space easement in Encinitas, San Diego County (Exhibit 2)
- *Furgatch*: sandy beach lateral easement in Del Mar, San Diego County (Exhibit 3)
- *Anderson*: sandy beach lateral in La Jolla, San Diego County (Exhibit 4)
- *Dinnerman*: sandy beach lateral in La Jolla, San Diego County (Exhibit 5)
- *Lillard*: vertical easement from Broad Beach Road, in Malibu, Los Angeles County (Exhibit 6)

Conservancy staff has had extensive conversations with staff in the cities of San Diego, Leucadia, and Avalon regarding their acceptance of the respective OTDs. The City of San Diego is currently considering accepting Furgatch, but is unequivocal in refusing to accept the Anderson and Dinnerman easements. The City of Leucadia has not been interested in accepting the Brown open space easement. The City of Avalon was initially receptive to accepting the Santa Catalina Island Company vertical and lateral OTDs, but is now concerned about lawsuits from property owners and threats to cut off existing informal public access across a private road in the vicinity of the easements. With respect to the Lillard OTD, staff has had discussion with Mountains Recreation and Conservation Authority (MRCA), a public agency, that may, but is not now willing, to accept the offered easement. Staff anticipates that the easement likely will be transferred to MRCA in the future, in conjunction with MRCA management of Lechuza Beach.

COASTAL CONSERVANCY

Staff Recommendation

January 24, 2002

ACCEPTANCE OF PUBLIC ACCESS EASEMENTS

SOUTH COAST

File No. 02-011

Project Manager: Joan Cardellino

STAFF

RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31104.1 and 31400 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the acceptance of the following Offers to Dedicate public access easements:

- a. The Santa Catalina Island Company property, recorded in the Official Records of Los Angeles County as document Number 81-489930, on May 15, 1981 and located at Hamilton Cove, Catalina Island, as shown in Exhibit 7;
- b. The Santa Catalina Island Company property, recorded in the Official Records of Los Angeles County as document number 489931, on May 15, 1981 and located at Hamilton Cove, Catalina Island, as shown in Exhibit 8;
- c. The Brown property, recorded in the Official Records of San Diego County in book 1981, page numbers 436 through 461 as Document Number 81-073145 on March 10, 1981, and located at 828 Neptune Street in Leucadia, in Exhibit 9;
- d. The Furgatch property, recorded in the Official Records of San Diego County in Book 1981, pages 1855 through 1861 as Document Number 81-120107 on April 20, 1981, and located on the west side of Camino del Mar in the City of Del Mar, as shown in Exhibit 10;
- e. The Anderson property, recorded in the Official Records of San Diego County in Book 1981, pages 872 through 886 as Document Number 81-261758 on Au-

gust 17, 1981, and located at 5824 Camino de la Costa, La Jolla, as shown in Exhibit 11;

- f. The Dinnerman property, recorded in the Official Records of San Diego County in Book 1981, pages 316 through 330 as Document Number 81-261465 on August 17, 1981 and located at 9044 La Jolla Shores Lane, La Jolla, as shown in Exhibit 12; and
- g. The Lillard offer, recorded July 25, 1980 in the Official Records of Los Angeles County as Instrument No. 80-709137, and located on Parcel 3 of Parcel Map No. 4358, Tract No. 10630, in the City of Malibu, as shown in Exhibit 7.

Prior to recording a Certificate of Acceptance on any of the above Offers to Dedicate, the Executive Officer of the Conservancy ("Executive Officer") shall review and approve the condition of title and shall determine that no other public agency or appropriate entity has accepted the Offer or equivalent interest in the property offered for dedication.

The Conservancy further directs the Executive Officer to identify one or more public agencies or nonprofit conservation organizations willing and able to hold and manage these easements for public use, and to request that the Director of General Services transfer ownership of the easement(s) to such entities for permanent public access purposes. This authorization shall serve as the Conservancy's public access implementation plan for transfer of these property interests pursuant to Public Resources Code Section 31107, and the Executive Officer is authorized to take all actions necessary to accomplish it."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed action is consistent with the authority and responsibilities of the Conservancy under Public Resources Code Section 31104.1 to serve as a repository for lands whose reservation is required to meet the policies and objectives of the Coastal Act;
2. The proposed action is consistent with the purposes and objectives of Sections 31400 *et seq.* of the Public Resources Code;

3. The proposed action is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001; and
 4. The proposed action is consistent with the Policy Regarding Acceptance of Irrevocable Offers to Dedicate adopted by the Conservancy on December 6, 2001.”
-

STAFF DISCUSSION:

Project Description: The proposed authorization by the Conservancy is to accept seven Offers to Dedicate public access easements (OTDs) in Los Angeles and San Diego Counties. The proposed authorization also provides for the eventual transfer of ownership of any or all of these easements to appropriate local government or nonprofit organizations for management for public use. Specific descriptions of each OTD are given below.

Santa Catalina Island Company: This includes two separate OTDs—one for a vertical easement, the other for a lateral easement. The easements would provide public access to and passive recreational use of a cove beach located in a private residential community known as Hamilton Cove. The vertical easement is 10 feet wide and runs along the southern property boundary. It extends down a high bluff (approximately 100 feet high) through a series of switchbacks, and connects to the lateral easement (see Exhibit 13). The lateral easement averages 60 feet in width, and runs along the shoreline for approximately one-quarter of a mile, and would provide public access to the small cove beach and to the adjacent shoreline on either side (Exhibit 13). Currently, the only access to the shoreline is from the water or via a private road that runs through the middle of the Hamilton Cove neighborhood. The private road is accessible to the public by permission from the guard at the station located at the entrance to the community, but this fact is not well known, and there are no signs posted to indicate that the public may walk or drive on the private road in order to reach the shoreline.

Conservancy staff have had several discussions with City of Avalon staff, and met with City staff on site in October to discuss the project in detail. While City staff seemed initially enthusiastic about the City’s acceptance of the OTDs, there is apparently little political support for such an undertaking. The cost of developing the vertical easement will be substantial, and that is a concern to the City as well. Under the terms of the

OTD, The Conservancy would be responsible for maintaining the "Easement Area." This obligation might be shared with the Hamilton Cove Homeowners Association or the City of Avalon via a negotiated agreement. Additionally, the lateral easement area contains substantial physical improvements and facilities such as rip rap, a perched beach area, pier and boat dock, restrooms, and concessionaire. While nothing in the OTD expressly dictates that the Conservancy, as the accepting entity, would be responsible for maintenance of the beach and other "Required Shoreline Facilities," dock, restroom, or other improvements, this issue may likewise require resolution, before the easement is opened. The Conservancy should accept the easement now, and continue to work with the City of Avalon on a mutually acceptable way to proceed to open the easements to public use.

The Santa Catalina Island Company OTDs expire May 15, 2002.

Brown: This is an open space easement on the bluff face of the parcel to prevent any alteration of landforms, placement or removal of vegetation, or erection of any structures on the bluff face without additional permit approval. This easement is designed to maintain the scenic and visual qualities of the coast. The property is located in the City of Encinitas, and lies immediately adjacent to Beacons Beach. Beacons Beach is managed by the City, but is owned by the California Department of Parks and Recreation. Beacons Beach is immediately adjacent to Encinitas State Beach. The City is unwilling to accept OTDs lying adjacent to state beaches, believing it is preferable for State Parks to accept them. To date, Conservancy staff has not been successful in convincing the City to accept this easement, but ideally it should be transferred either to the City or to State Parks at a later date. Under the express terms of the OTD, the fee owner of the property is obligated to hold the accepting entity (the Conservancy) harmless and indemnify the accepting entity from any liability claims. Likewise, the owner of the underlying fee, and not the Conservancy, is obligated to maintain the easement. The Brown open space OTD expires March 10, 2002.

