

CALIFORNIA COASTAL COMMISSION

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

Filed: June 23, 1997
 49th Day: August 11, 1997
 180th Day: December 20, 1997
 Staff: Betz - V
 Staff Report: July 23, 1997
 Hearing Date: August 12-15, 1997

STAFF REPORT: CONSENT CALENDAR

Th 3c

APPLICATION NO.: 4-97-119

APPLICANT: Eric T. Fishburn AGENT: Jamie Harnish

PROJECT LOCATION: 7013 Dume Drive, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: 18 ft. high (above finished grade) addition of 2,124 sq. ft. and remodel to an existing one story, 2237 sq. ft. single family residence including three car garage; construction of a detached 734 sq. ft. guest house and swimming pool; replace existing driveway; upgrade septic system. 300 cu. yds. of grading (removal and recompaction).

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|---------------------|------------------------|
| Lot area: | 46,200 sq. ft. |
| Building coverage: | 5,122 sq. ft. |
| Pavement coverage: | 1,875 sq. ft. |
| Landscape coverage: | 3,667 sq. ft. |
| Parking spaces: | 3 covered |
| Plan Designation: | Residential I, 1 du/ac |
| Project Density: | 1 du/ acre |
| Ht abv fin grade: | 18 ft. |

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department dated 6/5/97; In Concept Approval for Septic System, Department of Environmental Health, City of Malibu, dated March 31, 1997.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; GeoSoils, Inc.: Geologic and Geotechnical Engineering Study, February 18, 1997.

SUMMARY OF STAFF RECOMMENDATION: This project is an addition and remodel similar to permit 4-97-050 (Alonso) which was approved on the June, 1997 agenda. That project was located on the same block and also included a guest house. The project site is located within a developed subdivision inland of the first public road. Staff recommends approval of the proposed project with four (4) Special Conditions addressing plans conforming to the consulting geologist's recommendations, wild fire waiver of liability, landscape and erosion control plans, and deed restriction on future development.

I. STAFF RECOMMENDATION

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, 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.

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. Plans Conforming to Geologic Recommendation

Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the geology consultant's review and approval of all project plans. All recommendations contained in the GeoSoils, Inc., Geologic and Geotechnical Engineering Study, February 18, 1997 including issues related to foundations, drainage, and grading, shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

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.

2. Landscape and Erosion Control Plans

Prior to issuance of permit, the applicant shall submit a landscape plan and an erosion control/drainage plan prepared by a licensed landscape architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- a) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- b) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the approved landscape plan within thirty (30) days of receipt of final certificate of occupancy from the City of Malibu. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) year and shall be repeated, if necessary, to provide such coverage.

3. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

4. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that any future structures, additions or improvements related to the guest house, approved under coastal development permit number 4-97-119, 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 and any other encumbrances which the Executive Director determines may affect the interest conveyed.

IV. Findings and Declarations.

A. Project Location and Description

The applicants propose to construct an 18 ft. high (above finished grade) addition of 2,124 sq. ft. and remodel to an existing one story, 2237 sq. ft. single family residence including attached three car garage, construction of a detached 734 sq. ft. guest house, swimming pool, and replacement of the existing driveway. An upgrade of the septic system is proposed. 300 cu. yds. of grading is proposed in the form of removal to bedrock to a depth of 3 ft. and recompaction in the building site.

The 46,200 sq. ft. site is located in a developed residential neighborhood with limited views of the ocean and mountains, in the Point Dume area. The project site contains an existing dilapidated, unoccupied single family residence, deteriorated ancillary buildings, a septic system, and landscaping. The Land Use Plan, used as guidance in the City of Malibu, designates the lot as Residential I, 1 du/ac.

The property is very gently sloping and located at an elevation of about one hundred feet. No significant native vegetation is found on the site and the site is partially landscaped and appears to have been cleared in the past. No public parks or recreation areas are near or visible to the site.

B. Hazards and Geologic Stability

PRC Section 30253 states, in part, that 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.

The development is located in the Malibu area which is generally considered to be subject to an unusually high number of natural hazards. As noted, the development includes 300 cu. yds. of grading in the form of removal to bedrock to a depth of 3 ft. and recompaction in the building site.

