

CALIFORNIA COASTAL COMMISSION

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



Filed: 9/13/96
 49th Day: N/A
 180th Day: N/A
 Staff: R. Richardson
 Staff Report: 10/25/96
 Hearing Date: 11/12-15/96

STAFF REPORT: PERMIT EXTENSION REQUEST

APPLICATION NO: 4-93-116 E2

APPLICANT: Mapmaker's Trust

AGENT: Sherman Stacey

PROJECT LOCATION: 30904 Broad Beach Road, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a swimming pool with safety fencing, relocation of leachfield, addition of second story deck and french doors on the seaward side and addition of 78 sq. ft. to an existing kitchen on the landward side of an existing beach front residence.

SUBSTANTIVE FILE DOCUMENTS: City of Malibu Article IX of the Municipal Code of Zoning; Coastal Development Permit 4-93-116 (Mapmaker's Trust)

PROCEDURAL NOTE.

The Commission's regulations provide that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act.

If three (3) Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the extension be granted for the following reasons:

No changed circumstances have occurred since the approval of the coastal permit, therefore, the permit is consistent with Chapter 3 Policies of the Coastal Act.

FINDINGS AND DECLARATIONS

A. Project Description and History

The applicant has requested a one year extension of the coastal development permit to construct a swimming pool with safety fencing, relocate an existing leachfield, add a second story deck and french doors and add 78 sq. ft. to the kitchen of an existing beach front home. The proposed deck would be located on the seaward side of the residence while the kitchen addition is located on the landward side. The proposed project site is located on Broad Beach Road in the City of Malibu.

The subject permit was approved in September 1993 subject to two conditions of approval. The Commission required the applicant to submit a dune restoration plan and to record an assumption of risk deed restriction. The applicant met the conditions and the Coastal Development Permit was issued on May 16, 1994. The applicant has not constructed the project to date. An immaterial extension was granted to the permit in September 1995. No objections to the extension were received at that time.

Staff initially determined the extension request to be immaterial. Subsequently, one letter of objection (Exhibit 1) was received and Commission staff scheduled the extension request for public hearing at the November 1996 Commission meeting.

B. Grounds for Extension

On September 16, 1993, the Commission approved the subject project, finding that it was in conformance with the Chapter 3 policies of the Coastal Act. With regard to extension requests, Section 13169 of the California Code of Regulations requires that the Executive Director determine whether or not there are changed circumstances that may affect the consistency of an approved permit with the Coastal Act. In reviewing the extension request, staff could identify no changed circumstances. As stated above one letter of objection was received.

The objection letter states four objections that the Trancas Property Owners Association (TPOA) has with the proposed permit extension. The Commission has considered each objection in turn. The first objection is that the application for the original permit was not provided to the TPOA for their consideration. While Section 13052 of the California Code of Regulations requires applicants to obtain approval from the appropriate city, county, state or local government agencies prior to applying for a coastal development permit, it does not require approval from home owner's associations. Additionally, the original Commission hearing was noticed to the property owners within 100 feet and the proposed project site was posted with a hearing notice. As such, this objection would not constitute "changed circumstances".

The second and third objections are related and pertain to a rear yard setback, which the objector states prohibits the erection of structures above 30 inches. Objection 2 states that the approved permit was in violation of the Los Angeles County Rear Setback District. The proposed project was approved in concept by the City of Malibu on July 13, 1993. This approval was after the City's adoption of their Interim Zoning Code on June 14, 1993. The Trancas Beach Rear Yard Setback

provision was not a part of the IZO at that time. As such, the City applied the regulations that were applicable to the property at that time. As Objection 3 goes on to state, the Trancas Beach Overlay District which provides for the 30 inch rear setback was not adopted by the City of Malibu until November 14, 1994. Therefore, the proposed project, including the proposed pool safety fence was consistent with the applicable local ordinances in effect at the time the City issued the approval in concept. Furthermore, the Commission found in their approval of the original permit that the project conformed to the Commission's stringline policy, assuring consistency with the access, visual resource, and hazard policies of the Coastal Act. The project has not been revised with regard to the seaward extent of development since it was approved by the Commission. As such, these objections do not raise "changed circumstances" which would affect the proposed project's consistency with the Coastal Act.

The final objection states that: "The issue of flooding of the area proposed for the swimming pool is presently under geologic investigation and testing. Permitting of a swimming pool, where a groundwater rise of three feet has been documented appears contraindicated". The letter does not state who is presently investigating the geology of the area or where a groundwater rise has been documented. Staff requested that the permit applicant address the question of whether the geologic stability of the proposed project site has in some way changed since the permit was approved. The applicant has submitted a response to the objection letter, dated October 25, 1996, prepared by the project geologic consultant, Grover Hollingsworth and Associates, Inc. (Exhibit 2). This response states that:

The proposed pool will be founded in dense beach sand. The pool shell will be about 4 to 4 1/2 feet below grade and extend above grade 1 1/2 feet. We encountered groundwater in the vicinity at 6 1/2 feet below grade...

The groundwater regime is governed by the ocean. However, short-lived fluctuations upward can be expected during intense storm activity. It is our recommendation that the pool be installed before or after the rainy season and a test hole be dug in the pool area prior to excavation.

Once the pool is constructed and filled, flooding or groundwater fluctuations, even up to the ground surface, will have no adverse impact on the pool from an engineering geologic and soils engineering standpoint. We recommend that the pool not be completely drained during the rainy season.

Based on the consultant's determinations regarding the geologic stability of the proposed swimming pool, the Commission finds that there are no changed circumstances which could affect the proposed project's consistency with Section 30253 of the Coastal Act.

