

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
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Staff: JCJ/V JG  
Staff Report 10/26/95  
Hearing Date: 11/14-17/95  
Commission Action:

STAFF REPORT: CONSENT CALENDAR**Tu 16e**

APPLICATION NO.: 4-95-177

APPLICANT: Kjell and Sharon Ostbye

PROJECT LOCATION: 28965 Grayfox, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a one story, 749 square foot studio with bath and exercise room, as a second unit separate from existing residence.

Lot area:	1.42 acres
Building Coverage:	3,890 sq. ft.
Pavement Coverage:	2,900 sq. ft.
Landscape Coverage:	1.30 acres
Parking Spaces:	3 existing
Zoning:	Residential I
Project Density:	1 du/acre
Height abv fin grade:	17 feet

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept; and City of Malibu Environmental Health Department, Approval in Concept.

SUBSTANTIVE FILE DOCUMENTS: Coastal Permits 4-92-166 (Motley) and 4-95-084 (Gallin).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with two Special Conditions addressing issues related to: a future development and improvement restriction, and a revised City of Malibu approval for the guest house septic system.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions**

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of

Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

## **II. Standard Conditions**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, is signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, and is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is approved by the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## **III. Special Conditions:**

### **1. Future Development and Improvements**

Prior to the issuance of the coastal permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that Coastal Development Permit number 4-95-177 allows for only the construction of a second unit, a total of 749 square feet in size. Any future additions or improvements to the second unit will require a permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

2. Revised Septic System Approval

Prior to the issuance of the coastal development permit, the applicant shall provide the Executive Director with a revised City of Malibu Environmental Health Department Approval for the proposed septic system serving the guest house.

IV. Findings and Declarations

The Commission finds and declares:

A. Project Description and Location

The applicant proposes to construct a one story studio with bath and an exercise room as a second unit. The guest house is located on a 1.4 acre parcel developed with an existing single family residence. The existing residence is 3141 square feet in size. No grading other than that required for the foundation of the guest house is proposed. The parcel is also developed with an existing pool and is planted with mature lemon and avocado trees. Exhibit 3 illustrates the site plan. The applicant has started the construction of the guest house without the benefit of a coastal development permit.

The property is located in an area known as Point Dume. The site is northeast of Dume Cove beach and is about 1800 feet from the Pacific Ocean. Exhibits 1 and 2 locate the project site. Half of the property is flat (where the existing residence is located) while the northern half steeply slopes down into a canyon with an unnamed blue-line stream. The guest house is located a few feet below the parcel's highest elevation, on a gently sloping portion of the hillside. The base of the canyon is designated as a disturbed Oak Woodland and Savannah, which is an environmentally sensitive habitat area in the County of Los Angeles Malibu Land Use Plan. However, the applicant's parcel appears to have been cleared of this habitat many years ago to establish the lemon and avocado orchard, which extends into this designated area.

The site is designated as Residential I, one (1) dwelling unit per acre by the Malibu Land Use Plan.

B. Environmentally Sensitive Habitats

The Coastal Act includes a policy to protect environmentally sensitive habitats areas against disruption of habitat values. Section 30240 of the Coastal Act states that:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

As stated above, a portion of the project parcel is located within an area designated by the Malibu Land Use Plan as Oak Woodland and Savannah. This designated area is located

downslope from the building site for the guest house. A site visit indicated that a mature lemon and avocado orchard has replaced the vegetation in this designated area long ago. Because the proposed guest house is located outside the designated environmentally sensitive habitat area (ESHA), and the habitat was replaced by a long established orchard, the Commission finds that the proposed development will not adversely impact the designated ESHA, and thus, is consistent with Section 30240 of the Coastal Act.

**C. Geologic Hazards**

The Coastal Act includes a policy to protect proposed development from geologic hazards. Section 30253 of the Coastal Act states in part that new development:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, nor destruction of the site nor surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located in Malibu, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides and erosion. However, the subject parcel is located in the Point Dume area, about 1800 feet inland from the beach along Dume Cove. The terrace area of Point Dume is relatively free from geologic hazards. The applicants have submitted a Geology Referral Sheet from the City of Malibu's geologist, who has determined that:

*The project is geologically feasible and can proceed through the planning process.*

The City of Malibu geologist has determined that the project site is geologically feasible, and that the development will be free of geologic hazards as long as the recommendations of the foundation investigation report and geologic reconnaissance report are incorporated into the plans (if any recommendations are made). According to the City's geologist, Christopher Dean, the only recommendations expected are whether or not the existing foundation is deep enough for the site. The geologist has determined that site is geologically feasible because this area of Point Dume is relatively stable and the building site is located on a relatively flat portion of the site. Further, because the guest house is relatively small, only a small footprint will be created by the structure. For these reasons, the City's geologist believes the project is geologically feasible and was approved to proceed to the building permit phase. Therefore, the Commission finds that as proposed, the project is consistent with section 30253 of the Coastal Act.

**D. Septic System**

The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored

through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30250(a) of the Coastal Act states in part that:

New residential ... development shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The applicant proposes to connect a new septic tank to the existing septic system used by the existing residence. The existing residence has two separate septic tanks and leach fields at opposite ends of the residence to provide for sewage disposal. The guest house septic system is proposed to be connected via a pump to one of these existing septic tanks and leach field systems. However, the applicant proposes to construct a septic system located in a different location than that indicated on the plans approved "In Concept" by the City of Malibu. The applicant proposes to relocate the septic tank and pump to the west side of the guest house where the tank is now partially constructed. Thus, the "In Concept Approval" by the City of Malibu Environmental Health does not apply to the applicant's proposed design for the septic system.