Furgatch: This OTD is a sandy beach lateral allowing for passive and recreational uses on a residential lot in the City of Del Mar. Public access to this beach lateral is available at 29th Street, located about 250 feet to the south of the property. Del Mar City Beach extends from 29th Street south to Torrey Pines

State Beach, directly adjacent to the lateral OTD, and the public regularly uses the lateral. City of Del Mar staff had indicated that the City would accept the OTD, but became reluctant to move forward when the property owner threatened to sue. Conservancy staff has continued to work with City staff to answer legal and other questions, but as of the date of writing this report, no firm commitment from the City has been received. The City already maintains the property, and City staff has indicated that it would continue to do so. The Conservancy should accept this OTD and, if possible, transfer it to the City of Del Mar at the earliest opportunity. The Furgatch OTD expires April 20, 2002.

Anderson: This is a sandy beach lateral OTD in the community of La Jolla, City of San Diego. The easement offered by the OTD extends from the toe of the bluff on the property to the mean high tide line. The site is adjacent to La Jolla Hermosa Park, but is not accessible from the park. The high sheer bluffs bordering the OTD and the lack of public access to the top of the bluff appear to make vertical access infeasible, which is why the City of San Diego is not interested in accepting this easement. (See photograph in Exhibit 14.)

The OTD was required as a condition of a residential development permit. Conservancy staff has had several conversations with City staff, and the City has refused to accept this OTD because of its remote location and the City's belief that it would be infeasible to develop a vertical accessway to the small cove where the lateral sits. Due to the severe constraints on public use of the site, the City has not been able to justify its acquisition of the easement. The Conservancy should accept the OTD and transfer it to the State Lands Commission at the earliest opportunity. The Anderson OTD expires August 17, 2002.

Dinnerman: This is another sandy beach lateral OTD in the La Jolla community, required as a condition of a residential development permit (see Exhibit 15). The easement area runs seaward to the mean high tide line from the base of the seawall, creating a parallelogram shape about 20 feet wide and 55 feet long, on the beach. It is located near the southern end of Torrey Pines City Beach, which the City of San Diego maintains. The public uses the beach where the OTD is located, and the City's lifeguard patrols respond to emergencies there as needed. The City has remained consistent in its refusal to accept the easement, because it does not want to take on the added maintenance responsibility. However, maintenance of the property is

minimal, and the Conservancy would not be taking on any active management responsibilities by accepting the OTD. The Dinnerman OTD expires August 17, 2002.

Lillard: This is a vertical access trail approximately 150 feet in length, extending from Broad Beach Road toward the ocean. It terminates on the landward side of a private street, Sea Level Drive. The ocean is located on the other side of Sea Level Drive. As a result, this accessway would not be opened until public access is secured across Sea Level Drive to the beach. The offered easement is five feet in width from Broad Beach Road to the bluff edge, and ten feet in width down the bluff face to Sea Level Drive. Because of the topography and the narrowness of the access trail, development of public access at this location may require construction of a stairway to surmount the bluff face. Several private stairways already exist on this same bluff, within one hundred feet of the subject site. The site is adjacent to property for which the Conservancy and the Mountains Recreation and Conservation Authority have sought public purchase for access and recreation, and that effort is still in process. If the purchase is accomplished, MRCA may wish to take title to the subject trail as well.

Project Financing: The acceptance of these OTDs involves only administrative costs of staff analysis and Department of General Services review. The only OTD for which the Conservancy may incur maintenance costs would be the lateral at Hamilton Cove on Catalina Island. The Brown open space OTD specifically states that the easement shall be maintained by the Grantor. Furgatch will continue to be maintained by the City of Del Mar, and the Anderson easement is not accessible to the public. The Dinnerman easement does not have any public facilities that will require active maintenance. Finally, the Lillard OTD will not be opened unless and until access to the beach has been secured and, thus, involves no immediate maintenance costs.

Site Description: Please see site maps and photographs of the OTDs in Exhibits 1 through 7.

Project History: In January 1995 the Coastal Commission completed its computerized database of all the OTDs it had required through permit actions. For the first time it became possible to sort the OTDs by location, expiration date, type, and permit number. It was immediately apparent that several hundred OTDs had expiration dates between 2001 and 2008. Both Conservancy staff

and Commission staff were concerned about getting the OTDs accepted prior to their expiration and undertook a variety of outreach and assistance efforts to encourage and support local governments and nonprofit organizations to accept the OTDs and open the easements for public use.

Commission staff and Conservancy staff have approached the local governments where these OTDs are located to discuss the process for accepting the easements, and to convince the local governments that local ownership is preferable to Conservancy ownership. The City of Del Mar is tentatively scheduled to consider accepting the Furgatch OTD in February, and the City of Avalon is currently evaluating the Hamilton Cove OTDs. Both of these Cities are concerned about the costs of possible litigation. As discussed above, the City of San Diego has multiple objections to accepting the Anderson and Dinnerman OTDs. With respect to the Lillard OTD, as noted above, an appropriate local public entity, MRCA, has been contacted, but is currently unprepared to accept the OTD.

PROJECT SUPPORT: This is essentially an administrative action. No letters of support were solicited.

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

Public Resources Code Section 31104.1 directs the Conservancy to serve as repository for lands whose reservation is required to meet the objectives and policies of the Coastal Act of 1976 (Public Resources Code Sections 30000 *et seq.*) Pursuant to this authority, the Conservancy may accept dedication of fee title, easements, development rights or other interests in lands, including interests required to provide public access to recreation and resources areas in the coastal zone.

In its action on the permits referenced in the seven OTDs which are the subject of this recommendation, the California Coastal Commission determined that it could not approve development consistent with the policies and objectives of the Coastal Act, except on condition that public access be provided. Reservation of the dedicated easement areas is required to meet the policies and objectives of the Coastal Act, and it is appropriate under Section 31104.1 that the Conservancy serve as a repository for these interests in property until they can be transferred to an appropriate entity for public use and management.

Public Resources Code Section 31402 provides that, in order to assure that an adequate system of public accessways is provided along the entire coastline, the Conservancy may acquire fee title or lesser interests in areas required for public access to significant coastline resources. By accepting these OTDs, the Conservancy preserves the possibility for public access to scenic areas of the coast, even though at present these easements may not connect to larger beaches or trails.

**CONSISTENCY WITH
CONSERVANCY'S
PROJECT SELECTION**

CRITERIA & GUIDELINES: The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

Promotion of the Conservancy's Statutory Programs and Purposes: As discussed above, this proposed project is consistent with the purposes of Division 21 of the Public Resources Code by accepting the dedication of property interests required to meet the objectives of the Coastal Act.

Support from the Public: This is essentially an administrative item since no perceptible changes in use of these properties will occur. Therefore, no letters of support have been solicited.

Location: These OTDs are all located within the coastal zone and will preserve public coastal access.

Need: Preserving access points for now and the future is very important in order to ensure that the ever-growing population has access to a variety of beach locations and experiences.

Additional Criteria

Urgency: As mentioned above, it is critical that the Conservancy act now to accept these OTDs so that the acceptance process can conclude prior to their expiration dates.

**CONSISTENCY WITH
THE COASTAL ACT:**

Acceptance of these dedications is required to meet the policies and objectives of the Coastal Act for vertical and lateral access to the California coast, as required by California Coastal Commission permits. Section 30210 of the Coastal Act states that "maximum access...shall be provided for all the people." This authorization seeks to ensure the continued preservation of

public access opportunities in Los Angeles and San Diego Counties. By accepting these OTDs the Conservancy would preserve the ability to transfer public access easements to another entity that can open and manage them for public use.