Geologic hazards common to the Malibu area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The Commission reviews the proposed project's risks to life and property in areas where there are geologic, flood and fire hazards. Regarding the site geology, the applicant submitted a report by GeoSoils, Inc.: Geologic and Geotechnical Engineering Study, February 18, 1997. The report addresses

the geology issues by concluding:

... In our professional opinion, proposed development of the subject site is feasible from a geologic and geotechnical engineering viewpoint. The proposed structures will be safe from landslide, slippage and settlement, provided that the recommendations included within this report are incorporated into design and implemented during construction.

Based on the findings and recommendations of the consulting civil engineering geologist, the Commission finds that the development is consistent with PRC Section 30253 so long as all recommendations regarding the proposed development are incorporated into project plans as required by special condition number one (1).

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with drought resistant and native plants compatible with the surrounding environment. Therefore, the Commission finds that it is necessary to require the applicant to submit landscaping plans for all disturbed areas of the site as required by special condition two (2).

Additionally, because the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission will only approve the project if the applicant assumes liability from the associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by condition number three (3).

The Commission finds that only as conditioned to incorporate the geology recommendations, landscape plan, and wild fire waiver of liability will the proposed project be consistent with Section 30253 of the Coastal Act.

C. Visual Impacts

Section 30251 of the Coastal Act states that:

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 areas 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.

The proposal will result in an approximate 60% increase in the size and bulk of the existing residential unit and the addition of another residential unit. The proposed guest house is one story and has a wet bar

and a bathroom, in addition to a living room, with fireplace, and bedroom. Because such new development is proposed, analysis is necessary relative to the visual quality policies of the Coastal Act.

The project site is located in an area is characterized by lower intensity residential development. The proposed redevelopment is consistent with the character of the area and will not adversely impact visual resources from any public view area or road.

For these reasons, the Commission does not find that it is necessary to impose any conditions relative to visual quality and that the proposed development as proposed is consistent with Section 30251 of the Coastal Act.

D. Cumulative Effects of Development

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

(a) 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 only 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 surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on the site where a primary residence exists intensifies the use of a parcel raising potential impacts on public services, such as water, sewage, electricity and roads. New development also raises issues regarding the location and amount of new development maintaining and enhancing public access to the coast.

In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in the certifying the Malibu Land

Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (certified Malibu/Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different functions which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, and farm labor unit; and 2) a guesthouse, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act (Certified Malibu/Santa Monica Mountains Land Use Plan 1986, page 29).

Based on these policies, the Commission has limited the development of second dwelling units or those that appear to be a second dwelling unit. The proposed guest house is one story in height. However, as noted previously, due to the presence of a wet bar and a bathroom, in addition to a living room and bedroom, and fireplace, it would constitute a comfortable small single residence. The City of Malibu has designated this building as a guest house as part of their approval. The Commission considers the project, for these reasons, to be a secondary dwelling unit.

Through hearing and voting on past permit actions, the Commission has established a maximum size of 750 sq. ft. for guest houses. As proposed, the 734 square foot guest house is consistent with past Commission decisions.

However, in order to ensure that no additions are made without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future improvements deed restriction, which will require the applicant to obtain a new permit if additions or changes to the guest unit are proposed in the future. As conditioned by special condition four (4), the guest house will be in conformance with Section 30250 and 30252 of the Coastal Act.

E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards. 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 proposed development includes upgrading the septic system through substitution of a 1500 gallon tank for the 1000 gallon tank. The applicant has submitted a conceptual approval for the sewage disposal system from the Department of Environmental Health Services, City of Malibu. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the City of Malibu Plumbing Code. The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters.

Therefore, the Commission finds that the proposed septic system is consistent with Sections 30231 and 30250 of the Coastal Act.

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 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).

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.

