# CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA 89 SOUTH CALIFORNIA ST., SUITE 200 VENTURA, CA 93001 (805) 641-0142

Filed: 8/7/95 49th Day: 9/25/95 180th Day: 2/3/95

Staff: R. Richardson Staff Report: 12/27/95

Hearing Date: Jan. 9-12, 1995

Commission Action:

STAFF REPORT: REGULAR CALENDAR

THIL

APPLICATION NO.: 4-95-141

APPLICANT: Glen Ernst

Glen Ernst AGENT: John MacNeil

PROJECT LOCATION: 21812 Castlewood Dr., Malibu, Los Angeles County

PROJECT DESCRIPTION: Lot line adjustment on two lots from 10,983 sq. ft.

and 19,919 sq. ft. to 16,907 sq. ft. and 14, 095 sq. ft.

Building coverage:

N/A

Plan designation:

Rural Land III; I dwelling per 2 acres

LOCAL APPROVALS RECEIVED: L. A. County Department of Regional Planning Approval in Concept, L. A. County Department of Building and Safety, Department of Public Safety, Approval.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan; Coastal Development Permit 4-94-160 (Ernst); Coastal Development Permit 4-94-111 (Laden)

The proposed project involves the lot line adjustment of two legal lots. The Malibu Land Use Plan map, which is considered as guidance, designates the optimum densities of development for this area as Rural Land III, which allows for one dwelling per two acres. Research indicates that both lots are found on the L. A. County 1978 Buildout maps. The subject sites are developed with foundation remnants that transcend both parcels, with the majority of the foundation located on lot 2. The original house that was constructed in the early 1970s across the lot line, was destroyed in the 1993 Topanga/Malibu Firestorm. Slope gradients on cut slopes and natural slopes for the sites vary from nearly horizontal where the graded pad area is to as steep as 1:1. Adjacent to the two parcels is an active landslide downslope to the southwest of the property which has had adverse affect on the public street, Rambla Pacifico Road and on other adjacent properties. As noted in the applicant's geotechnical report, "headward migration of the landslide should be anticipated." Further, in approximately March of 1995 and later in June of 1995, the large movement of the mapped Lamplighter Landslide occurred. Information relative to recent movement of the Landslide has not been submitted by the applicant. Thus staff recommends approval of the above described project subject to special conditions relating to an assumption of risk deed recordation, a future improvements deed recordation and grading and excavation special conditions.

#### II. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

## I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that 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. <u>Compliance</u>. 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. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- 6. <u>Assignment</u>. 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.
- 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

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction on lot 2, identified as Assessor Parcel Number 4453-13-4, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from erosion, landslide and geologic instability and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission, its officers, agents and employees relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

#### 2. 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 the subject permit is only for the development described in the Coastal Development Permit No. 4-95-141; and that any future structures or improvements to either property, including but not limited to clearing of vegetation and grading, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. Removal of vegetation consistent with L. A. County Fire Department standards relative to fire protection is permitted. Any future additions or improvements to the house approved under Coastal Development Permit 4-94-160 shall 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 being conveyed.

#### 3. Evaluation of Grading and Landform Alteration

At the time of submission to the Commission of any future application to permit the construction of the single family home and or septic system on lot identified as Assessor Parcel Map Number 4453-13-04, the applicant shall submit to the Commission grading plans that illustrate the following:

Construction of the garage at grade of Castlewood Road with minimal grading associated with site access; and construction of the structure built to grade of the slope without grading a flat pad. The applicant must demonstrate that the project grading represents the minimal amount of landform alteration necessary and that project grading does not impact site stability or any surrounding properties.

## IV. Findings and Declarations.

The Commission hereby finds and declares:

## A. Project Description

The applicant is proposing to adjust the lot lines on two lots located on Castlewood Drive, approximately 200 ft. north and upslope from the intersection of Hume and Rambla Pacifico Road in the Santa Monica Mountains. The lots are presently 10,983 sq. ft. (Parcel 1) and 19,191 sq. ft. (Parcel 2). Once the line is adjusted, the lots, as proposed would be 16,807 sq. ft. and 14,095 sq. ft.

The Malibu Land Use Plan map which is considered as guidance represent optimum densities of development in the Santa Monica Mountains. These sites are designated as Rural Land III, which allows for one dwelling per two acres. Research of the parcels indicates that both lots are found on the L. A. County 1978 Buildout maps. Additionally, the applicant has submitted a Certificate of Compliance Exemption for both lots to evidence that the lots were created prior to 1967 as a result of a subdivision of four parcels or less. Thus, even though the size of the parcels which combined total less than one acre and do not conform to the densities of one dwelling per two acres as specified in the land use plan map, they are legal lots that were created prior to the Coastal Act.

