

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 6/24/96
49th Day: 8/12/96
180th Day: 12/21/96
Staff: R. Richardson
Staff Report: 9/10/96
Hearing Date: Oct. 8-11, 1996
Commission Action:



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STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-92-207A

APPLICANT: Christian Benjamin AGENT: Zoltan Pali

PROJECT LOCATION: 3216 Colony View Circle, City of Malibu, L. A. County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 4,200 sq. ft., 20 ft. high single family residence with septic system expansion and 1,070 cu. yds. of grading (950 cu. yds. of cut and 120 cu. yds. of fill).

DESCRIPTION OF AMENDMENT: Construct a 628 sq. ft. maid's quarters/storage area and reduce the grading from 1,070 cu. yds. to 328 cu. yds. (273 cu. yds. of fill and 55 cu. yds. of cut)

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Development Permit 4-92-207 (Benjamin).

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the conditions below, is consistent with the requirements of the Coastal Act.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

I. Approval

The Commission hereby approves the amendment to the coastal development permit, on the grounds that as conditioned, 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.

NOTE: Unless specifically altered by the amendment, all conditions attached to the previous approved permit except for special condition #4, Removal of Excess Fill, shall remain in effect.

II. Special Conditions1. Future Improvements

Prior to issuance of the Coastal Development 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 Commission permit 4-92-207 is only for the proposed development and that any future additions or improvements to the property including clearing of vegetation and grading, will require a permit from the Coastal Commission or its successor agency. The deed restriction shall specify that clearance of vegetation up to 50 feet outward from the approved residence and selective thinning within a 200 foot radius of the approved residence as provided in Special Condition 1b above, is permitted and shall not require a new permit. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

III. Findings and Declarations.

The Commission hereby finds and declares:

A. Amendment Description

The applicant is proposing to amend the previously approved project which consisted of the remodel and addition of an existing 2,800 sq. ft. single family residence with a septic system expansion and 1,070 cu. yds. of grading. Under the original permit the remodeled residence increased in size to 4,200 total sq. ft. Since the remodel involved the removal of approximately 80% of the existing walls, the project was considered new

development. The Executive Director determined that the proposed project was consistent with the Coastal Act subject to special conditions which included the submittal of a landscaping plan, project conformance with geologic recommendations, submittal of drainage and erosion control plans and identification of the dump site for excess fill.

The amendment includes three changes to the project: 1) minor reconfiguration of the residence design; 2) construct a maid's quarters and storage area, which total 628 sq. ft., on the second floor of the detached garage; and, 3) reduce the grading from 1,070 cu. yds. to 328 cu. yds. (273 cu. yds. of fill and 55 cu. yds. of cut). The applicant has submitted a letter from the consulting geotechnical consultants which indicate that the proposed project conforms to the recommendations made for the original project. Since the project grading has been reduced and the project requires import of fill material, special condition #4 of the original permit involving the removal of excess fill is not necessary.

The subject 3.38 acre parcel is located north of the Malibu Civic Center Area and the site is accessed from Malibu Canyon Road. The amended project does not raise any new issues with geologic stability, visual resources or coastal access.

B. Cumulative Impacts of New Development.

The proposed amendment involves the construction of a second story maid's quarters and storage area above a detached garage which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. In particular, the construction of an additional structure with plumbing facilities on a site where a primary residence exists intensifies the use of a site and impacts public services, such as water, sewage, electricity and roads. Sections 30250 of the Coastal Act addresses the cumulative impacts of new development.

Section 30250(a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

In addition, the certified Malibu LUP, which the Commission considers as guidance for implementing the Chapter 3 policies of the Coastal Act, contains policy 271 which states:

"In any single-family residential category, the maximum additional residential development above and beyond the principal unit shall be one guesthouse or other second unit with an interior floor space not to exceed 750 gross square feet, not counting garage space."

The issue of second units on lots with primary residences consistent with the new development policies of the Coastal Act has been a topic of local and statewide review and policy action by the Commission. These policies have been articulated in both coastal development permit conditions and policies and implementing actions of LCPs. Further, the long-time Commission practice in implementing has upheld the policies, for example 750 sq. ft. size limit in the City of Malibu. Staff notes that this 750 sq. ft. maximum guest house/second unit size is only imposed where units are intended as habitable structures and not on such uses as garages, storage rooms, art studios, etc. The proposed amendment involves a combined maid's quarters and storage area which total 628 sq. ft.

With respect to past permit conditions on second units and guesthouses, Commission action has varied based upon such factors as the types of units proposed, the differences in conditions (or lack thereof) attached by local governments, and differences in the characteristics of the communities where such units are proposed. Limiting the size of second residential units, guest houses and other appurtenant structures generally results in a smaller number of occupants which also reduces the impacts on services such as roads, water and sewage disposal. Further, smaller second units and guesthouses reduces the potential for these structures to become separate, permanent dwelling units.