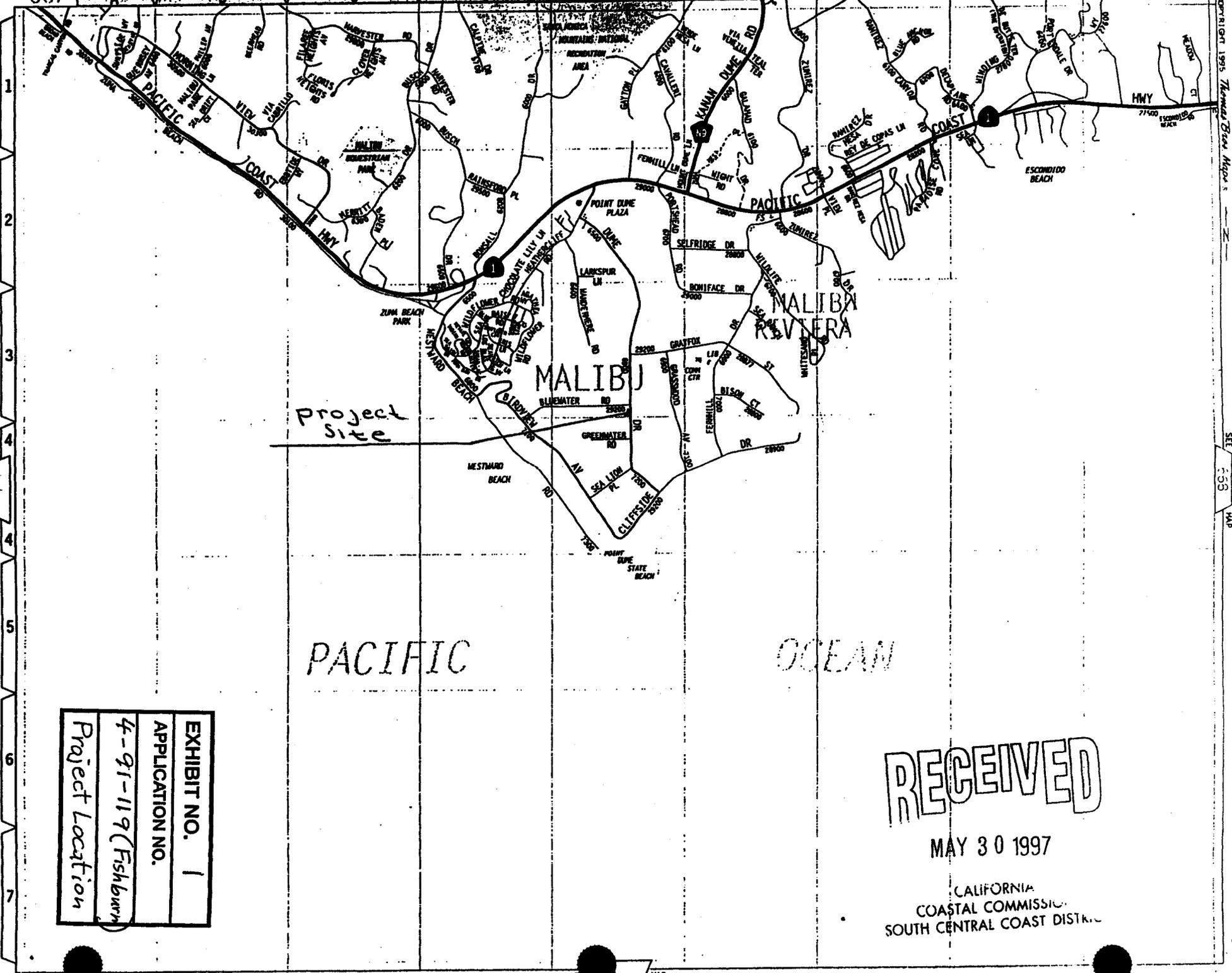
As discussed above, the proposed project has been mitigated to incorporate plans conforming to the consulting geologist's recommendations, wild fire waiver of liability, landscape and erosion control plans, and deed restriction on future development. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of CEQA and the policies of the Coastal Act.

8085A

LOS ANGELES 60

MAP 4

DETAIL



Project Site

PACIFIC

OCEAN

| |
|---------------------|
| EXHIBIT NO. 1 |
| APPLICATION NO. |
| 4-91-119 (Fishburn) |
| Project Location |

RECEIVED

MAY 30 1997

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

7613 DUNE DR.
MALIBU, CA 90265

S.F.D.: 3 Br. - 5 Br. (Remodel)
GUEST HOUSE: 1 Bedroom (N)
SEPTIC TANK: 1500 Gallon (N)
PRESENT: 1 - 5' X 35' BI w/3' Cap (E)
FUTURE: 100%
PERC RATE: 9500 gpd/seepage pit

CITY OF MALIBU
ENVIRONMENTAL HEALTH
IN-CONCEPT APPROVAL
SIGNATURE
MAR 31 1997 *L Young*
FINAL APPROVAL IS REQUIRED
PRIOR TO THE ISSUANCE OF
ANY CONSTRUCTION PERMITS.