The subject sites are developed with foundation remnants that transcend both parcels, with the majority of the foundation located on lot 2. As specified in the applicant's geotechnical report, the original house was constructed in the early 1970s across the lot line. According to the County of Los Angeles, even though the development was sited substantially on both lots, the applicant was not required to record a covenant combining the lots as one. In the 1993 Topanga/Malibu Firestorm the existing 2,450 sq. ft. single family residence was destroyed.

Slope gradients on cut slopes and natural slopes for the sites vary from nearly horizontal where the graded pad area is to as steep as 1:1. The site has been partially graded for purposes of constructing the residence and driveway. More recently, the site has been the subject of coastal development permit #4-94-160 (Ernst). Under this permit (4-94-160), the Commission approved the construction of a 4,690 sq. ft., 34 ft. high single family residence to replace the burned out residence. The project plans identify that the approved structure would be built in the same location as that of the existing foundation with a soldier pile wall for pad stabilization purposes. The project was subject to special conditions regarding landscaping and erosion control plans, conformance with geologic recommendations and a wild fire waiver of liability.

Further as described in detail below, there is an active landslide present downslope to the southwest of the property which has had adverse affect on the public street, Rambla Pacifico Road and on other adjacent properties. As noted in the applicant's geotechnical report, "headward migration of the landslide should be anticipated." Further, in approximately March of 1995 and later in June of 1995, the large movement of the mapped Lamplighter Landslide occurred. As set forth by the applicant, the head scarp is located

approximately 100 ft. downslope from the subject lots. However, los Angeles County Department of Building and Safety disputes this location and asserts that the actual location of the head scarp is further upslope (closer to the subject lots) than the location the applicant identifies. Information relative to recent movement of the Landslide has not been submitted by the applicant.

# B. Geologic Stability

Section 30253 of the Coastal Act 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, 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.

Slopes in this area of the Santa Monica Mountains are subject to a number of landslides that have individually and cumulatively contributed to destruction of homes and public streets. For example, in 1993 and 1995, Hume Road, one of two access road into the Rambla Pacifico area, was the subject of two large slope remediation projects due to the movement of an active landslide (Hume Road Landslide) to insure available access to the residential area. Additionally, in April of 1995, Rambla Pacifico, the second access road available to the area was closed due to the destruction of a 200-foot length of the road which resulted from the significant failure of the Eldermoor Landslide. Further, in March 1995, Los Angeles County Department of Public Works performed a geologic investigation of the Lamplighter Lane Landslide which addressed the significant failures of the landslide as it pertains to the public roads and single family residences that are located on Lamplighter Lane and downslope (south) of the subject property and found that significant movement had occurred as recent as 1995.

The proposed project involves the adjustment of one lot line between two legal lots, created prior to the creation of the Coastal Commission. In the early 1970s one single family residence was built across this lot line. At the time of construction, the County of Los Angeles did not require applicants to combine the two lots, by way of a covenant agreement, where a single house traversed the lot line. As stated previously, the home was destroyed in the 1993 Malibu/Topanga Firestorm. In November 1994, the Commission approved the rebuild of the residence in the same location. At that time the applicant submitted an Engineering Geologic Report dated 9/20/95 prepared by Mountain Geology, Inc. that identified that, "An active landslide is present immediately downslope to the southwest of the residence pad. The landslide has adversely effected the public street, improvements and offsite residences." The report states that the landslide, which is a large bedrock failure is, "... moving down towards Carbon Canyon to the west." Additionally, the report states that, "Headward migration of the landslide should be anticipated." Irrespective of the potential destablization of the site the report concluded that the rebuild of the burned out residence (subject of coastal development permit 4-94-160) would be feasible from an

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engineering geologic standpoint. The consulting geotechnical engineer asserted that the employment of a tall, subsurface soldier pile wall would stabilize the site's development.

Based on staff's current review of the subject geotechnical report and also on the significant slope failures that had occurred in early and mid 1995, additional information from the applicant relative to the construction of a second house on the adjacent lot is necessary. In addition, Commission staff spoke with Los Angeles County Public Works staff relative to the recent engineering geotechnical report that they completed in March of 1995 (Lamplighter Lane Landslide Complex, March 1995) and to the applicant's geotechnical consultant from Mountain Geology, Inc.

