

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

100 SOUTH CALIFORNIA ST., SUITE 200



Filed: 4/12/99
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Staff: MHC *Q&A*
Staff Report: 6/23/99
Hearing Date: 7/13-16/99
Commission Action:

STAFF REPORT: CONSENT CALENDAR**APPLICATION NO. 4-98-206****APPLICANTS: Eduardo Verruno, M.D. AGENT: Sanford Higgenbotham****PROJECT LOCATION: 20959 Pacific Coast Highway, City of Malibu, Los Angeles County.****PROJECT DESCRIPTION:** Add a 330 square foot extension (consisting of bedroom and bathroom). on the 2nd floor of an existing single family residence**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Department Approval in Concept, June 23, 1998**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains Land Use Plan; Reconnaissance Engineering Geological Investigation for Addition and Remodel of 20748 Pacific Coast Highway, Malibu, Ca prepared by Donald B Kowalewsky, February 22, 1999. California State Lands Commission, letter of review, November 5, 1998.

SUMMARY/ STAFF RECOMMENDATION: Staff recommends approval of the proposed project with special conditions regarding: Assumption of Risk, Plans Conforming to Geologic Recommendations, Future Improvements, and Wild Fire Waiver of Liability. The proposed project is located on a beachfront lot. The project will not increase the seaward footprint of the existing development, and will not require grading or vegetation removal.

STAFF RECOMMENDATION:**I. Approval with Conditions.**

The staff recommends that the Commission adopt the following resolution:

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, 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 the 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 effects 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. Assumption of Risk

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, erosion, flooding, or wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. Prior to the 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 incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. Plans Conforming to Geologic Recommendation

All recommendations contained in Reconnaissance Engineering Geological Evaluation for Addition and Remodel of 20744 Pacific Coastal Highway, Malibu, California prepared by Donald B. Kowalewsky Environmental & Engineering Geology, dated September 3, 1998 shall be incorporated into all final design and construction plans.

Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the geotechnical consultants' review and approval of all final project plans. The geotechnical consultant shall confirm that the final project plans and designs incorporate all recommendations contained in the above referenced report. Evidence of such review submitted to satisfy the Executive Director shall include the affixation of the consulting engineering geologists' stamp and signature to the final project plans and designs.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description

The applicants propose to add a 330 square foot addition to the second story of an existing single family residence consisting of a bedroom and bathroom. The additions would be on the seaward side of the house, but would not extend seaward beyond the footprint of the existing structure. The project site is a beachfront property on the south side of Pacific Coast Highway, located east of Las Flores Canyon Road, in the City of Malibu. The structure is supported by a combination of wood piles; concrete piles and isolated concrete pads deriving support from the beach sand. No new foundations are currently proposed. (See Exhibits 1 through 8.)

B. Public Access and Seaward Encroachment

All projects that require a coastal development permit and are situated on beachfront lots require review for compliance with the public access provisions of Chapter 3 of the Coastal Act. The applicable policies include:

Coastal Act Section 30210, which states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 which states that:

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.

In addition, Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, 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 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 accessway.

Finally, 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.

Public Access Considerations for Beachfront Projects

All beachfront projects requiring a coastal development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. In past permit actions, 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. The major access issue in such permits is the occupation of sand area by a structure, in contradiction of Coastal Act policies 30210, 30211, and 30212.

Past Commission review of proposed shoreline projects in Malibu has shown that such projects may pose one or more of the following individual or cumulative impacts on public coastal access: a) encroachment on lands subject to the public trust (thus physically excluding the public); b) interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; or c) overcrowding or congestion of such tideland or beach areas; and d) visual or psychological interference with the public's access to and the ability to use public tideland areas.

Stringline Analysis

As a means of controlling seaward encroachment of residential structures onto beaches subject to the public trust, and to thereby protect and ensure maximum public access, protect public views and minimize wave hazards as required by Coastal Act Sections 30210, 30211, 30251, and 30253, the Commission has, in past permit actions, developed a method of reviewing the seaward extent of buildout that has become known as a "stringline" analysis. The Commission performs a stringline analysis of proposed beachfront development by evaluating the seaward extension of a proposed structure in reference to a line drawn between the nearest corners of similar structures on adjacent properties. A similar analysis is used to review decks. The Commission has generally not approved development that would extend beyond the applicable stringline, thus limiting the seaward "creep" of new development.