The Commission found in its approval of the subject permit that the project was consistent with the Chapter 3 policies of the Coastal Act, and would not prejudice the ability of the City of Malibu to prepare an LCP in conformance with the provisions of Chapter 3. As discussed above, the objections raised by the TPOA letter do not constitute changed circumstances which would affect the proposed project's consistency with the Coastal Act. Furthermore, staff has identified no other possible changed circumstances. There have been no changes to the proposed project or its site which would cause the Commission to find the project no longer consistent with the Coastal Act.

The proposed project will not prejudice the ability of the City of Malibu to prepare an LCP which is consistent with the Coastal Act.

Accordingly, the Commission finds that there are no changed circumstances present which have occurred since the approval of the subject permit that may affect the project's consistency with the Coastal Act. Therefore, the Commission grants a one year extension of the coastal development permit.

mapmaker.doc

TRANCAS PROPERTY OWNERS ASSOCIATION

P.O.BOX 322
MALIBU, CALIFORNIA 90265

RECEIVED

September 11, 1996

SEP 13 1996

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Rebecca Richardson
Coastal Program Analyst
California Coastal Commission
89 South California Street # 200
Ventura, CA, 93001

Re: Permit Extension 4-93-116-E2 at 30904 Broadbeach Road, Malibu

Dear Ms. Richardson:

Trancas Property Owners Association received your notice of extension request for Coastal Development by Mapmaker's Trust to construct a swimming pool with safety features, relocate the leachfield, add a second story deck and french door on the seaward side of an existing single family residence.

This letter serves a notice, that TPOA objects to any extension of that permit on the following grounds:

- 1.) No application for the original permit was provided to TPOA for review or a public hearing.
- 2.) The permit of 9/16/93 appears to have been in violation of the then existing Los Angeles County Rear-Yard Setback District, adopted by Ordinance 9899 on October 28, 1969, prohibiting the erection of any structure above 30 inches. Safety features for a swimming pool are mandated at 6 feet and not 30 inches.
- 3.) LA County Year-Yard Setback Ordinance 9899 was adopted by the City of Malibu on 11/14/94 as Trancas Beach Overlay District, (Sec 9216 C)
- 4.) The issue of flooding of the area proposed for the swimming pool is presently under geological investigation and testing. Permitting of a swimming pool, where a groundwater rise of 3 feet has been documented appears contraindicated.

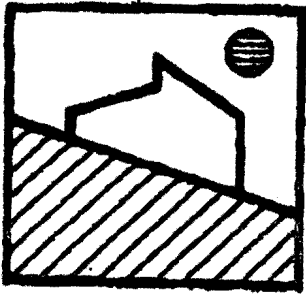
Trancas Property Owners Association would appreciate notification of a hearing regarding the permit extension.

Werner Koenig
Werner Koenig, M.D.
President

Trancas Property Owners Association

cc: Rick Morgan, Sr. Engineer, City of Malibu
Cristi Hogan, City attorney, City of Malibu

EXHIBIT NO. 1
APPLICATION NO.
4-93-116E2
OBJECTION LETTER



Grover Hollingsworth and Associates, Inc.

October 25, 1996
GH5332-G

The Map Maker's Trust
c/o Jess S. Morgan and Company
5750 Wilshire Boulevard, Suite 590
Los Angeles, California 90036

Subject: Response to Trancas Property Owner's Association Letter, Portion of Lot 18, Tract 12314, 30904 Broad Beach Road, City of Malibu, California.

Reference: Geologic and Soils Engineering Exploration, by Grover-Hollingsworth and Associates, Inc., dated December 7, 1993; Update, Plan Review, and Response to City Review Letters, Proposed Deck, Swimming Pool and Addition, by Grover-Hollingsworth and Associates, Inc., dated August 14, 1996.

City Review Letters dated May 17, 1994, and May 16, 1996.

Trancas Property Owner's Association Letter, dated September 11, 1996.

Gentlemen:

We have been asked by your attorney, Sherman L. Stacey, to review and respond to the referenced letter prepared by the Trancas Property Owner's Association. We are responding to the concerns specifically raised in item 4. A copy of the letter is enclosed.

The proposed pool will be founded in dense beach sand. The pool shell will be about 4 to 4½ feet below grade and extend above grade 1½ feet. We encountered groundwater in the vicinity at 6½ feet below grade. The Trancas letter states that "...a groundwater rise of 3 feet has been documented..." and concludes that pool construction "...appears contraindicated."

Engineering Geology
31129 Via Colinas, Suite 707, Westlake Village, California 91362 • (818) 889-0844 • (

Geotechnical

EXHIBIT NO. 2
APPLICATION NO.
4-93-116E2
GEOLOGY LETTER

October 25, 1996

GH5332-G

Page 2

The groundwater regime is governed by the ocean. However, short-lived fluctuations upward can be expected during intense storm activity. It is our recommendation that the pool be installed before or after the rainy season and a test hole be dug in the pool area prior to excavation.

Once the pool is constructed and filled, flooding or groundwater fluctuations, even up to the ground surface, will have no adverse impact on the pool from an engineering geologic and soils engineering standpoint. We further recommend that the pool not be completely drained during the rainy season.

Should you have any questions, please call.

Respectfully submitted,

Jeffrey C. Kofoed
 JEFFREY C. KOFOED E.G. 1874
 Project Geologist

Robert A. Hollingsworth
 ROBERT A. HOLLINGSWORTH
 G.E. 2022



RAH:JCK:ck

Enclosure

xc: (2) Addressee
 (1) Sherman L. Stacey
 (1) Gless Architects

(1) Herman Goodman & Associates
 (1) California Coastal Commission
 Attn: Mr. Aimsworth