The Coastal Act requires that new development, including second units and other accessory structures, be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, the presence of second units on each existing lot within the Coastal Zone would create adverse cumulative impacts on coastal resources and public access.

The amendment proposed is for the construction of a combined 380 sq. ft. maid's quarters and 280 sq. ft. storage area (628 total sq. ft.) to be located on the second floor of a detached structure and the project raises issue relative to the cumulative impacts of second units. The Commission finds that any future expansion of this second unit greater than 750 sq. ft. could potentially raise concerns about future impacts on coastal resources and coastal access. Impacts such as traffic, sewage disposal, area recreational

uses, and resource degradation would be associated with the development of any additional units in this area. Therefore, the Commission finds it is necessary to require the applicant to record a future improvements deed restriction. Thus, only as conditioned, is the proposed amendment consistent with the applicable cumulative impact sections of the Coastal Act.

C. 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 amendment 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).

D. 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 Commission finds that, 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.

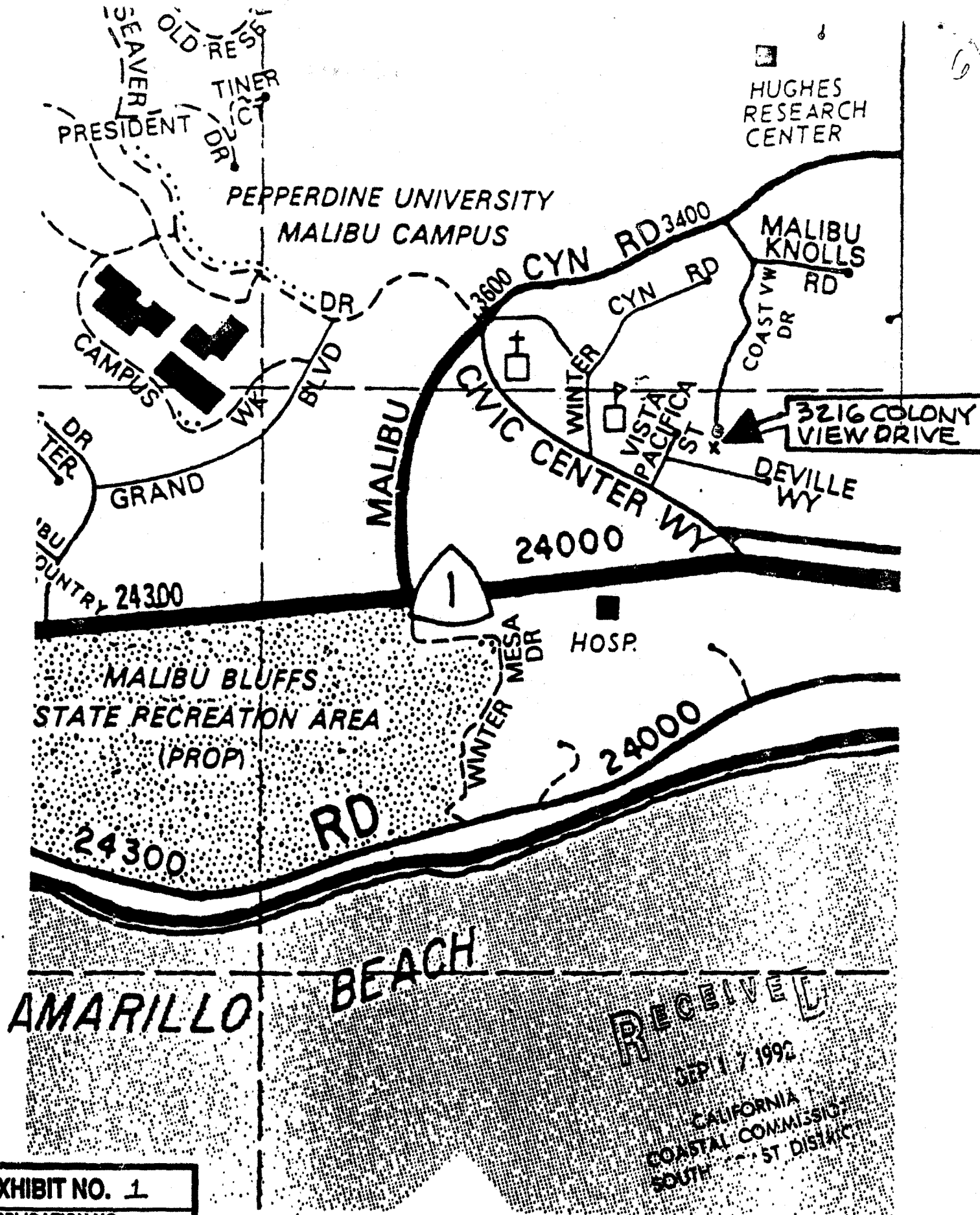


EXHIBIT NO. 1

APPLICATION NO.
4-92-207A

Vicinity map

1 MAP 3216 COLONY VIEW DRIVE
4-92-207