

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Filed: 11-6-95
49th Day: 12-25-95
180th Day: 5-4-96
Staff: SPF-VNT
Staff Report: 11-14-95
Hearing Date: Dec. 12-15, 1995
Commission Action:



STAFF REPORT: CONSENT CALENDAR

W18a

APPLICATION NO.: 4-94-198

APPLICANT: Michael Jones

AGENT: Frank Javier

PROJECT LOCATION: 21854 Pacific Coast Highway, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Removal of unpermitted additions to a beach front single family residence including a carport and 40 square feet of living space.

Lot area:	6,250 sq.ft.
Building coverage:	0 new
Pavement coverage:	0 new
Landscape coverage:	0 new
Plan designation:	Residential III:2-4 Du/Ac.
Project density:	1 du.
Ht abv fin grade:	approx. 28 feet (existing)

LOCAL APPROVALS RECEIVED: Approval in concept from the City of Malibu for the removal of development.

SUBSTANTIVE FILE DOCUMENTS: None.

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, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. 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 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 development during construction, 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. Removal of Unpermitted Development

The applicant agrees to complete the removal of the carport and 40 sq. ft. of living space within 60 days of the issuance of the permit. The Executive Director may extend this deadline once for up to 60 days for good cause. The applicant shall submit evidence to the Executive Director that the work has been completed within seven days of the completion of work.

IV. Findings and Declarations.

A. Project Description and Background

The applicant is proposing to remove a two-car carport with canvas roofing and remove an approximately 40 square foot bathroom on the east side of the existing beachfront single family residence. Neither development to be removed is located on the beach. The square footage to be removed was built in the sideyard setback area. Both of these structures were constructed in later 1992 without the benefit of a coastal development permit or local approvals. The existing one story, 1,900 square foot single family residence was constructed circa 1955.

B. Development

Pursuant to Section 30060(a) of the Coastal Act, in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person wishing to perform or undertake any development in the Coastal Zone shall obtain a coastal development permit. Development is defined in Section 30106 of the Coastal Act to read, in part, as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; ...construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility."

The removal of the proposed structures is a development under 30106 of the Coastal Act. Section 30610(a) of the Coastal Act exempts certain improvements to single family residences from requiring a coastal development permit. Section 13250 of the Administrative Code of Regulations states those developments/improvements to single family residences which do require a coastal development permit. Included under developments which do require a coastal development permit is any development on a beach. Since this residence is located on the beach, developments on this lot are not exempt under 30610 of the Coastal Act. Therefore, this proposed activity does require a coastal development permit.

C. Shoreline Development

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic area such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 of the Coastal Act states:

New development shall:

- (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, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

All projects requiring a Coastal Development Permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. The Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states:

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

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

(2) adequate access exists nearby, or,

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

The major access issue in such permits is the occupation of sand area by a structure, in contradictions of Coastal Act policies 30211, 30212, and 30221. However, a conclusion that access may be mandated does not end the Commission's inquiry. As noted, Section 30210 imposes a duty on the Commission to administer the public access policies of the Coastal Act in a manner that is "consistent with ... the need to protect ... rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of Nollan vs. California Coastal Commission. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which substantially impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate those impacts.

The Commission's experience in reviewing shoreline residential projects in Malibu indicates that individual and cumulative impacts on access of such projects can include among others, encroachment on lands subject to the public trusts thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to an ability to use and cause adverse impacts on public access such as above.

In this case, the proposed development involves the removal of structures

which were built without the benefit of either local approvals or a coastal development permit. Moreover, the developments do not meet the local governments codes regarding sideyard setbacks. The removal of such developments will bring the site into compliance with the local building codes. The developments to be removed are not located on the beach and their removal will not create adverse individual or cumulative impacts on public access. In order to avoid negative impacts on public access, the project must also not be located on public lands. In this case, the removal of the structures are located landward of the seaward most extensions of the residence and will not encroach onto public lands. The Commission therefore finds that this development is consistent with the public resource sections regarding public access, and encroachment onto public lands.

