

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
SANTA ANA, CA 92701
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Filed: 3/13/97
49th Day: 5/1/97
180th Day: 9/9/97
Staff: S. Hudson *SMD*
Staff Report: 3/13/97
Hearing Date: April 8-11, 1997
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

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APPLICATION NO.: 4-95-049-A1

APPLICANT: Edward and Valerie Van Halen AGENT: Jamie Harnish

PROJECT LOCATION: 31376 Broad Beach Road, Malibu; Los Angeles County
(APN: 4470-024-003, 004, 018, 019, 039 and 057)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: The construction of a 1374 sq. ft. addition to an existing 4000 sq. ft. single family residence with the expansion of the septic system and construction of a pool. The project also involves the combination of seven lots into two lots.

DESCRIPTION OF AMENDMENT: Relocate pool 6 ft. closer to coastal bluff, new open air trellis, pool deck, pool equipment storage shed, revegetation of coastal bluff, driveway extension, and 637 cu. yds. grading (503 cu. yds. cut and 134 cu. yds. fill).

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department Approval in Concept.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan, 12/11/86; Limited Engineering Geologic Investigation Report by Harley Tucker, Inc, dated 11/4/93; Soils Engineering Investigation, G. C. Masterman & Associates, Inc., dated 11/10/93; and Geologic Report Update letter by Pacific Geology Consultants dated 2/22/97.

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 amendments, 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 with Conditions.

The Commission hereby approves the amendment to the coastal development permit, on the grounds that as modified, 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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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: All standard and special conditions attached to the previously approved permit remain in effect.

II. Special Conditions

1. Plans Conforming to Geologic Recommendation

All recommendations contained in the Limited Engineering Geologic Investigation Report by Harley Tucker, Inc, dated November 4, 1993, and the Soils Engineering Investigation, G. C. Masterman & Associates, Inc., dated November 10, 1993, shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

III. Findings and Declarations.

A. Project Description and Background

The applicant is requesting an amendment to their permit to construct a 1374 sq. ft. addition to an existing 4000 sq. ft. single family residence, expanded septic system and pool. The amended project would include the relocation of the pool 6 ft. closer to the coastal bluff, new open air trellis, pool deck, pool equipment storage shed, revegetation of coastal bluff, driveway extension, and 637 cu. yds. grading (503 cu. yds. cut and 134 cu. yds. fill).

The original project was approved by the Commission on May 9, 1995, subject to three (3) special conditions. Those conditions included the submittal of a drainage and erosion control plan, landscape and erosion control plan, and geologic review of all plans. The permit has been issued and is valid until May 9, 1997.

The subject lots are located on a beachfronting blufftop lot on Broad Beach Road in the City of Malibu. The project site is characterized as a relatively flat lot with a 55 ft. high bluff that descends at an average slope gradient of 42% to the beach. Lechuza Beach, characterized as an eroding beach, is located to the south of the project. The Malibu/Santa Monica Land Use Plan designates the Lechuza Beach area, offshore kelp beds, bluff and rocky point areas as Environmentally Sensitive Habitat Areas (ESHAs).

Public access to the beach is available along Sea Level Drive approximately 1000 ft. east and 700 ft. west of the subject site. The homeowner's association opened gates allowing access to the beach for the public sometime ago. Given the scale of the proposed development and height of the bluff, the project will not be visible by the public from the beach due to the 25' development setback.

B. Blufftop Development/Geologic Stability

Sections 30240 and 30253 of the Coastal Act state in part that new development shall:

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only users 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.

Section 30253

(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.

Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood and fire hazard, and assure stability and structural integrity. In order to carry out these policies on blufftop lots the Commission has required under the approval of both the Malibu/Santa Monica Mountains Land Use Plan and of the numerous coastal development permits in this area that all blufftop development be setback 25 ft. from the top of the bluff or at a stringline drawn between the nearest adjacent corners of adjacent structures, whichever distance is greater.

In addition to Section 30240 of the Coastal Act, the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) contains several policies and standards regarding ESHAs. The Sensitive Environmental Resources Map in the certified Malibu Santa Monica Mountains Land Use Plan designates the Lechuza beach area, rock point areas, bluff and offshore kelp beds as Environmentally Sensitive Habitat Area. While the city of Malibu has to date, not yet completed a Local Coastal Program, the City did adopt a General Plan for the city in 1995. This General Plan also designates Lechuza Beach and the bluff areas an Environmentally Sensitive Habitat Area.

The applicant is requesting an amendment to their permit to construct a 1374 sq. ft. addition to an existing 4000 sq. ft. single family residence, expanded septic system and pool. The amended project would include the relocation of the pool 6 ft. closer to the coastal bluff, an open air trellis, pool deck, pool equipment storage shed, revegetation of coastal bluff, driveway extension and 637 cu. yds. grading (503 cu. yds. cut and 134 cu. yds. fill).