**CONSISTENCY WITH
LOCAL COASTAL
PROGRAM POLICIES:**

Acceptance of the Santa Catalina Island Company OTDs is consistent with the City of Avalon's Local Coastal Program public access policy number 3. This policy states "Development in the Hamilton Beach area shall leave the beach immediate upland area for public recreation and beach activity." The Conservancy's acceptance of these OTDs ensures that this policy can be carried out.

Acceptance of the Brown open space OTD is consistent with the City of Encinitas' General Plan. The plan identifies bluff erosion as an important issue in the Leucadia neighborhood of the city, which is where the Brown OTD is located. The Brown OTD prevents any changes to the vegetation on the bluff face at the time the OTD was recorded to preserve the natural quality of the site and maintain the views.

Acceptance of the Furgatch OTD is consistent with the City of Del Mar's Local Coastal Program Land Use Plan goals and policies for public access. Goal IV-A is to "Provide physical and visual access to coastal recreation areas for all segments of the population without creating a public safety concern, overburdening the City's public improvements, degrading the City's natural resources, or causing substantial adverse impacts to adjacent private properties."

Acceptance of the Anderson and Dinnerman OTDs is consistent with the general community goals of the La Jolla Community Plan and Local Coastal Program Land Use Plan. Specifically, a stated goal is to "Enhance existing public access to the ocean, beach, and park areas . . . along the shoreline in order to be of greatest benefit to neighborhood residents and visitors to the community." By accepting these OTDs the Conservancy enhances and preserves existing public access on the Dinnerman property, and preserves the possibility of public access to the Anderson property at some point in the future.

There is at present no approved Local Coastal Program (LCP) for the Malibu area. In 1986, prior to the incorporation of the City of Malibu, the Coastal Commission approved the Los Angeles County Malibu LCP, which designates the Lechuza

Beach area as a high priority for the provision of additional public beach access. Acceptance of the Lillard OTD, in conjunction with other proposed public actions, would provide such access to Lechuza Beach.

COMPLIANCE

WITH CEQA: Acceptance of each of the seven OTDs is categorically exempt from the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations Section 15313 (Class 13), regarding the acquisition of land for wildlife conservation purposes, including preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition; and under 14 Cal. Code of Regulations Section 15317 (Class 17), regarding the acceptance of easements in order to maintain the open space character of an area.

Acceptance of the Santa Catalina Island Company lateral OTD is also categorically exempt from CEQA under 14 Cal. Code of Regulations Section 153301(c), to the extent that the easement consists, in part, of pedestrian walkways and similar facilities which are being altered only by the acceptance of the OTD and not by any physical change to the existing conditions.

Acceptance of the Lillard OTD is also categorically exempt from CEQA under 14 Cal. Code of Regulations Section 15316. The project is limited to the acquisition of public parkland for the purpose of preserving natural open space and permitting public access to the beach. No management plan has been prepared for the public park, and no development of additional facilities will take place until a management plan and environmental analysis have been prepared.

The subsequent transfer of any of these OTDs, as additionally authorized by the Board resolution, is also exempt from CEQA pursuant to 14 Cal. Code of Regulations Section 15325.

Staff will file Notices of Exemption upon approval of the acceptance of each OTD.

80-709137

This is to certify that this is an exact copy of the document on file in the office of the County Registrar

RECORDED IN THE OFFICE OF THE COUNTY REGISTRAR
DATE: 08/08/82
BY: PO Box 2450
CITY: Long Beach, CA 90801



County, California. As Deput
Date of Rec: July 1982
FIRST AMERICAN TILE INSU
BY: DJ Triplet

IRREVOCABLE OFFER TO DEDICATE

I. WHEREAS, W. HUSTON LILLARD JR is the record owner(s), hereinafter referred to as "owner(s)," of the real property located at 31736 BROADBEACH RD MALIBU, California and legally described as LOT 3 PARCEL MAP NO. 4358, hereinafter referred to as the "subject property"; and

II. WHEREAS, the California Coastal Commission South Coast Region, hereinafter referred to as "the Commission," is acting on behalf of the People of the State of California; 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 RESIDENCE AND LOT RECONSOLIDATION on the subject property; and

V. WHEREAS, a coastal development permit no. A-77-171 (A-77-171 Exhibits A+B) was granted on AUGUST 25 1977 by the South Coast Regional Commission in accordance with the provisions of the staff recommendation and findings attached in Exhibits A+B+C and hereby incorporated by reference and subject to the following condition:

Submit a deed restriction for recording granting a physical public access way across the property, 5 feet in width from the Broadbeach right of way to the bluff edge, and 10 feet in width down the bluff to the beach.

The intent of the condition is an access way to the beach for public access. The Commission as described in the staff recommendation is a parcel located between the first public road and the bluff edge. The access way is a public access way to the beach.

VI. WHEREAS, under the provisions of Sections 30210 through 31112 of the California Coastal Act of 1976, public access to the shoreline and along the coast is to be maintained, and all coastal development projects located between the first public road and the bluff edge shall provide for public access to the beach.

80-709137

VIII. WHEREAS, the Commission found that but for the imposition of the above conditions the proposed development could not be found consistent with the public access provisions of Sections 30210 through 31212 of the California Coastal Act of 1976 and that a permit could not therefore have been granted.

NOW, THEREFORE, in consideration of the granting of permit A-77-171 Exhibit B to the owner(s) by the Commission, the owner(s) hereby irrevocably offer(s) to dedicate to the State Coastal Commission, County of Los Angeles or any public agency of the State of California, or private association acceptable to the Executive Director of the California Coastal Commission South Coast Regional Commission, an easement of 5' along the westerly boundary of said property to the bluff and 10' in width from the bluff to San Lead Dunes located in Malibu in County of Los Angeles, Ca. more specifically described on attached Exhibit D which is hereby incorporated by reference.

This irrevocable offer of dedication shall be binding upon the owner(s), and the 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 South Coast Regional Commission or its successor in interest.

This offer of dedication is offered subject to a deed restriction which runs with the land, providing that the first offeror to accept the offer may not abandon the offer, but must instead offer to other public agencies or private association acceptable to the Executive Director of the South Coast Regional Commission or its successor in interest, for the duration of the term of the original offer to dedicate. The grant of easement once made shall run with the land and shall be binding on the parties, their heirs and assigns.

Witness my hand and seal of said County of Los Angeles, this 12th day of Sept, 1977, in the City of _____

Dated: 9/28/77

By: [Signature]

Notary Public

STATE OF CALIFORNIA

COUNTY OF Ventura



On January 7, 1980, before the undersigned, a Notary Public for the County and State mentioned above, personally appeared W. Huston Lillard III, whose names are subscribed to the within instrument, and acknowledged that they executed the same.

Debra J. Triplet
Notary Public in and for said County and State

TO BE FILLED IN BY COMMISSION

This is to certify that the offer to dedicate set forth above, dated January 7, 1980, and signed by W. Huston Lillard III owner is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission South Coast Regional Commission when it granted Coastal Development Permit No. A-77-171 A-77-1466 on August 25, 1979 and the California Coastal Commission South Coast Regional Commission consents to recordation thereof by its duly authorized officer.

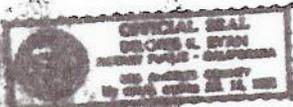
Dated: 1-24-80

Michael Carpenter
Executive Director, South Coast Regional Commission

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On January 24, 1980, before the undersigned, a Notary Public in and for said State, personally appeared Michael Carpenter known to me to be the person who executed the within instrument on behalf of said California Coastal Commission South Coast Regional Commission executed the same.

Witness my hand and official seal.