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in areas of high geologic, flood and fire hazard, and assure stability and structural integrity. In this case, the proposed development activity includes the removal of structures, and will not require the placement of structures on a sandy beach. The removal of development will not create an adverse geologic, fire, or flood hazard, and as proposed, is consistent with Section 30253 of the Coastal Act. However, since the removal of the living space and carport are required to resolve an outstanding violation, the Commission finds it necessary to require the applicant to remove the developments within 60 of the issuance of the permit, as noted in special condition 1. As conditioned to ensure that the removal of the developments occurs, the Commission finds that this project is consistent with the public access and shoreline development policies of the Coastal Act.

D. 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.

E. 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 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's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. CEQA

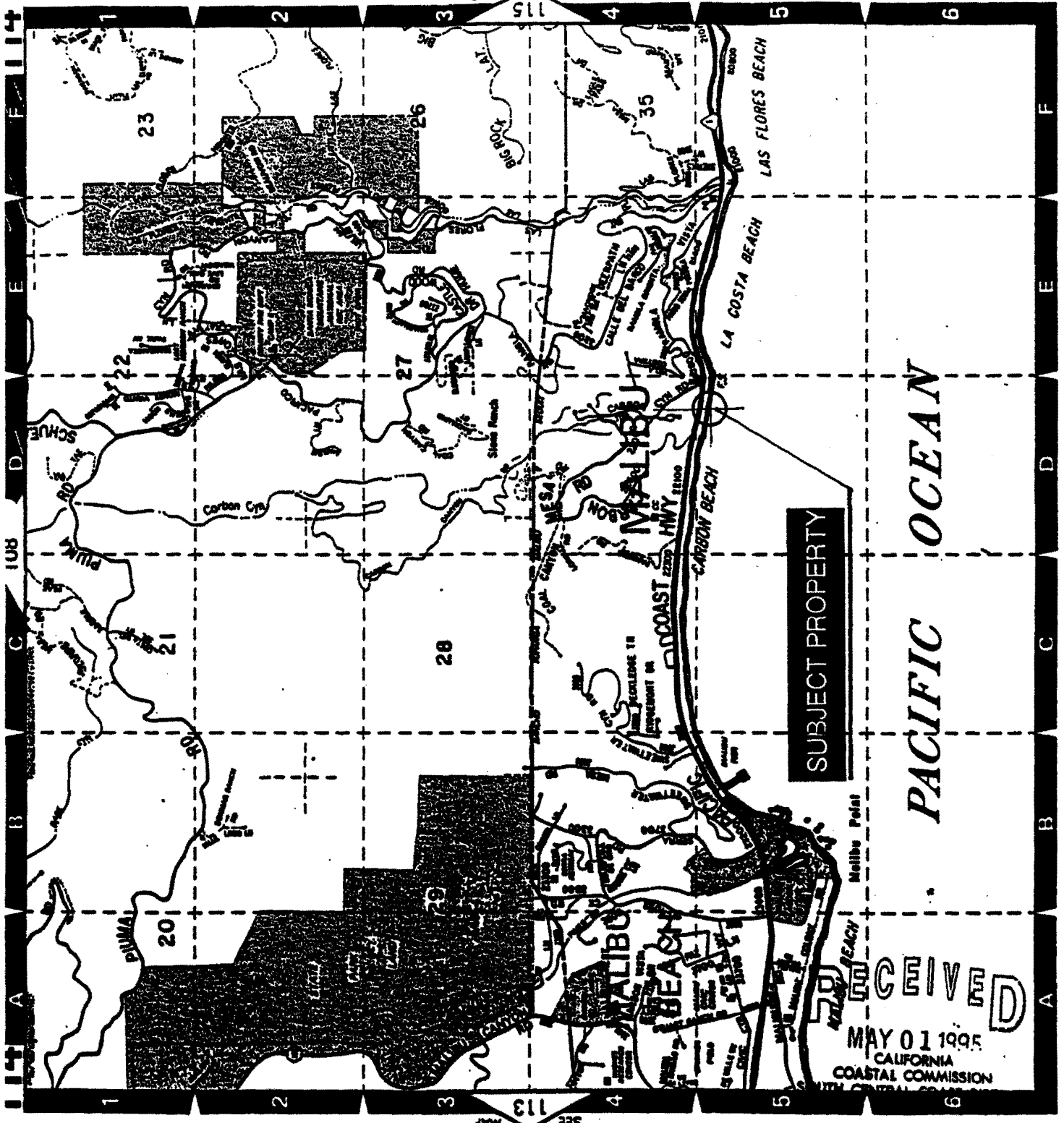
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (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 which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