The Commission has applied this analysis to numerous past permits involving infill on sandy beaches and has found it to be an effective tool in preventing further encroachments onto sandy beaches. In addition, the Commission has found that restricting new development to building and deck stringlines also protects and ensures maximum public access as required by Sections 30210 and 30211 and protects public views and the scenic quality of the shoreline as required by Section 30251 of the Coastal Act.

Consistency with Public Access and View Protection Policies

The proposed project includes a second story addition over an existing bedroom located on the seaward side of the subject parcel. The footprint of existing structures on site is within the stringline measurements. (See Exhibit 6.) This footprint will not change and there will be no seaward extension of development. The proposed second floor addition will total 23 feet above the existing grade. The applicable height limit established by the City of Malibu is 28 feet. The proposed addition will not result in any adverse public visual impacts. The proposed project will not interfere with or preclude public access to any presently existing vertical or lateral public access easements. For all of these reasons, the Commission finds that the project would have no individual or cumulative adverse impacts on public access or public coastal views. Therefore, the Commission finds that a condition to require lateral access is not appropriate and that the project, as proposed, is consistent with Coastal Act Sections 30210, 30211, 30212, and 30251.

B. Hazards; Geologic Stability

Section 30253 of the Coastal Act states in pertinent 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.

Applicant's Assumption of Risk

The proposed development is located on an oceanfront lot in the City of Malibu. The Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the past El Nino severe winter storm season.

In the winter of 1977-1978, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council, damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost \$5 million to private property alone.

The El Nino storms recorded in 1982-1983 occurred during high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused over \$12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California and, in particular, the Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast. The total damages and costs resulting from those storms are currently being assessed.

Thus, ample evidence exists that all oceanfront development in the Malibu area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, and flooding, the applicant must assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicants to waive any claim of liability against the Commission and its employees and agents for damage to life or property which may occur as a result of the permitted development. The applicants' assumption of risk, as required by Special Condition 1, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site that may adversely affect the stability or safety of the proposed development.

Wild Fire Waiver

Furthermore, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire. The typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Although the applicants' property is located seaward of Pacific Coast Highway, and adjacent to the Pacific Ocean, the risk posed by wild fire to life and property on the subject site remains. Wild fires originating in the chaparral vegetation of the Santa Monica Mountains have been known to move swiftly toward beachfront properties under certain circumstances--particularly when wild fires originate during the hot, dry "Santa Ana" wind conditions that reverse the usual direction of coastal breezes and drive fire storms down the mountain slopes and toward the sea. Thus, wild fires threaten even beachfront properties in the Malibu area.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicants assume the liability from these associated risks. Through Special Condition 1, the applicants acknowledge the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition 1, the applicants also agree to indemnify the Commission, its officers, agents, and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

Geology

The applicant has submitted a geotechnical engineering report for the proposed project prepared by Donald B. Kowalewsky of Environmental & Engineering Geology, dated February 22, 1999. An evaluation of the geologic conditions found at the site was performed together with laboratory tests to determine the physical properties of the soil, including moisture content, density, shear strength, and consolidation characteristics.

The consulting engineering geologists found that there are no significant hazards due to seismicity, landslides, tsunamis, or liquefaction at the subject site. The report concluded and recommended that "The room addition within this cite cannot adversely affect slope stability north of highway. The geotechnical report also provided the following additional conclusions and recommendations:

1. The room addition and foundation support for that addition exists. Therefore, there is no need to provide additional foundation recommendations. If new foundations are necessary, recommendation in the Kovacs-Beyer-Robertson, Inc. and Robertson Geotechnical, Inc. reports should be followed. Alternatively, a new detailed foundations investigation based on subsurface sampling, and laboratory testing could be performed.
2. Surface water runoff should be intercepted via eave and yard drains and conducted to the beach in non-erosive devices. Preparation of a drainage plan is the responsibility of the project engineer.
3. Wave action analyses are not the responsibility the project geologist. A wave action engineer should be consulted if this data is required.
4. As this time, there are no plans for increasing the size of the exiting sewage disposal system. If an increase is needed in the future, we can provide necessary testing an analysis for the your by your design professionals.