George A. Brown
Notary Public in and for said County and State

STATE OF CALIFORNIA
CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION
168 E OCEAN BOULEVARD, SUITE 310P
P.O. BOX 1488
LONG BEACH, CALIFORNIA 90801
213. 770.2711 1714. 805.0442

BOARD OF SUPERVISORS

EXHIBIT A



COASTAL DEVELOPMENT PERMIT

FILE COPY

Application Number: A-8-1-77-1466

Name of Applicant: W. Huston Lillard III
875 So. Westland Blvd., Ste. 206
Westland Village, CA 91361

Permit Type: Emergency
 Standard
 Administrative

Development Location: 21790 Broad Beach Rd.
Malibu, CA

Development Description: Amendment to a previously approved land con-
solidation of 7 vacant lots totaling 37,032 sq. ft. into 4 lots and con-
struction of four 2-story, 4,000 sq. ft. SFDs for consolidation of 4 vacant
lots into 3 lots, approx. 11,000, 11,200, 14,200 sq. ft. & construction of
three 2-story SFDs (two 3 bedroom, and one 6 bedroom) with 3-car attached
garage. No increase in height.

2. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

- SEE ATTACHED -

Condition/s Met On February 1, 1978 By [Signature]

50-709137

as /th

Page 1 of 2

the South Coast Commission finds that:

- A. The proposed development, or as conditioned, is:
 - 1. The developments are in conformity with provisions of Chapter 3 of the California Coastal Act of 1976 and 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 of the California Coastal Act of 1976.
 - 2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
 - 3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

II. Whereas, at a public hearing, held on August 25, 1977 at Huntington Beach by a unanimous vote, permit application number A-8-1-77-1466 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a copy of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on February 1, 1978.



M. J. Carpenter
Executive Director
ac/kh/eva

I, _____, permittee/agent, hereby acknowledge receipt of Permit Number A-8-1-77-1466 and have accepted its contents.

(date)

(signature)

112119

88-788137

Huston Lillard III
A-8-1-77-1466

CONDITIONS

FILE COPY

Prior to issuance of permit, applicant shall:

1. Submit a deed restriction for recording granting a vertical public accessway across the property, 5 feet in width from the Broad Beach Road right-of-way to the bluff edge, and 10 feet in width down the bluff face to Sea Level Drive.
Such accessway shall not be opened to the public until such time as access has been obtained to the beach.
2. Revised plans (plot plan with topo and floor plan if needed) showing that the structure proposed on the southwest parcel maintains a bluff setback equal to the bluff setback of the existing residence immediately to the west.
3. A deed restriction for recording prohibiting the construction of private stairways, structures or alterations on the bluff face.
4. Revised plans showing that the structure on the middle parcel shall be set back 25 feet from bluff edge.

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION
200 S. Ocean Boulevard, Suite 200
P. O. Box 1400
Long Beach, California 90801
213/590-3071 714/846-0648



COASTAL DEVELOPMENT PERMIT

Application Number: P-2-15-77-171
Name of Applicant: American Pacific Development Company
875 B. Westlake Blvd., #206, Westlake Village, CA 91361

Permit Type: Emergency
 Standard
 Administrative

Development Location: 31730 Broad Beach Road, Malibu, CA (approximately)

Development Description: Consolidate seven existing parcels of various
sizes (.85 acres total) and resubdivide into four parcels,
(2 at +10,000 square feet and 2 at +6,500 square feet), with condition:

I. The South Coast Commission finds that:

A. The proposed development, or as conditioned, is:

1. In conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of local government to prepare a local coastal program in conformity with said chapter.
2. If located between the nearest public road and the shoreline of any body of water in the coastal zone is in conformity with public access and public recreation policies of Chapter 3, California Coastal Act of 1976.
3. That there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the development as finally proposed may have on the environment.

30-786127

II. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

See attached for condition.

Condition/s Met On _____ By KV

XVI. Whereas, at a public hearing, held on March 14, 1977 at _____ (date) _____ Terrace by a 10 to 0 vote permit application number P-2-15-77-171 is approved.

XV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

This permit shall not become effective until a copy of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

XIV. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

XIII. Issued on behalf of the South Coast Regional Commission on _____, 1977.

M. J. Carpenter
Executive Director

_____, permittee/agent, hereby acknowledge
acceptance of Permit Number P-2-15-77-171 and have accepted its contents.

(signature)

10-70152

Conditions for P-171

Prior to issuance of permit, applicant shall:

Submit a deed restriction for recording granting a vertical public easement across the property, 3 feet in width from the Broad Beach Road right-of-way to the bluff edge, and 10 feet in width down the bluff face to Sea Level Drive.

Such easement shall not be opened to the public until such time as access has been obtained to the beach.

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION
200 S. OCEAN BOULEVARD, SUITE 2107
P. O. BOX 1000
LONG BEACH, CALIFORNIA 90801
TEL 590-5071 FAX 846-0648

EXHIBIT C

*2/17/77
pending
could be
10-0
approved*
March 1977

To: Commissioners
From: Executive Director
Subject: Staff Summary and Recommendations
Application No.: P-2-15-77-171 ✓

- Attachments:
- 1. Location Map
 - 2. Parcel Map
 - 3. Grading Plan
 - 4. Acquisition Review, Staff Recommendation
 - 5.
 - 6.

1. Administrative Action:

The application has been reviewed and is complete. The 42-day hearing period expires 3-29-77. Public hearing is scheduled for 3-14-77. Continuances, (if any) were granted as follows:
a. _____
b. _____
c. _____

2. Applicant:

American Pacific Development Company
Applicant's full name
S.
6720 Moorlake Blvd., #206
Address
Westlake Village, CA 91361

213/881-1070
Telephone number

3. Representative's name

Telephone number

Address

4. Project location:

- (a) City or counties
- (b) _____
- (c) District
- (d) Area

PROJECT DESCRIPTION:

Consolidate seven existing parcels of various sizes (± .85 acres total) and redivide into four parcels (2 at ±10,000 sq. ft. and 2 at ±6,500 sq. ft.).

LOCATION DESCRIPTION & STREET ADDRESS: approx. - 31730 Broad Beach Rd. (Between Broad Beach Rd. and the beach), west of Trancus Beach in Malibu.

DISTANCE FROM MEAN HIGH TIDE LINE: +70 yds.

PRESENT USE OF PROPERTY: vacant

SITE SIZE: 2/ irregular = 37,032 sq. ft.

PERMITS: GROSS: NET:

NET MIX:

ON-SITE PARKING: Primary = Size = Total =

Stands = Size = Above APC =

PROJECT HEIGHT: Above CFE = Above APC =

PROJECT COST: \$200,000 including homes in P-77-172

RE:

AGENCY APPROVAL: Approval in Concept - L.A. County R.R.D.

Homeowners Assoc. - Health Dept. -

Building Dept. - PDCC -

APP

→ 80-789137

Inland of Broad Beach Rd., between Broad Beach Rd. and Pacific Coast Hwy., a more recent subdivision was created in a R-1-7500 zone. This area has been almost completely developed.

Because the original subdivision of which this site is a part, created separate parcels on the bluff faces and across the bluff top, this applicant's property currently includes seven separate parcels. (two are on bluff faces, two are shallow lots parallel to Broad Beach Road).

The applicant wishes to consolidate these seven original parcels and resubdivide to create four new parcels (though a technicality, the applicant will actually combine two adjoining lots for use as one building site and will consolidate the remaining five to redivide into three new parcels). The new parcels will be approximately 6100, 6500, 10,300 and 10,800 sq. ft. respectively.

It is questionable whether all seven existing lots could legally or practically be used as building sites. Nevertheless, this proposed lot line adjustment and resubdivision would create four building sites which are comparable in size to those surrounding it.

Public Access And Beach Acquisition:

This property was previously recommended as a high priority acquisition proposal by the State Dept. of Parks and Recreation. Both vacant bluff top ownerships combined with the Adamech beach property below had funding appropriations from the legislature and went before the State Public Works Board for approval. Part of these areas along with additional beach property extending east around Lechuza Point, were adopted as high priority acquisition recommendations by the State Coastal Commission (see attached acquisition proposal map).