Therefore, although the proposed modification to the septic system is very minor, the Commission finds that it is necessary to require the applicant to submit a revised approval from the City of Malibu Environmental Health Department indicating that the revised project complies with all minimum requirements of the City of Malibu plumbing code. The Commission has found that in past permit actions that compliance with the health and plumbing codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Thus, the Commission finds that the proposed project will be consistent with Section 30231 and 30250 of the Coastal Act only as conditioned to require a revised approval by the City of Malibu, as noted in condition number two (2).

**E. Violation**

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

**F. Local Coastal Program**

Section 30604 of the Coastal Act states that:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City of Malibu's ability to prepare a Local Coastal Program for this area of Malibu, that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

**G. California Environmental Quality Act**

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

As discussed above, the proposed project has been mitigated to include: a future development restriction and a revised City of Malibu Environmental Health approval for the septic system. As conditioned, there are no feasible alternatives or mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is found consistent with the requirements of CEQA and the policies of the Coastal Act.

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4-95-177

Project Vicinity



## LOCATION MAP



**County of Los Angeles**

**Sheet 1 of 5**

PACIFIC

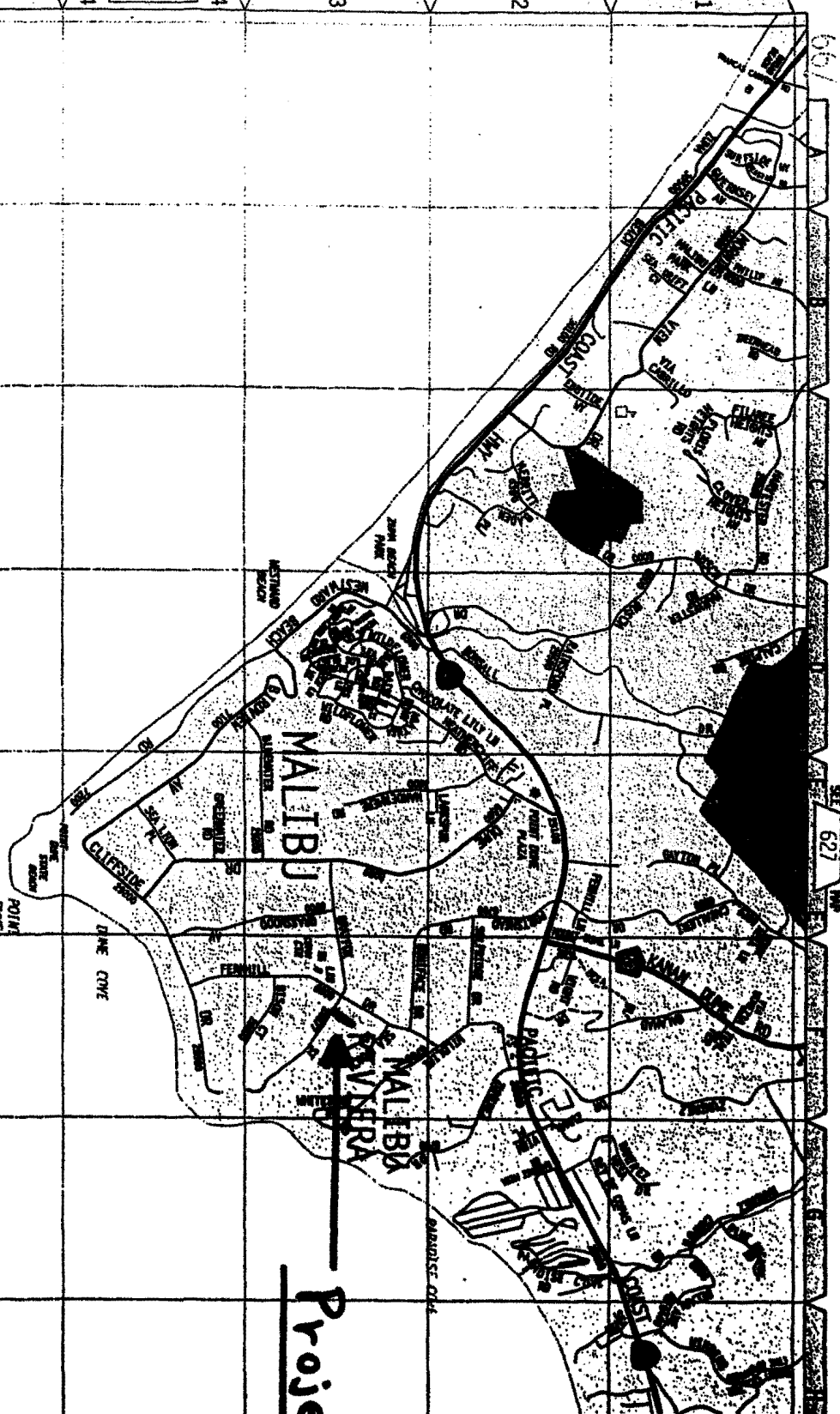
OCEAN

Project Site

EXHIBIT NO. 2

APPLICATION NO.  
4-95-177

Project Vicinity



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GREY FOX

ROOF PLAN

Residence

Guest House

ORCHARD

RECEIVED

SEP 1 1995

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EXHIBIT NO. 3

APPLICATION NO.  
4-95-177

Site Plan

4408

OSTBYE RESIDENCE  
28065 GREY FOX DR. MALIBU CA. 90265