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LOS ANGELES CO.

DETAIL

APPLICANT : MICHAEL JONES
Road from Coast Hwy,

Exhibit 1: Location Map

4-94-198

SUBJECT PROPERTY

PACIFIC OCEAN

RECEIVED
MAY 01 1995
CALIFORNIA
COASTAL COMMISSION

4451 4

SCALE 1" = 100'

1992

RECEIVED

NOV 14 1994
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

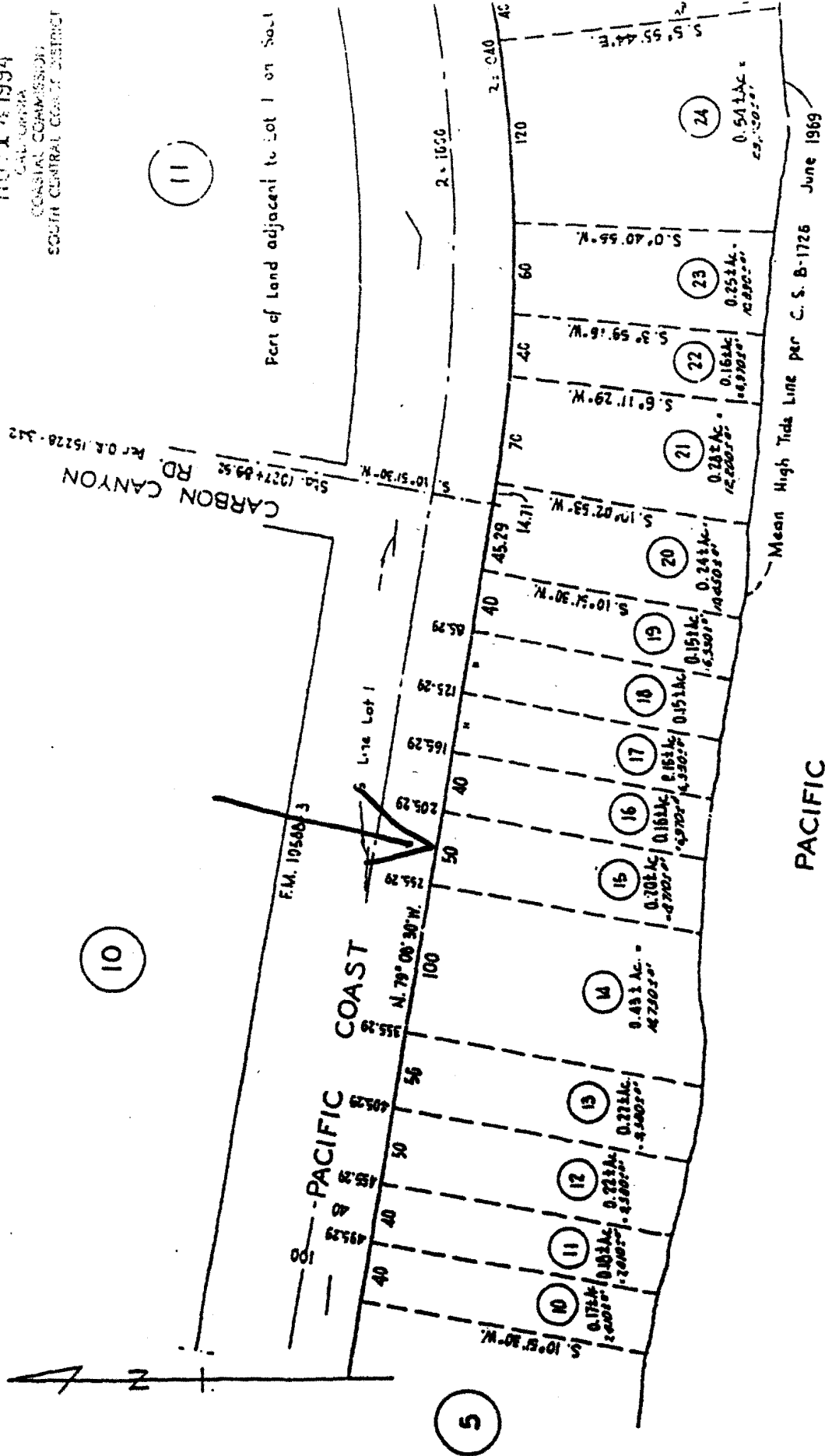


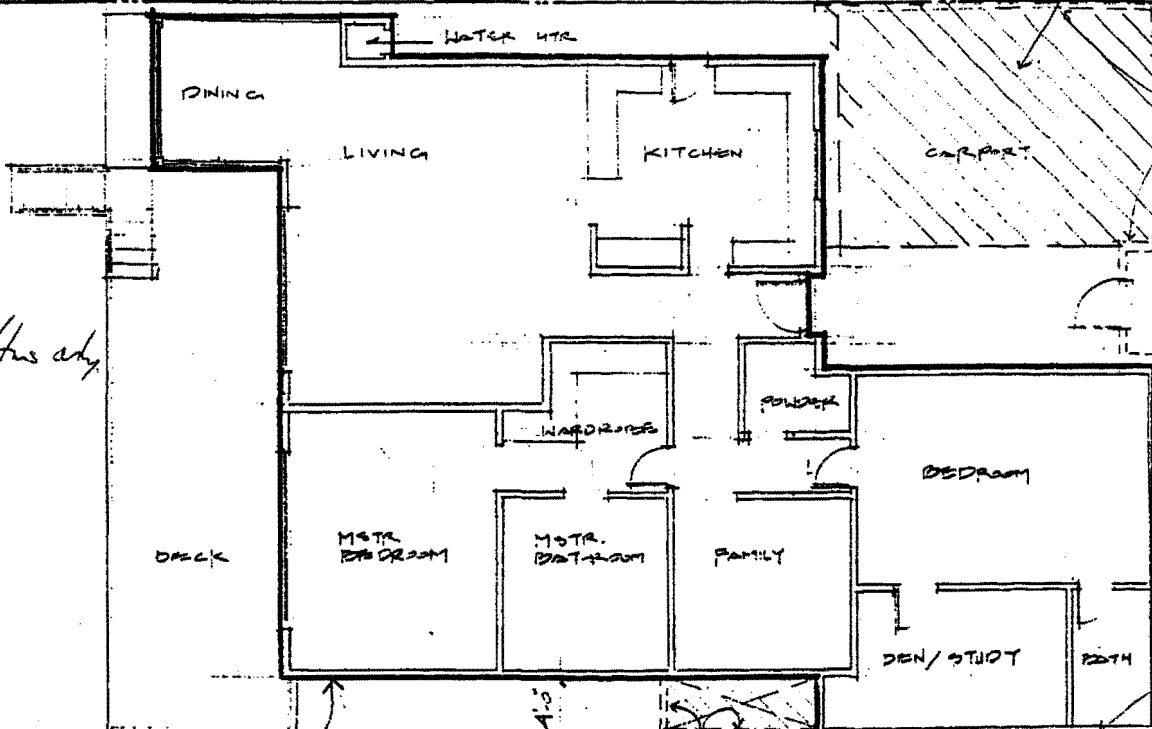
Exhibit 2: Parcel Map
4-94-198

4-94-198

CITY OF MALIBU
 PLANNING DEPARTMENT
 APPROVED IN CONCEPT
 SIGNATURE: *[Signature]*
 DATE: 10/3/95
 PLANNING REVIEW NO. 988-95-066-1
 THIS IS NOT A PERMIT
 AND IS SUBJECT TO ANY
 CONDITIONS LISTED BELOW
 THIS APPROVAL IS VALID FOR 1 YEAR FROM THE DATE STAMPED.

*Removal of non-conforming additions only
 (non-permitted)*

REMOVE EXISTING NON-PERMITTED
 BARREL VOLT CANVAS ROOFING
 OF CARPORT (HATCHED AREA)