The Public Works Board decided not to approve the appropriation, basically because of legal difficulty encountered in gaining access from the bluff parcels, across the private road to the Adamech beach parcels, because of the sale of one bluff top ownership to a new buyer who was unwilling to sell to the State, and because of opposition to the acquisition by local residents.

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After the decision of the Public Works Board, the owner of this subject property (Mr. Powsner, at the time) went before the State Coastal Commission requesting that his property be removed from the Commission's acquisition list (see attached staff recommendation). The staff recommended the site be retained on the list and the Public Works Board reconsider their decision. Should this not be acceptable, the staff recommended, at minimum, that the entire beach property remain on the list and a public accessway, across the bluff top property, also be retained. The Commission approved this latter recommendation and now the owner, Mr. Powsner, has the property in escrow to a new buyer, American Pacific Development Company, who is proposing this division into four parcels and subsequent development.

The escrow instruction between Mr. Powsner and American Pacific Development acknowledge the Commission may require dedication of a public access strip across the bluff and that the buyer will not reject that. In anticipation of this, the applicant has designed into his plan a 5' wide access strip across the bluff (see grading plan).

Staff recommends that an accessway should be dedicated, as recommended by the State Commission, even though the dedication would not extend to the tide line. An access strip across this ownership would be a major link in what should eventually extend across the private road to the beach property. Until the legal aspects of such a plan could be worked out, the accessway should not be opened to the public.

Findings:

1. The project site is the westerly half of the only remaining vacant bluff top area along the western end of Broad Beach Road in Malibu.
2. The proposed project would consolidate seven existing parcels and subdivide the property into four lots.

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3. The lots would be roughly comparable in size to the surrounding parcels but would be aligned two lots deep across the bluff top where as most surrounding residences extend across the entire bluff top.

4. The project site was formerly scheduled for acquisition by the State but because of opposition and complications encountered before the Public Works Board, the acquisition was not approved.

5. The site, along with the vacant beach property below, was previously recommended for high priority acquisition by the State Coastal Commission.

6. After reconsideration, the Commission removed the bluff top property from the acquisition list but retained on the list a public accessway easement across the bluff top to the beach.

7. The applicant, anticipating this requirement, has designed a 5 foot access strip into his proposal.

8. The site would have potential for passive public recreation but in light of the past decisions of the Public Works Board and State Coastal Commission, the site has very little probability of being acquired for that purpose.

9. If an accessway is obtained across this property, the project would be in conformity with Chapter 3 of the Coastal Act and would not prejudice the ability of the local government to prepare a local coastal plan in conformity with said chapter.

10. The project is located between the nearest public road and the shoreline and as conditioned, would conform to the public access and recreation policies of Chapter 3 of the Act.

11. Feasible mitigating alternatives to the project as conditioned, which would substantially lessen any significant adverse impacts, are not readily available.

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STAFF RECOMMENDATION Approval With Conditions

Conditions:

Prior to issuance of permit, applicant shall:

1. Submit a deed restriction for recording granting a vertical public accessway across the property, 5 feet in width from the Broad Beach Road right-of-way to the bluff edge, and 10 feet in width down the bluff face to Sea Level Drive.

Such accessway shall not be opened to the public until such time as access has been obtained to the beach.

2. Pay a bond with the Los Angeles County Facilities Department equal to one-half the cost of constructing an accessway from Broad Beach Road to Sea Level Drive, figured at 1977 prices.

Staff Planner

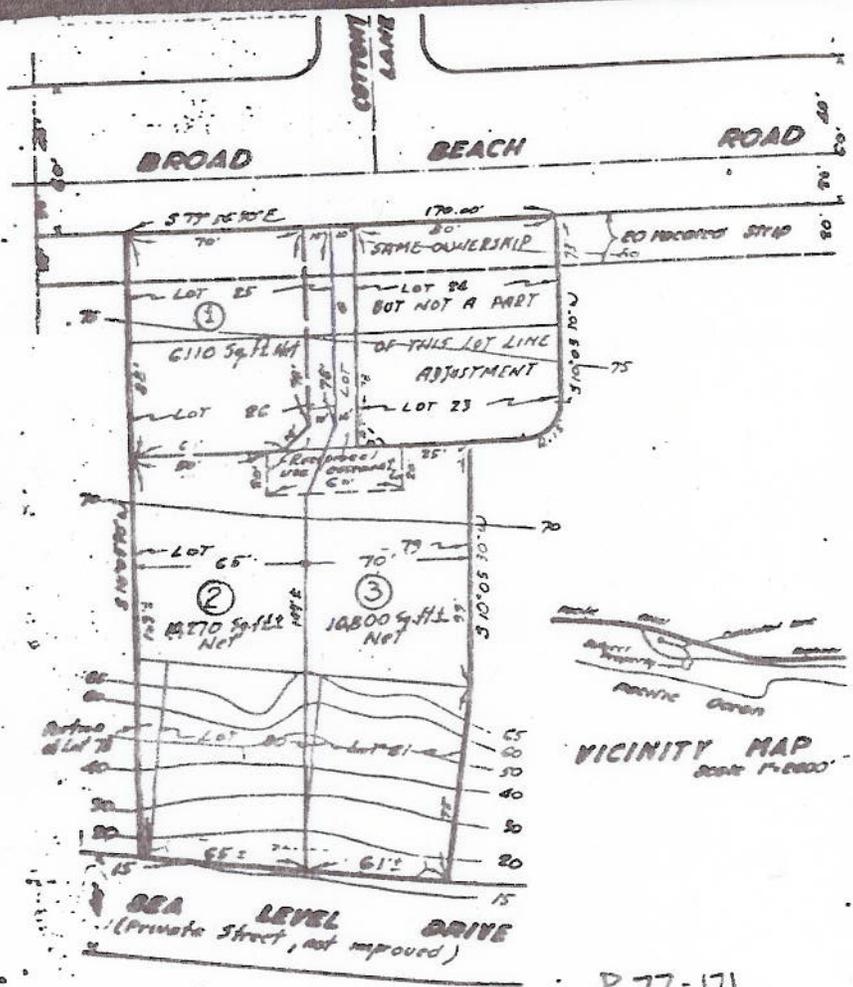
Van Orman
d

mc



LOCATION MAP

15702-08



80-709137

P 77-171

REVISED TENTATIVE PLANNED LAND DIVISION
MAP NO 4858

BEING A PROPERTY LINE ADJUSTMENT
 BETWEEN LOTS 25, 26, 27, 28, 29, 30, 31, 32, &
 PORTION OF LOT 29, ALL IN TRACT NO
 10820 N.B. 191 PG. 8-11 AND OF
 ADJACENT FACED STRIP