Based on the recommendations of the consulting geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as the geologic consultants' recommendations are incorporated into project plans. Therefore, the Commission finds it necessary to require the applicant to submit final project plans and designs that have been certified in writing by the consulting engineering geologists as conforming to all recommendations set forth in the September 3, 1998 report cited above, pursuant to the requirements of Special Condition 2.

For all of the reasons set forth above, the Commission concludes that the proposed project, as conditioned by Special Conditions 1, 2, and 3 is consistent with the requirements of Section 30253 of the Coastal Act.

C. Septic Systems

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 in the local area. 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, minimizing alteration of natural streams.

The applicant does not propose to add or modify the septic system.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

D. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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 development 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).

E. Violations

Various developments have been carried out on the subject site without the required coastal development permits including the addition of the 330 foot 2nd story bedroom addition. The applicant proposes to retain the above-mentioned development.

In order to ensure that the violation aspect of this project is resolved in a timely manner, Special Condition five (5) requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action.

Consideration of this 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 the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity would have on the environment.

The proposed project, as conditioned, will not have any 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 consistent with CEQA and the policies of the Coastal Act.

Figure 1 Geologic Map
(U.S.G.S., 1980)

EXHIBIT NO. 1
APPLICATION NO.
4-98-206
Verruno



Verruno

JUL 22 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

THIS APPROVAL IS VALID FOR 1 YR FROM THE DATE STAMPED.

~~SEE~~ NEST ELEVATION
FOR ADDITIONAL NOTES.