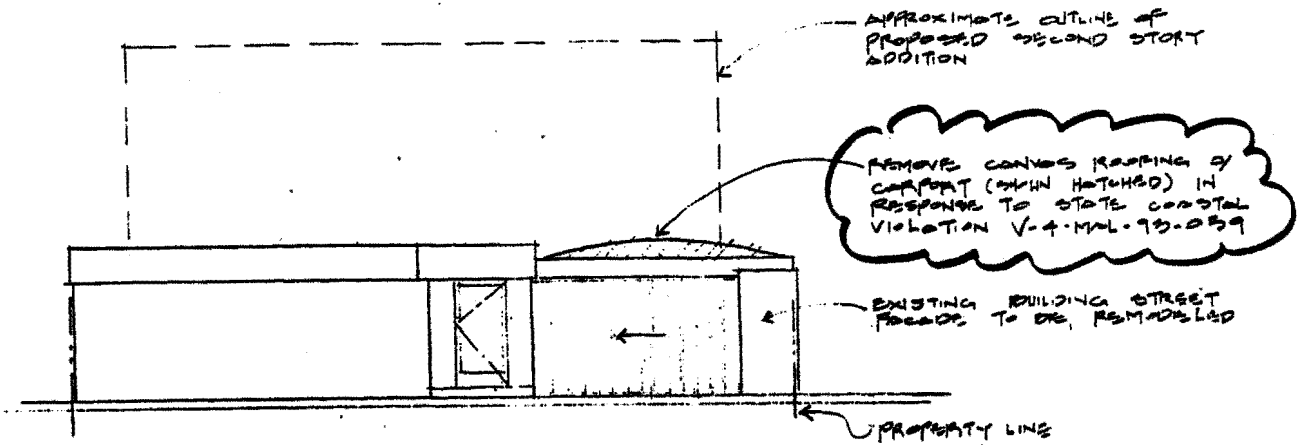


FRANK JAVIER, ARCHITECT
 999 N. DOHENY DR. #1201
 WEST HOLLYWOOD, CA 90069
 (310) 274-5082

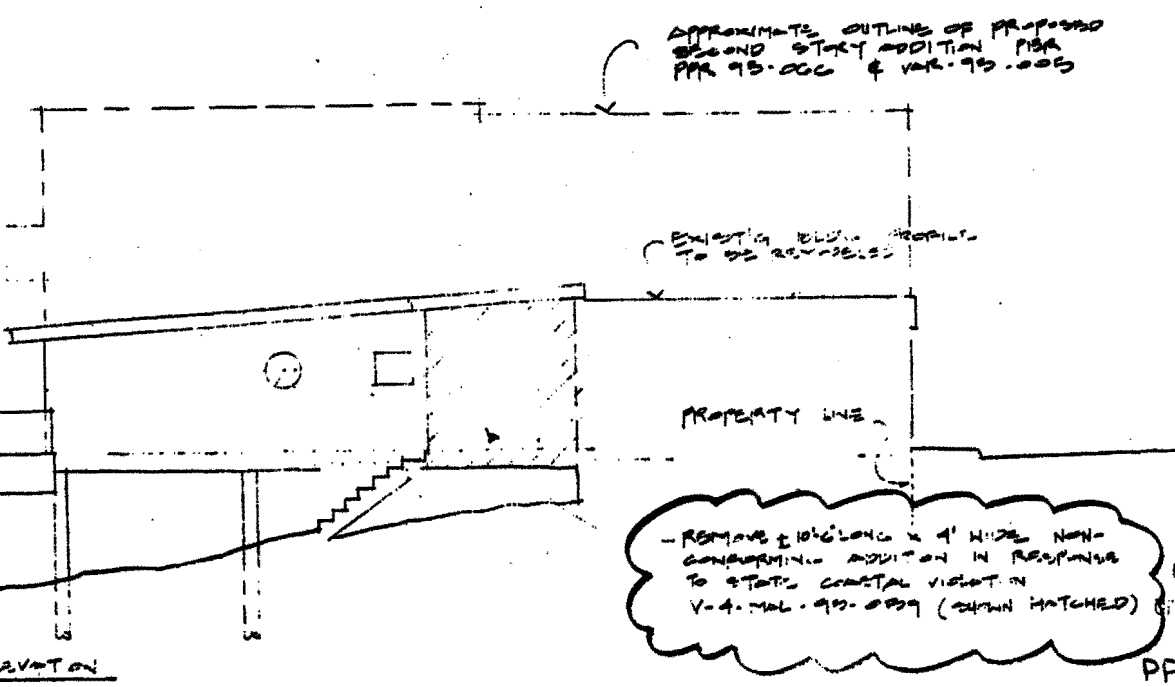
OWNER:
MICHAEL & KATHY JONES
 21854 PACIFIC COAST HIGHWAY, MALIBU, CA

EXISTING HABITABLE PLAN
 SINGLE STORY RESIDENCE PERMIT
 & LOANFULLY ERRECTED AT CITY'S
 INCORPORATION DATE

APPROVAL IN CONCEPT SET
 REFERENCE TO STATE COUNTY
 REGULATION V.4-MAL-93-059



CITY OF MALDEN STREET ELEVATION
 PLANNING DEPARTMENT
 COMMUNITY DEVELOPMENT
 PERMITTING
 1. THIS PERMIT IS VALID FOR THE PROJECT ONLY.
 2. THIS PERMIT IS SUBJECT TO ANY
 CONDITIONS LISTED BELOW.
 3. THIS PERMIT IS VALID FOR THE PROJECT ONLY.



PF

APPLICATION FOR COASTAL DEVELOPMENT PERMIT

APPENDIX B

LOCAL AGENCY REVIEW FORM

RECEIVED

OCT 1 0 1995

CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

SECTION A (TO BE COMPLETED BY APPLICANT)

Applicant Michael + Kathy Jones

Project Description request to remove non-conforming / permitted additions.

Location 21854 Pacific Coast Highway

Assessor's Parcel Number #PPR-95-066-1

SECTION B (TO BE COMPLETED BY LOCAL PLANNING OR BUILDING INSPECTION DEPARTMENT)

Zoning Designation Residential du/ac

General or Community Plan Designation _____ du/ac

Local Discretionary Approvals

Proposed development meets all zoning requirements and needs no local permits other than building permits.

Proposed development needs local discretionary approvals noted below.

Needed Received

- Design/Architectural review
- Variance for _____
- Rezone from _____
- Tentative Subdivision/Parcel Map No. _____
- Grading/Land Development Permit No. _____
- Planned Residential/Commercial Development Approval
- Site Plan Review
- Condominium Conversion Permit
- Conditional, Special, or Major Use Permit No. _____
- Other _____

CEQA Status

Categorically Exempt Class 3 Item _____

Negative Declaration Granted (Date) _____

Environmental Impact Report Required, Final Report Certified (Date) _____

Other _____

Prepared for the City/County of Malibu / Los Angeles by Paul Kermayan

Date 10/9/95 Title Associate Planner

Exhibit 5: City Approval