MALIBU

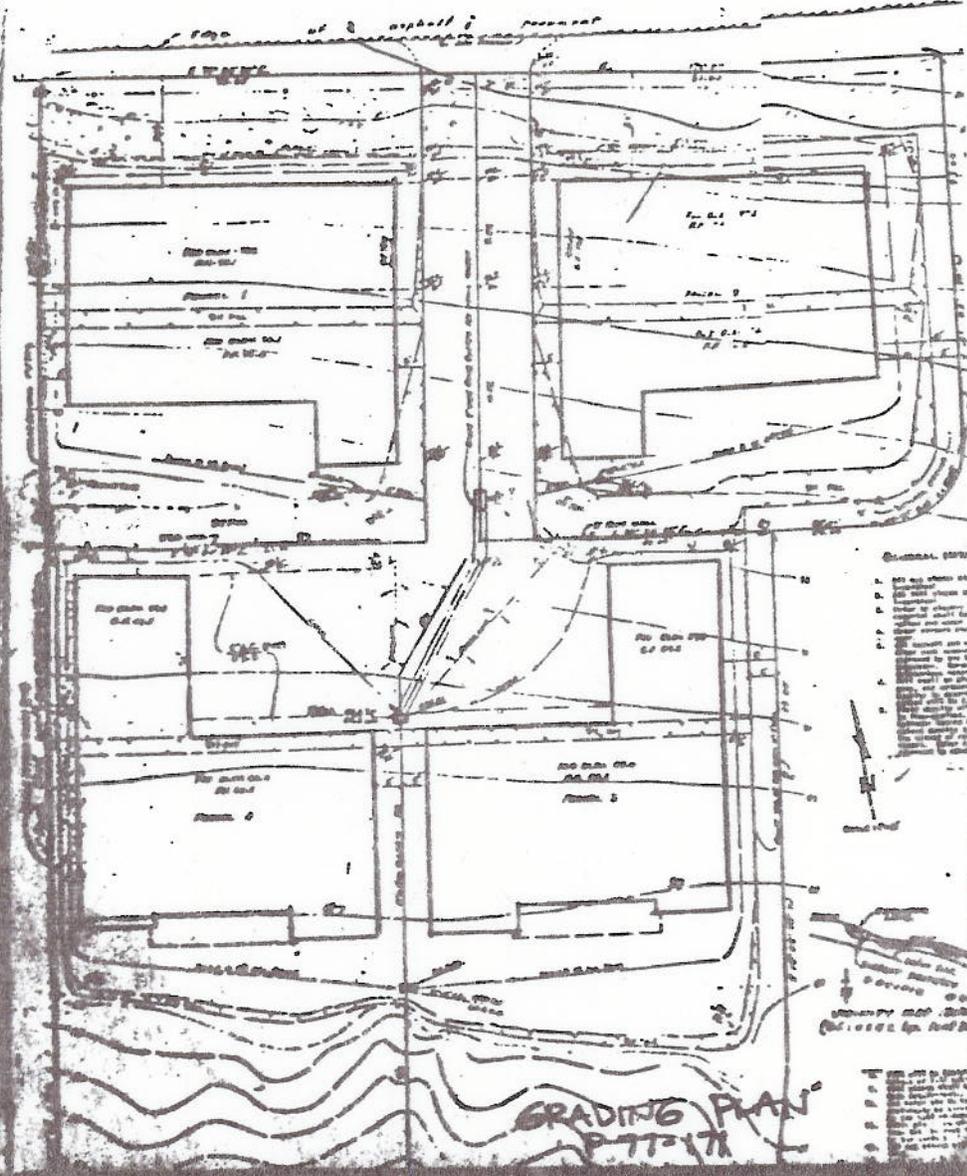
LOS ANGELES COUNTY, CALIFORNIA
 SCALE 1"=60' SEPT., 1928

Surveyed at request of
 EDWARD LLOYD and
 STANLEY ROSEBROUGH
 by **Walter C. Quinn**
 400 S. Main Street
 Los Angeles, California
 Phone (213) 486-1000



80-709137

DEERS BIRCH ROAD



- GENERAL NOTES
1. All work shall be in accordance with the specifications of the Department of Public Works, City of Chicago.
 2. The contractor shall be responsible for obtaining all necessary permits and licenses.
 3. The contractor shall be responsible for the safety of all workers and the public.
 4. The contractor shall be responsible for the protection of all existing utilities.
 5. The contractor shall be responsible for the removal of all debris and waste.
 6. The contractor shall be responsible for the final grading and paving of the site.
 7. The contractor shall be responsible for the final inspection and approval of the work.

Scale: 1" = 20'

North Arrow

1. All work shall be in accordance with the specifications of the Department of Public Works, City of Chicago.
2. The contractor shall be responsible for obtaining all necessary permits and licenses.
3. The contractor shall be responsible for the safety of all workers and the public.
4. The contractor shall be responsible for the protection of all existing utilities.
5. The contractor shall be responsible for the removal of all debris and waste.
6. The contractor shall be responsible for the final grading and paving of the site.
7. The contractor shall be responsible for the final inspection and approval of the work.

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
1540 Market Street, San Francisco 94102 — (415) 557-1001

RECEIVED

JUN 15 1976

STAFF RECOMMENDATION

Greg

South Coast Regional Commission

Acquisition Site 1141

SUBJECT:

Request of Mr. Robert Powener to delete his property (part of site 1141) from the Commission's recommended acquisition list. The site includes both beach and upland support areas in western Malibu (Exhibit A). His property is a portion of the upland area.

STAFF RECOMMENDATION:

The staff recommends that the Commission retain this entire site on the acquisition list and request the State Board of Public Works to reconsider its decision not to acquire the three parcels that it had originally planned to purchase as Encinal Beach. If the Board will not reconsider its previous decision, the Commission may reconsider the matter at a later date.

Should the Commission determine that retention of the entire acquisition site would be inequitable given the decision of the State Board of Public Works, the staff recommends that the Commission retain on the acquisition list all of the beach parcels recommended for acquisition and retain a 20 ft. wide accessway from Broad Beach Road to the beach over the intervening upland parcels.

STAFF NOTES:

1. Site Description and History. The parcels recommended for acquisition by the Commission are shown on Exhibit A and include all of the beach parcels owned by the Adamsons on the east and numerous individual beach parcels running west from the Adamson properties around Lechusa Point. This would make available to the public approximately 3/4 mile of beach frontage (4,000 ft.) now in private ownership. Also included in the acquisition site are upland parcels between the beach and Broad Beach Road that were intended to serve as an accessway to the beach and parking. These upland parcels are shown on Exhibit A as the Powener and Carty properties. Separating the Powener and Carty properties from the beach is an undeveloped private road easement owned by the homeowners of the surrounding subdivision. An accessway through it would be required to connect the upland parcels to the beach.

The State Board of Public Works, on the recommendation of the State Department of Parks and Recreation, has decided not to acquire the upland Powener and Carty parcels and the Adamson beach parcel (Exhibit B). The primary reasons discussed by the Board of Public Works were the necessity for condemnation actions because of the existence of CC&Rs and easements owned by the homeowners of the subdivision and the decision of the owner of the Carty property not to sell willingly, and the priority of the acquisition. Mr. Powener

80- 709137

has therefore requested that his parcel be withdrawn from the Commission's recommended acquisition list. Other representatives of property owners in the area speak in favor of deleting the entire acquisition site.

2. Need for Beach Areas and Beach Access in Malibu. In both its permit and planning decisions the Commission has consistently recognized the importance of the Malibu beaches as an irreplaceable recreation resource for the Los Angeles metropolitan area. This is one of the largest expanses of substantially unoccupied beach in the entire west Malibu area, and is adjacent to a proposed marine life preserve. A decision not to acquire the beach will inevitably result in an irretrievable commitment of this resource to single family homes with septic tanks on the beach. As recreational demands for beach use will just as inevitably increase in the future, the staff recommends that acquisition take place in the immediate future. If the beach is not to be acquired soon, the development pressures in western Malibu are such that the beach is unlikely to ever be acquired for public use.

Access must be provided however to make a beach usable as a major recreational resource. The nearest points from which the public can get from the nearest public road to the beach are shown in Exhibit A. The upland Pomeroy and Carty parcels are the only parcels over which a significant accessway can be developed from this approximate 1 mile stretch of beach. The only significant alternative to acquisition of all or a part of these two upland parcels would be to acquire access along the privately owned Sea Level Drive from Broad Beach Road down to the beach parcels. This solution would most likely also require condemnation because of the restrictions in the subdivision's CCRs and would not provide as direct an access from Broad Beach Road to the beach.

Acquisition of the entire Pomeroy and Carty parcels would permit a small parking lot to be constructed for beach users. Thus, the staff recommends that the Commission request the Board of Public Works to reconsider its decision and acquire these properties.