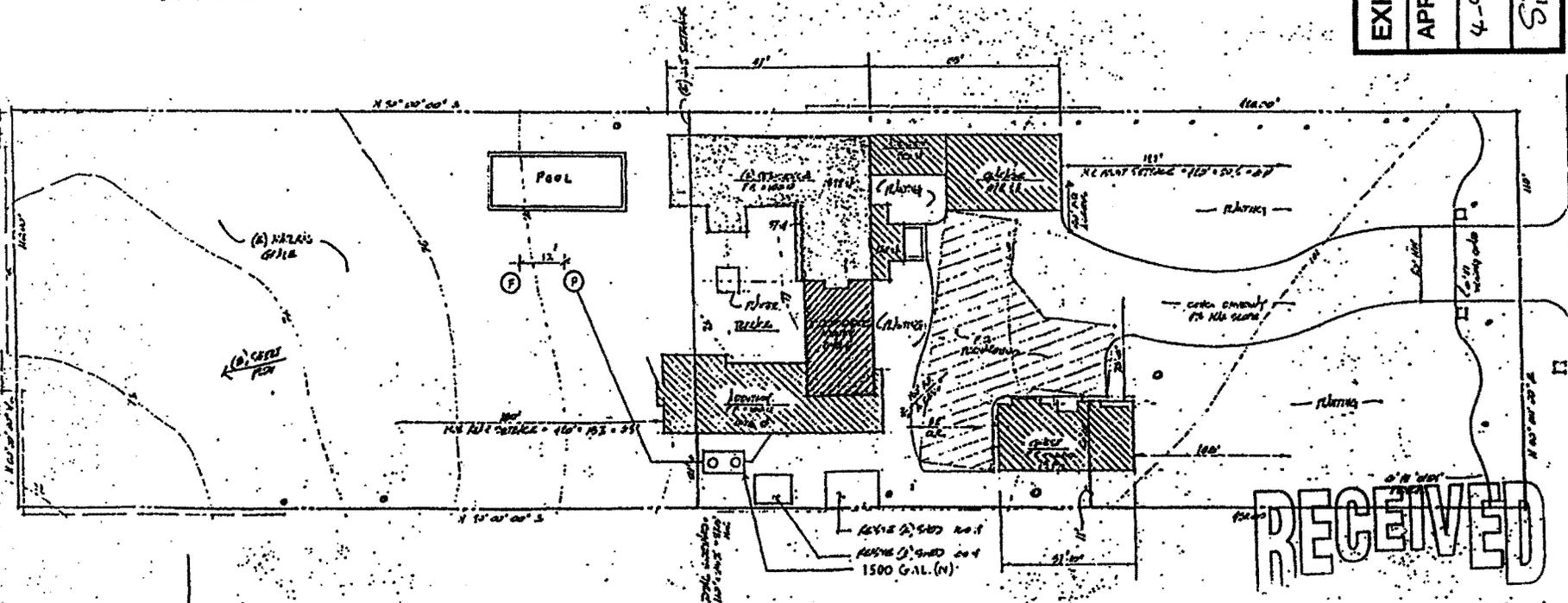


1" = 30'

NOTES:

1. This approval is for a 3 bedroom to 5 bedroom single family dwelling remodel and for a new 1 bedroom guest house. The existing 1000 gallon septic tank shall be abandoned and a new 1500 gallon septic tank installed.
2. This approval only relates to the minimum requirements of the City of Malibu Uniform Plumbi Code and does not include an evaluation of any geological, or other potential problems, which may require an alternat method of wastewater disposal
3. This approval is valid for on year or until City of Malibu Uniform Plumbing Code and/or Administrative Policy changes render it noncomplying.