Pursuant to these inquires, the applicant submitted an Addendum Engineering Geologic Report, dated 9/29/95 and revised 10/24/95 prepared by Mountain Geology, Inc. that was prepared in response to a Los Angeles County Department of Public Works Geotechnical Review Sheet dated 8/8/95. In a telephone conversation with staff, the applicant's geologist stated that the factor of safety and site stability of the undeveloped lot (Parcel 1) can only be determined by drilling borings at adequate depths. To date, this information has not been obtained. None the less, the Addendum Engineering Geologic Report concludes that, "The proposed lot line adjustment is considered acceptable from an engineering geologic standpoint."

In addition, the August 9, 1995 Geotechnical Review Sheet, which is the subject of the Addendum Report, and the August 29, 1995 Geologic Review Sheet both state that the plans for the rebuild of the previously approved residence (Coastal Development Permit 4-94-160) on Parcel 2 are not approved. reasons (as taken from both review sheets) included, in part, the requirement that the applicant's geotechnical engineer and geologist perform additional testing, slope stability analysis and review of the Lamplighter Landslide's headward (upslope) enlargement. The County further required that data be obtained relative to site stability and adjacent properties as a result of installing a private sewage disposal system. The Review Sheets also stated that the sewage disposal system installation data should address whether ponding or daylighting of the effluent would occur. Further, both Review Sheets indicate that the consulting geologist and geotechnical engineer must make a finding in accordance with section 309 of the Los Angeles County Building Code which requires the consultants to assert that the project is feasible and will not have adverse impacts on surrounding properties. With respect to the proposed rebuild of the home destroyed in the 1993 fires, the Geotechnical Review Sheet states that borings were performed by the Department of Public Works at depths of 60 ft. near the intersection of Hume and Rambla Pacifico, approximately 150 ft. south of the lots. These borings demonstrate ancient slide debris which indicates that, "... the slide becomes very deep very quickly." Additionally, the Sheet requires the review of the:

... criteria utilized in determining the location of the head scarp of the landslide as mapped. It should be noted that the U.S.G.S. mapped landslide appears to be above/larger than the active head scarp. Could the ancient landslide head scarp extend into the proposed building site?

As stated previously, the applicant has submitted an Addendum Report to respond to the County's Geotechnical Review Sheet dated 8/9/95. The report

does not provide any additional slope stability analysis, analysis of site stability relative to septic system installation nor a finding in accordance with Section "309" of the County Building Code. Further, staff has spoken with the applicant's property neighbor to the south of the undeveloped lot (Parcel 1) and he asserts that in early 1995, his residence suffered damage due to significant slope failure of the Lamplighter Landslide. To date the Commission staff has not received any written documentation to that effect.

Staff notes that the above cited information represents, to a great extent, new information of significant landslide movement in the Rambla Pacifico While the slopes in this area historically have been subject to ancient landslide movement and instability problems, several factors have exacerbated these situations. One factor that has contributed is the 1993 Topanga/Malibu fires which denuded the slopes of vegetation and contributed to overall destablization by way of surficial soil instability. Another factor involves the severe 1995 winter storm event which brought a large amount of rainfall over a short duration. This too contributed to erosion and surficial instability. As such, construction of two single family homes on the two existing lots within this area inherently raises geologic and geotechnical engineering concerns with respect to the development of future structures and impacts to the surrounding properties. Moreover, the Commission finds that future development on either site should be carefully reviewed. Commission underscores this point in light of the new information which suggests that the landslide is larger than the active head scarp, with the potential of transcending the remnant foundation and that the borings documented by L. A. County are at much deeper depths than the scope of the consulting geotechnical engineer's investigation and those borings evidence slide debris.

Given that the review of the proposed project is limited to the adjustment of one lot line between two existing lots, the potential geologic hazards associated with any future development of Parcel 1 or any additional development on Parcel 2, are not the primary subject of consideration. project to be reviewed for consistency with the applicable Chapter 3 policies of the Coastal Act is the lot line adjustment of two legal lots. However, the lot line adjustment may be facilitating the construction of another structure by reconfiguring the lot line. The initial review of total development (one single family residence) on these sites in 1970 and in 1994 was based on the proposal of one structure over two lots. As proposed, the lot line adjustment may enable an increase in the number of structures within a steeply sloped. approximate 31,000 sq. ft. total area (the two parcels combined) where new evidence exists to suggest that niether lot is geologically stable. Therefore, the standard of review relative to the adjustment of the lot line entails the following: whether or not the development will result in an increase of risk pursuant to geologic instability; whether the lot line adjustment will minimize risks to life and property; and, whether or not the development will impact structural integrity and create or contribute to erosion, geologic instability, or destruction of the site or surrounding area. The Commission emphasizes that the development of adjusting this lot line may now create the potential for additional structures, where, past development transcending the lot line and dating back to 1970, indicated that the lots would be developed with only one structure.