As Broad Beach Road is a public street with on street parking, however, beach users could park on Broad Beach Road and walk to the beach if an accessway was provided over the Carty and Pomeroy parcels and crossing Sea Level Drive to the beach. Such an accessway would most likely not be as disruptive to the private surrounding subdivision as purchasing all of Sea Level Drive and would be a more direct route to the beach. Thus, if the Commission determines that acquisition of the entire Carty and Pomeroy parcels should not take place, the staff recommends that the Commission retain a 20 ft. wide easement on its recommended acquisition list. Such an easement could be located between the Carty and Pomeroy parcels (e.g., 10 ft. from each parcel) and continue across Sea Level Drive to the beach.

The only other alternatives for acquiring additional access would be to acquire or require the dedication of an access easement over one of the few undeveloped lots west of the proposed acquisition site. This would reduce the distance that the public would have to walk along the beach to get to this area, but is much less desirable than an accessway near the middle of the proposed acquisition site.

Memorandum

RETIPTED FOR RECORDATION--ORIGINAL NOT LEGIBLE

COLONEL ALLENWORTH STATE HISTORIC PARK, TULARE COUNTY
(Department of Parks and Recreation. Ch 375/74, It4m 410.78(ff)
as added by Ch 1484/74.)

Upon motion made by Mr. Grimes, seconded by Mr. McCausland and unanimously carried, the Board adopted a resolution attached hereto as "EXHIBIT H", approving purchase in the amounts indicated below, of the following parcels of real property in the County of Tulare for use of the Department of Parks and Recreation.

Parcel 1920	\$3,000	Authorized by resolution adopted 10-31-75 (see pages 6 and 7 and Exhibit "0", minutes of that date.)
Parcel 1980	2,900	
Parcel 1933A & B	1,000	
Parcel 2035	550	

ENCINAL BEACH, LOS ANGELES COUNTY
(Department of Parks and Recreation. Ch 129/73, Item 35044 and 1521/74(d).)

Upon motion made by Mr. Grimes, seconded by Mr. McCausland and unanimously carried, the Board RESCINDED the resolution adopted December 20, 1974 (see pages 4 and 5 and Exhibit "C", minutes of that date) which authorized acquisition of Parcels 2394 through 2396, Encinal Beach, Los Angeles County. This action was taken after extensive testimony from J.L. Wyatt, Jr., the attorney representing the Malibu/Encinal Homeowners Association, which opposes State's acquisition of these parcels. Further opposition was also expressed by Mr. Sam Leask, a property owner and former Administrative Officer of the City of Los Angeles. Testimony in favor of proceeding with the project was heard from Senator Lou Cusanovich and from Mr. Ray Fisher, attorney for the Adamson Company who is one of the property owners. Also testifying was Mr. Les McCargo of the Department of Parks and Recreation, who informed the Board that one of the parcels had been recently sold to an owner who will not willingly sell his property to the State, which means that the only way the State could acquire that particular parcel of land is through condemnation action.

Mr. Bell then asked for a roll call vote on the Encinal Beach item:

- Mr. Grimes voted to rescind resolution
- Mr. McCausland voted to rescind resolution
- Mr. Bell voted to rescind resolution

INVERNESS RIDGE, MARIN COUNTY

Upon motion made by Mr. McCausland, seconded by Mr. Grimes and unanimously carried, the Board approved the report by the Department of Parks and Recreation on the Inverness Ridge project pursuant to Section 11.8 of the Budget Act of 1975.

80-709137

Exhibit B
Excerpt, minutes of State Board of FW

February 2, 1976

COLONEL ALLENBORTH STATE HISTORIC PARK, TULARE COUNTY
(Department of Parks and Recreation. Ch 375/74, Item 410.78(ff).
as added by CH 1484/74.)

Upon motion made by Mr. Grimes, seconded by Mr. McCausland and unanimously carried, the Board adopted a resolution attached hereto as "EXHIBIT F", approving purchase in the amounts indicated below, of the following parcels of real property in the County of Tulare for use of the Department of Parks and Recreation.

Parcel 1920	\$3,000	Authorized by resolution
Parcel 1980	2,900	adopted 10-31-75 (see
Parcel 1933A & B	1,000	pages 6 and 7 and
Parcel 2035	550	Exhibit "O", minutes
		of that date.)

ENCINAL BEACH, LOS ANGELES COUNTY
(Department of Parks and Recreation. Ch 129/73, Item 350kk and
1521/74(dd).)

Upon motion by Mr. Grimes, seconded by Mr. McCausland and unanimously carried, the Board RESCINDED the resolution adopted December 20, 1974 (see pages 4 and 5 and Exhibit "G", minutes of that date) which authorized acquisition of Parcels 2394 through 2396, Encinal Beach, Los Angeles County. This action was taken after extensive testimony from J. L. Wyatt, Jr., the attorney representing the Palisades Encinal Homeowners Association, which opposes State's acquisition of these parcels. Further opposition was also expressed by Mr. Sam Leask, a property owner and former Administrative Officer of the City of Los Angeles. Testimony in favor of proceeding with the project was heard from Senator Lou Cusanovich and from Mr. Ray Fisher, attorney for the Adanson Company who is one of the property owners. Also testifying was Mr. Les McCargo of the Department of Parks and Recreation, who informed the Board that one of the parcels had been recently sold to an owner who will not willing sell his property to the State, which means that the only way the State could acquire that particular parcel of land is through condemnation action.

Mr. Bell then asked for a roll call vote on the Encinal Beach

Mr. Grimes voted to rescind resolution
Mr. McCausland voted to rescind resolution
Mr. Bell voted to rescind resolution

INVERNESS RIDGE, MARIETTA COUNTY

Upon motion made by Mr. McCausland, seconded by Mr. Grimes and unanimously carried, the Board approved the report by the Department of Parks and Recreation on the Inverness Ridge project pursuant to Section 11.3 of the Budget Act of 1975.

Exhibit B
Excerpt, minutes of State
Board of Public Works

82-700137

Original District Board regulations proposed
 included the Primary, City, and Adams parcels.
 The Regional and Public Commissions added additional
 parcels. The parcels shown in solid black
 indicate parcels, as shown.