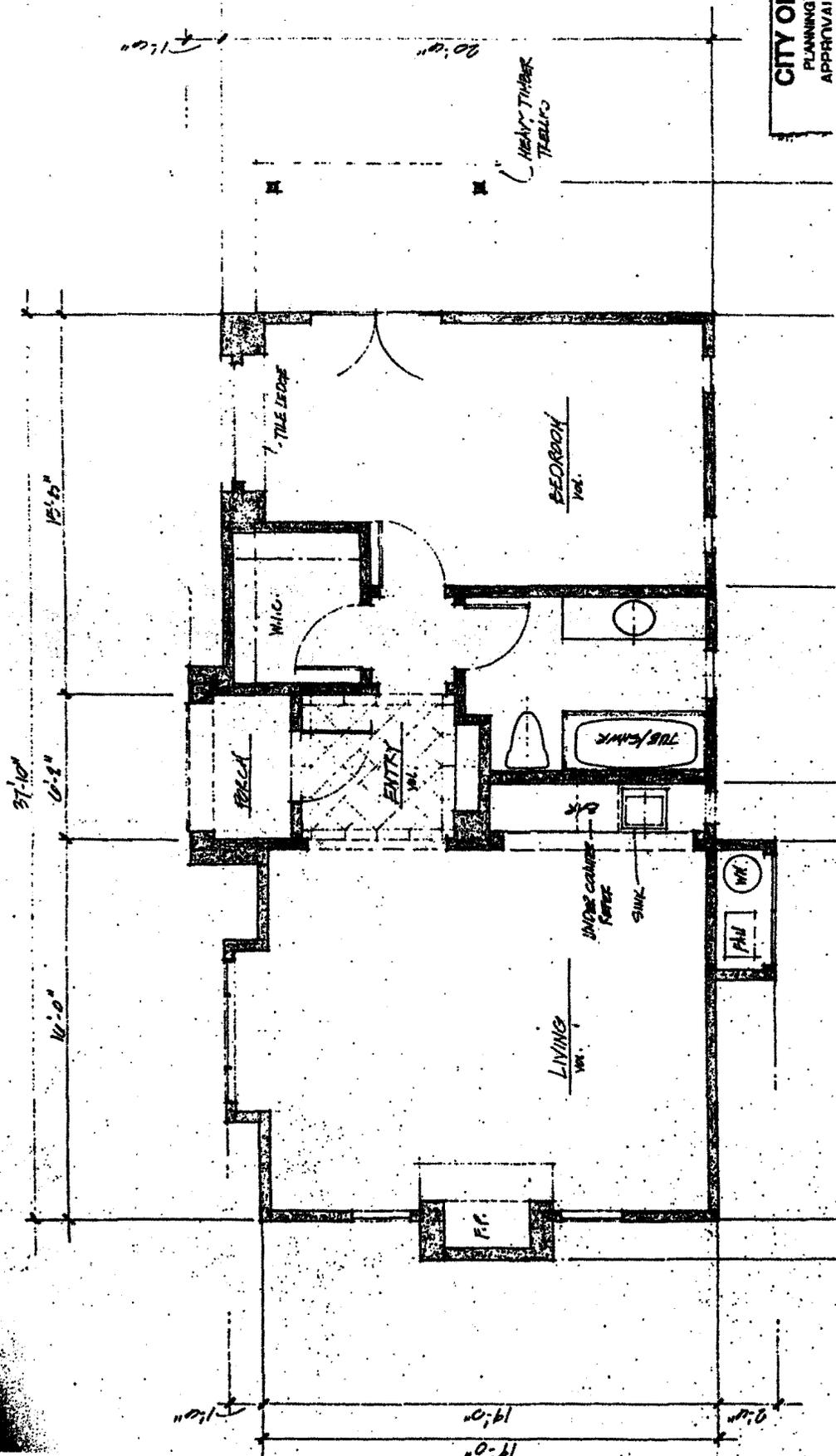
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|---------------------|
| EXHIBIT NO. 2 |
| APPLICATION NO. |
| 4-91-119 (Fishband) |
| Site Plan |



Site Plan

MAY 30 1997

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



CITY OF MALIBU
 PLANNING DEPARTMENT
 APPROVAL IN CONCEPT

| |
|---------------------------|
| EXHIBIT NO. 3 |
| APPLICATION NO. |
| 4-97-125 (Fishburn) |
| Floor Plan of Guest House |