As set forth above, the Coastal Act recognizes that any new development in the future, such as a single family residence or an addition to an existing single family residence, may involve taking some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. 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 his property.

Due to that fact that recent events have underscored the potential harm that may occur as a result of <u>future</u> development of the sites and also due to the fact that the site may be subject to extraordinary hazard from landsliding and from erosion, the applicant shall assume these risks as a condition of approval (emphasis added). Because the risk of harm cannot be completely eliminated, the Commission is requiring the applicant to waive any claim or liability on the part of the Commission for damage to life and property which may occur as a result of development.

In addition, the Commission notes that concerns about the site's future potential geologic instability might occur with any development of the subject property because of the extensive threat of movement by the Lamplighter Lane Landslide on the site. Impacts such as destablization of the site and surrounding properties, erosion, visual scenic quality and resource degradation would be associated with the development of the lot in this area. Therefore, the Commission finds it is necessary to require the applicant to include a future improvements deed restriction that specifically limits activity that might otherwise be exempt from the Commission's review. In addition, for all the reasons set forth above, any additions to the fire rebuild house (Parcel 2) approved by the Commission (Coastal Development Permit 4-94-161) would be subject to the same concerns. Further, any additions to the approved development on Parcel 2 may require septic system expansion and minimal grading which could also contribute to the above listed impacts to this area and, therefore, will be subject to the Commission's Thus, the findings and special conditions attached to this permit will serve to ensure that any future development of Parcel 1 or any additional development of Parcel 2 is proposed in a manner consistent with the Chapter 3 policies of the Coastal Act. The Commission finds that as conditioned, the proposed project is consistent with Sections 30253 and with all the applicable policies of the Coastal Act.

#### C. Landform Alteration

Section 30251 of the Coastal Act states:

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 lots subject to the lot line adjustment are located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards, as explained in detail in the preceding section. As stated previously, the residence that was built in 1970 was one of the 430 homes that were destroyed in the November 1993 Malibu/Topanga Firestorms.

In addition to the property being geotechnically constrained, the undeveloped parcel also has difficult topographical features. The subject site is topographically situated on the crest of a south-trending secondary ridge. Slope gradients on the site of the cut slopes and natural slopes range from nearly horizontal on the graded pad area to as steep as 1:1. Specific to the undeveloped Parcel 2, the northern most section (approximate 36 ft.) of the lot has an approximate 60% slope. It is this portion of the site which is closest to Castlewood Drive, where access to the property would occur. The center portion of the site is relatively flat with an approximate 16% slope.

Presently, the approved single family residence (coastal development permit 4-94-160) on Parcel 2 and the remnants of the old foundation straddle the two lots (See Exhibit 1). The lot line will result in two lots that are 16,807 sq. ft. and 14,095. Parcel 1, which is the larger of the two, would be technically eligible for the development of one single family home, whereas the Commission has already approved Parcel 2.

Given the steepness of the undeveloped site (Parcel 1) and given the geotechnical constraints, at the time of submission to the Commission of any future application for the construction of the single family home and/or septic system on this parcel 1, it is necessary to have the applicant submit grading plans that illustrate the following: construction of the garage at grade of Castlewood road with minimal grading associated with site access; and construction of the structure built to grade of the slope without grading a flat pad. Additionally, the applicant must demonstrate that the project grading represents the minimal amount of landform alteration necessary and that project grading does not impact site stability or any surrounding properties. Only as conditioned is the proposed project consistent with the applicable grading and landform alteration policies of the Coastal Act.