Acquisition Date 11/11

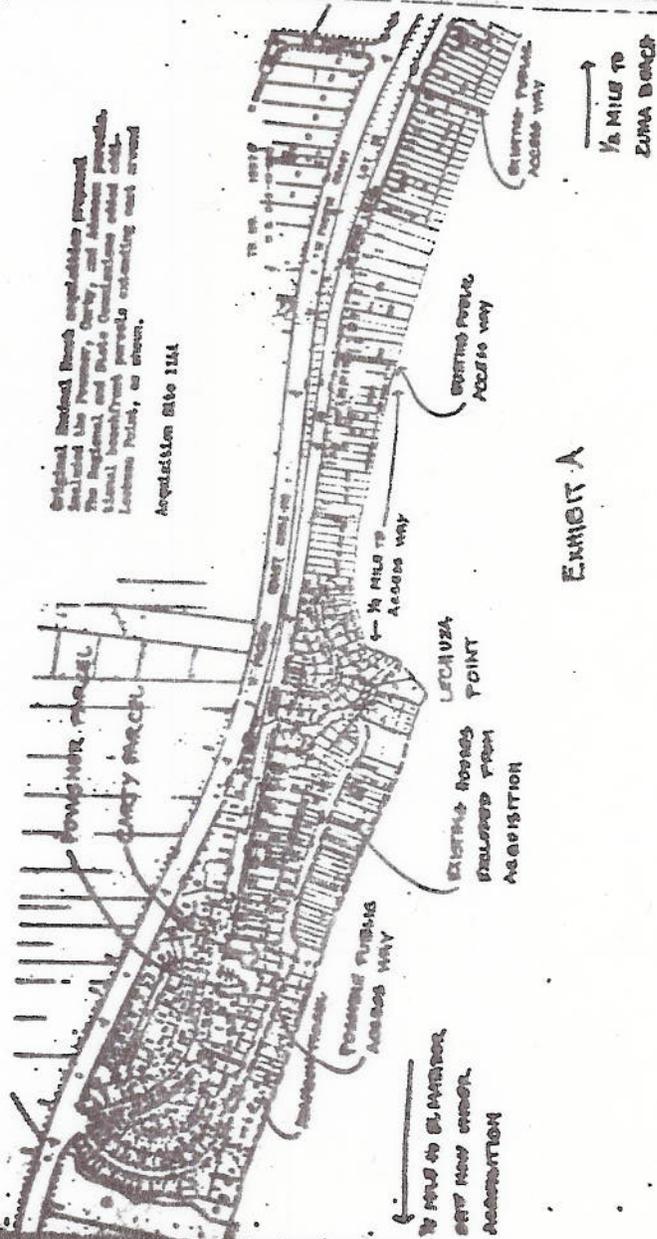


EXHIBIT A

1/21/04 -08

Original British Dutch acquisition proposal included the Pomeroy, Carty, and Adams parcels. The English and Dutch Commissioners added additional beachfront parcels extending east around Lechmas Point, as shown.

Acquisition Site 11A

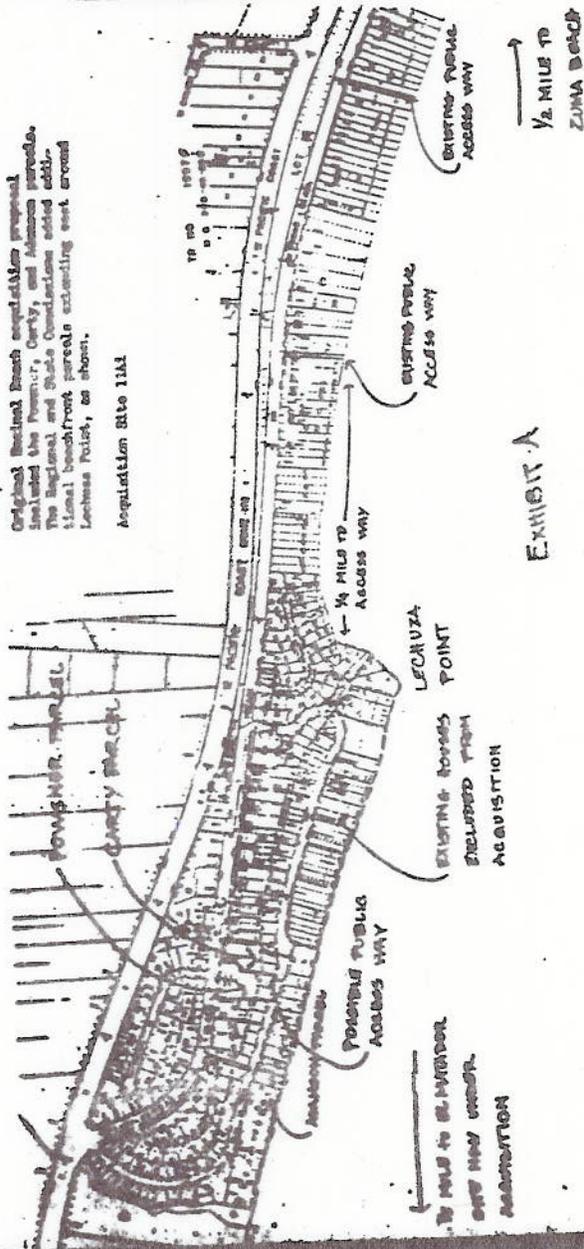
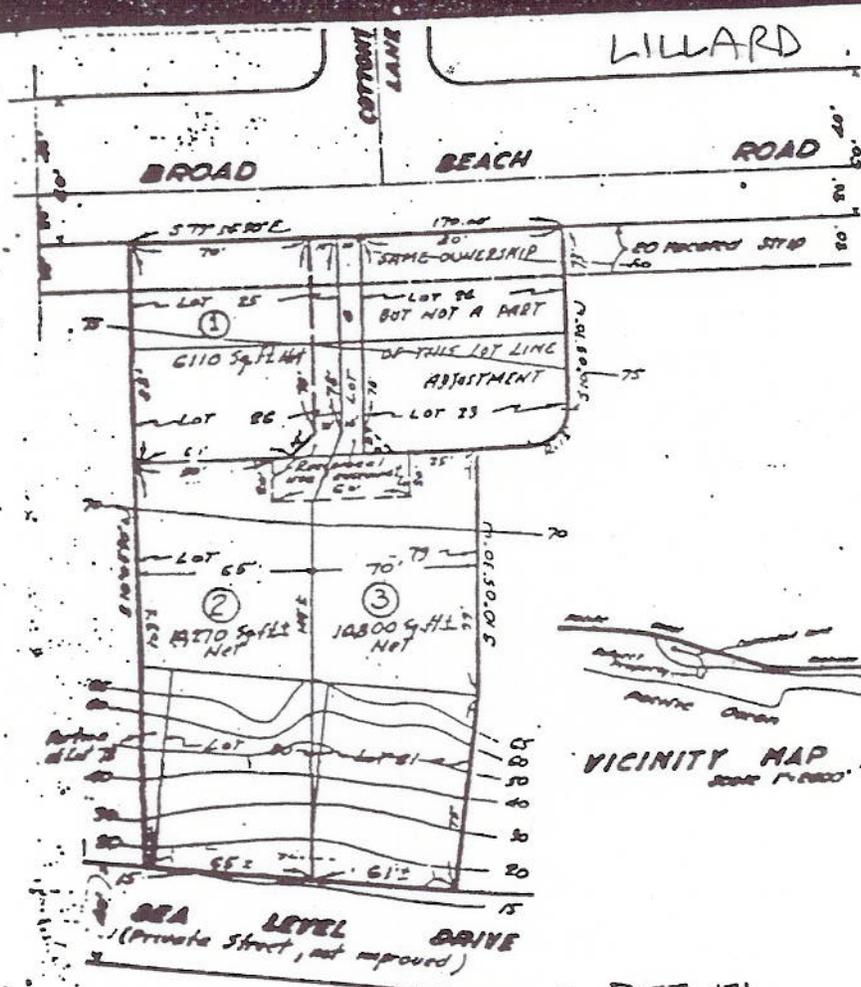


EXHIBIT A

80-709137



LILLARD

BROAD BEACH ROAD

STYERIE

170.00

30'

20' RECORD STRIP

LOT 25

LOT 26

BUT NOT A PART

6110 Sq. Ft. Net

DE-FALLS LOT LINE ADJUSTMENT

LOT 27

LOT 28

LOT 29

2 1870 Sq. Ft. Net

10800 Sq. Ft. Net

LOT 30

LOT 31

65'

61'

SEA LEVEL DRIVE
(Private Street, not improved)



VICINITY MAP
SCALE 1"=1000'

80-709137

P 77-171

REVISED TENTATIVE PLANS LAND DIVISION
MAP NO 4353

SHOWS A PROPERTY LINE ADJUSTMENT
BETWEEN LOTS 26, 27, 28, 29, 30, 31, 32, A
PORTION OF LOT 33, ALL IN TRACT NO
1880 N.B. 101 P.C. 2-11 AND OF
ADJACENT UNDATED STRIP

MALIBU

LOS ANGELES COUNTY, CALIFORNIA
SCALE 1"=50' SEPT, 1936

Prepared in support of:
REVISION LILLARD AND
MAYNARD ROAD MAP
BY RAY C. QUINN
AN ATTORNEY AT LAW
LOS ANGELES, CALIFORNIA
JANUARY 1936