The Malibu/Santa Monica Mountains Land Use Plan indicates that the ESHA boundary is the top edge of the bluff. In order to protect the ESHA and to increase blufftop stability all proposed structures are to be located 25 ft. or more from the edge of the coastal bluff. The 25 ft. setback will provide an adequate buffer to protect the sensitive bluff resources. In addition, the 25 ft. setback is consistent with the surrounding development pattern. Approximately 134 cu. yds. of fill will be placed within the 25 ft. setback area for the purpose of improving drainage and erosion control. Any development within the 25 ft. setback area from the top of the bluff is ordinarily prohibited under normal circumstances. However, there is evidence that this placement of fill will improve the bluff's stability. The applicant's geology consultant has recommended that the above mentioned grading be carried out in order to increase the stability of the eroding bluff. Pacific Geology Consultants state in their Geologic Report Update letter dated February 22, 1997:

In summary, it is the opinion of this office that the proposed grading will improve the existing site drainage conditions. the stability of the slopes which descend to the beach area will be enhanced, as there will be limited uncontrolled surface water flow over the slope area. This will aid in lowering the amount of bluff erosion and will reduce the potential for future surficial instability to occur along the slope.

The minimization of site erosion will also add to the stability of the eroding bluffs. Erosion will also be minimized by landscaping all disturbed areas of the site with native plants, compatible with

the surrounding environment, as required by Special Condition Two (2) of the original coastal development permit. In order to minimize bluff erosion, the applicant proposes to restore degraded areas of the bluff face through the removal of invasive plant species and replanting with native vegetation. Revegetation of the bluff face with native vegetation will also restore and enhance the ESHA area.

Based on the recommendations of the consulting geologist, and the Commission's review of other available evidence, the Commission finds that the development will be consistent with Section 30253 of the Coastal Act so long as all the recommendations made by the geologic consultants are incorporated into the amended project plans. Therefore, the Commission finds it necessary, as drafted in condition number one (1), to require the applicant to submit project plans that have been certified in writing by the consulting Soils and Engineering Geologists as conforming to their recommendations. Only as conditioned does the Commission find that the proposed project is consistent with Sections 30240 and 30253 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 Chapter 3 (commencing with Section 30200) 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 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).

D. 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 amendment to the original project has been mitigated to incorporate landscape and erosion control plans, plans conforming to the consulting geologist's recommendations, a wild fire waiver of liability, and a future development restriction. As conditioned, there are no feasible alternatives or mitigation measures available, beyond those required, which would 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 consistent with the requirements of CEQA and the policies of the Coastal Act.

SMH-VNT

Exhibit No. 2: (4-95-049-A1) Grading and Drainage Plan

REVISIONS BY

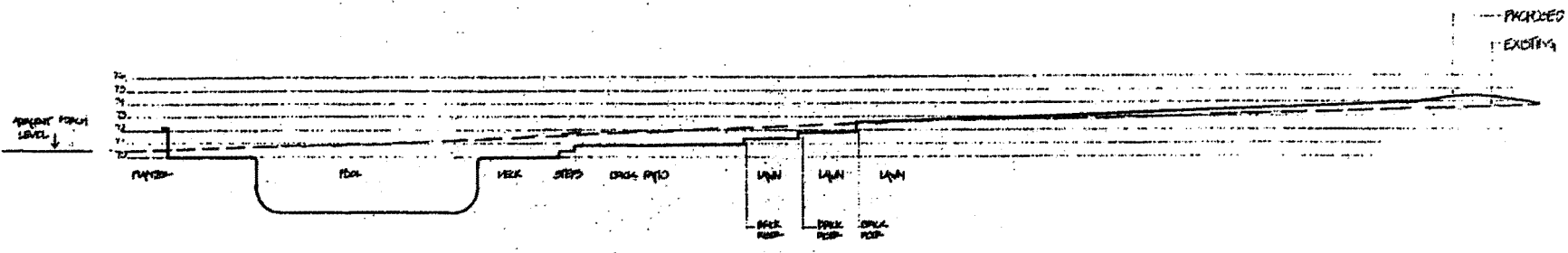
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GRADING SECTIONS

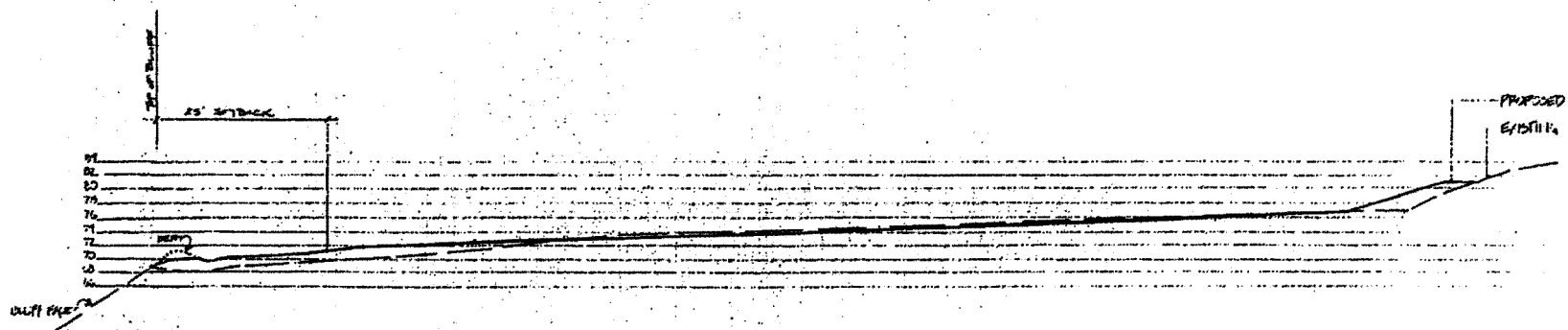
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SECTION A FROM POOL TO BLUFF EDGE SE TO NW



SECTION B BETWEEN MOUNDS ALONG BLUFF TO EAST CORNER OF PROPERTY