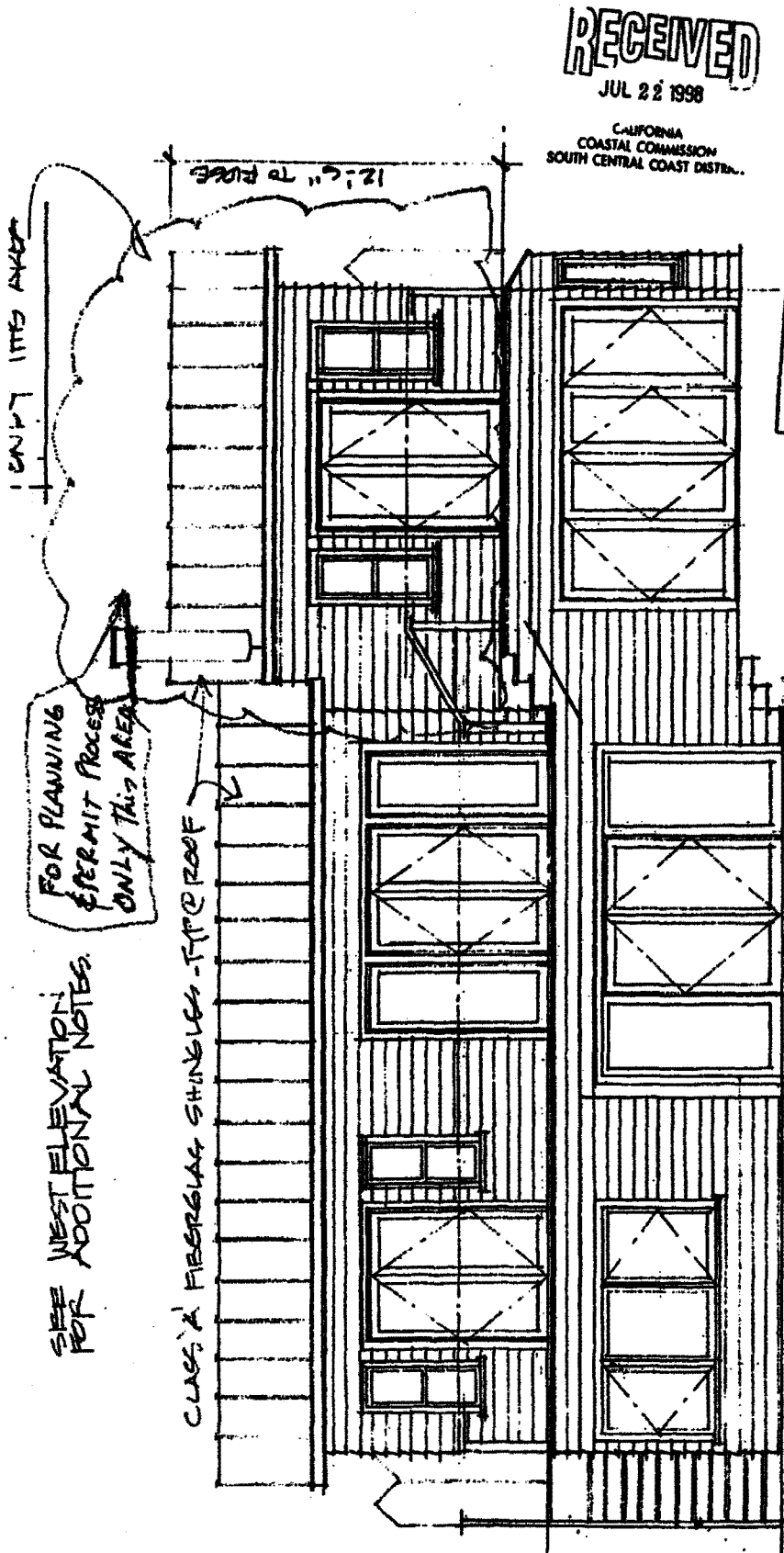
FOR PLANNING
A PERMIT PROCESS
ONLY THIS AREA

[illegible]

~~VERNON RESIDENCE~~
~~20740 PACIFIC COAST HWY~~
~~WALTON, CA~~

HEAST ELEVATION

DOOR HINGES & WINDOW/DOOR REPLACEMENT



RECEIVED
JUL 22 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

CITY OF MALIBU
PLANNING DEPARTMENT
APPROVAL IN CONCEPT
SIGNATURE [Signature]
DATE 7/20
PLANNING REVIEW NO. 700
THIS IS NOT A PERMIT
AND IS SUBJECT TO ANY
CONDITIONS LISTED BELOW
THIS APPROVAL IS VALID FOR 1 YEAR FROM THE DATE STAMPED

VERRUNO RESIDENCE
20748 PACIFIC COAST HWY
MALIBU, CA
SOUTH ELEVATION
SIDING & WINDOW DOOR REPLACEMENT

SOUTH ELEVATION
1/4" = 1'-0"

EXHIBIT NO. 3
APPLICATION NO.
4-98-206
Verruno

RECEIVED

JUL 22 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

CITY OF MALIBU
PLANNING DEPARTMENT
APPROVAL IN CONCEPT

SIGNATURE

DATE _____
CLAIMED BY _____

OWNERS REVIEW NO.

THIS IS NOT A PERMIT
AND IS SUBJECT TO ANY
CONDITIONS LISTED BELOW

CEADWIS 31 VIO 341 PORE BA 1 HOU ON 15 25 MAG 1 1961

RESUPPLYING EXISTING DECK

WEDDROOM
EXISTING - NO CHG.
(K.T.)

FAMILY ROOM
EXISTING - NO CHANGE
(CFT)

BEFORE
EXISTING - NO CHG.

(Date) : ୨୩/୦୭
HABD ନିୟମିତ

EXISTING - NO CHG

REPLACE EXIST'G GATES

REPAIRS EXIST WALKWAY
REALTEN EX LOW WALK MOUNTS

GEORGE LITTEN EX. VAN WALKER ROAD

Blackstone, front

NEW 4x4 HAV.

VERRINO RESIDENCE
20748 PACIFIC COAST HWY

UPPER LEVEL MAP PLAN

EXHIBIT NO. 4

APPLICATION NO.

4-98-206

Verruno

FOR PLANNING
PERMIT PROCESS
ONLY THIS AREA

EXHIBIT NO. 6

APPLICATION NO.

4-98-206

Verruno

20748 P.C.H.
VERRUNO

(FUTURE)