#### D. 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).

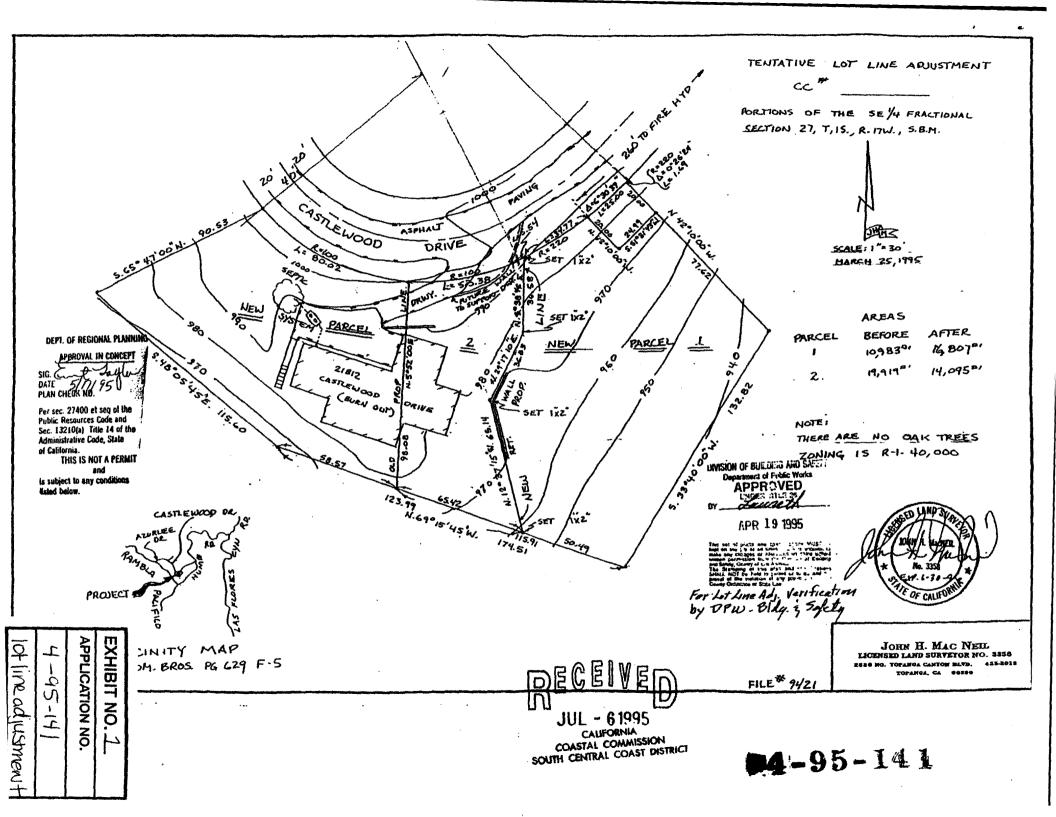
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections

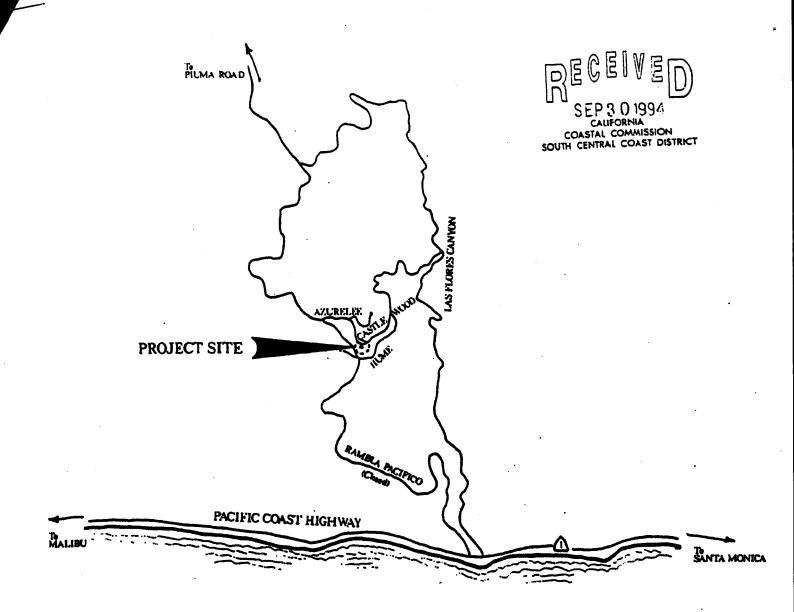
provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable 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).

#### F. CEOA

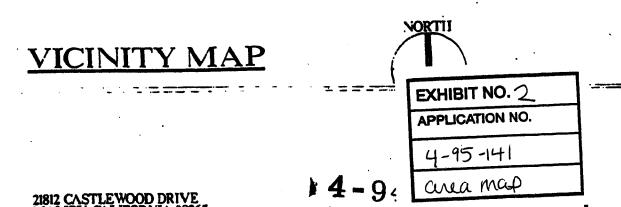
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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 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.

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PACIFIC OCEAN



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