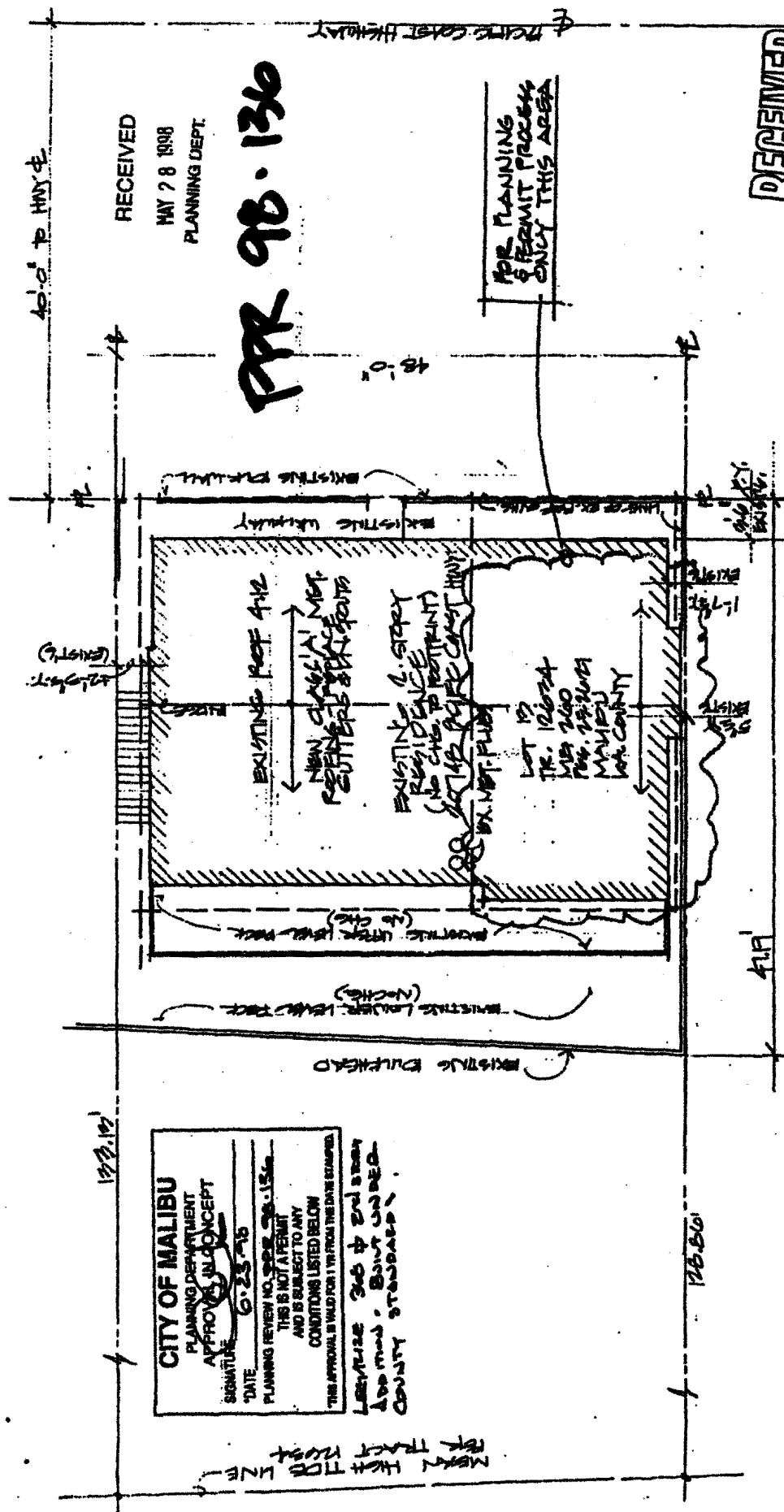
EXISTING HIGH LINE

EXISTING ROCK LINE

EXISTING BULKHEAD LINE

$\frac{1}{8}'' = 1'0''$

Existing + prop
building + det
Exhibit 2
5-84-665



RECEIVED
MAY 28 1998
PLANNING DEPT.

PPR 98-130

FOR PLANNING
& PERMIT PROCESS
ONLY THIS AREA

RECEIVED
JUL 22 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

20

VERRUNO RESIDENCE
20740 PACIFIC COAST HWY
MALIBU, CA
SITE PLAN
INTERIOR KITCHEN BATH REMODEL

CITY OF MALIBU
PLANNING DEPARTMENT
APPROVAL AND CONCEPT
SIGNATURE: [Signature]
DATE: 6-23-98
PLANNING REVIEW NO. 98-130
THIS IS NOT A PERMIT
AND IS SUBJECT TO ANY
CONDITIONS LISTED BELOW
*THIS APPROVAL IS VALID FOR 1 YEAR FROM THE DATE STAMPED.

Leave size 30' x 20' area
as shown. But under
county standards.

EXHIBIT NO. 7
APPLICATION NO.
4-98-206
Verruno

