

CALIFORNIA COASTAL COMMISSION  
South Central Coast  
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## RECORD PACKET COPY

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Staff Report: 5/23/96  
Hearing Date: 6/12-14/96  
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

**F7b**

APPLICATION NO.: 4-95-249-A

APPLICANT: Joey & Georgia Goodman

AGENT: Oscar McGraw

PROJECT LOCATION: 3824 Paseo Hildago, City of Malibu, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:

Construction of a new 3,208 sq. ft. single family residence (SFR) to replace a 2,340 sq. ft. SFR destroyed by the 1993 Old Topanga Firestorm. The CDP contained the following special conditions: landscape and erosion control plans, plans conforming geologic recommendations, wild fire waiver of liability, and assumption of risk.

DESCRIPTION OF AMENDMENT:

Removal of Special Condition No. 2, Assumption of Risk.

LOCAL APPROVALS RECEIVED:

None required for this proposed amendment.

SUBSTANTIVE FILE DOCUMENTS:

Coastal development Permit 4-95-249 (Goodman), Geotechnical Investigation Report, dated October 13, 1994, Revised City of Malibu Restoration Classification, dated October 20, 1995, by Harrington Geotechnical Engineering, Inc. and Response to California Coastal Commission Staff Report for the Proposed Reconstruction at 3824 Paseo Hidalgo, Malibu, California, dated March 26, 1996, prepared by Harrington Geotechnical Engineering, Inc.

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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 amendment is consistent with the policies of the Coastal Act.

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STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

1. Approval.

The Commission hereby approves the amendment to the Coastal Development Permit, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

NOTE: Special Conditions 1,3 and 4, attached to the previous approved permit, shall remain in effect.

II. Findings and Declarations.

A. Background

In February of 1996, the California Coastal Commission approved a coastal development permit, CDP 4-95-249, for the construction of a new 3,208 sq. ft. single family residence (SFR) to replace a 2,340 sq. ft. SFR destroyed by the 1993 Old Topanga Firestorm. The CDP contained four special conditions regarding landscape and erosion control plans, plans conforming to geologic recommendations, wild fire waiver of liability, and geologic assumption of risk. The latter special condition was placed upon the permit as the evidence submitted by the applicant regarding geologic conditions on site indicated that the proposed SFR was within proximity of a major regional landslide, the Rambla Pacifico landslide, and could be subject to the associated geologic risk of this landslide. Special Condition No. 2 states as follows:

Assumption of Risk

Prior to permit issuance, applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that: (a) the applicant understands that the site may be subject to extraordinary hazard from landsliding and erosion, and the applicant assumes the liability from such hazards that; (b) the applicant hereby unconditionally waives any future claims of liability on the part of the California Coastal Commission and agrees to indemnify and

hold harmless the California Coastal Commission, its officers and employees relative to the California Coastal Commission's approval of the project for any damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

#### B. Amendment Description

The applicant proposes to have Special Condition No. 2, Assumption of Risk, removed from CDP 4-95-249, as the applicant and their geotechnical consultant, Harrington Geotechnical Engineering, Inc., state that this condition is not necessary as the site is not within the influence of the Rambla Pacifico Landslide.

#### C. Coastal Act Issues

Section 30253 of the Coastal Act states:

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 proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains 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 vegetation, thereby contributing to an increased potential for erosion and landslide on the property. As a part of the original submittal for CDP 4-95-249, the applicant submitted a Geotechnical Investigation Report, dated October 13, 1994, and the Revised City of Malibu Restoration Classification, dated October 20, 1995, by Harrington Geotechnical Engineering, Inc. These reports indicated that the property was grossly stable and would not be affected by landslide, settlement and slippage. However, the consulting geologist also noted the close proximity of the Rambla Pacifico Landslide to the subject property. Furthermore, the Rambla Pacifico landslide became increasingly active following the winter rains of 1995 and was recorded moving at approximately 60 feet per year. Therefore, given the proximity of the property to a potential geologic hazard an assumption of risk special condition was attached to the permit.

The applicant has subsequently submitted a Response to California Coastal Commission Staff Report for the Proposed Reconstruction at 3824 Paseo Hidalgo, Malibu, California, dated March 26, 1996, prepared by Harrington Geotechnical Engineering, Inc. The above noted report submitted by the applicant's consultant provides further evidence regarding the geologic stability of the proposed project site.

The March 26, 1996, report states:

The staff report indicates that prior to the issuance of a permit by the Coastal Commission for the reconstruction it will be necessary to execute and record a deed restriction acknowledging "that the site may be subject to extraordinary hazard from landsliding and erosion." The report (pp. 4 & 5) goes on to quote portions of our geotechnical investigation (Ref. 1) and revised restoration classification letter (Ref. 2) related to the proximity of the subject site to the active Rambla Pacifico Landslide. On page 6 of the staff report it again indicates that the required deed restriction is necessary "due to the potential hazardous geologic conditions on this site, and the proximity of the site to the Rambla Pacifico Landslide," and that a similar "restriction for hazardous geologic conditions is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region."

While we agree that such deed restrictions or hazard waivers are commonly required for reconstruction and new developments in this area for sites that contain a geologic hazard or are near such hazard that could affect the stability of the site, we do not agree that such hazard affecting your property (the applicant's property) exists or that the requested deed restriction is needed. In fact, we stated in the geotechnical investigation report that it was our professional opinion that the "proposed replacement structure will not be unduly subject to hazard from landslide, settlement or slippage nor will the redevelopment of the site adversely affect the stability of the adjacent property provided the recommendations presented herein are implemented."

Although the site is near the active Rambla Pacifico Landslide (approximately 140 feet away) the current slide movement is along a pre-established slide plane. Analyses performed as part of the referenced geotechnical investigation for the subject site and for the reconstruction of the Klein residence at 3820 Paseo Hidalgo indicate that due to the nature of the landslide it is highly improbable that it could expand beyond its current limits and adversely affect the subject site. The calculated factor of safety against such expansion of the landslide is much greater than the 1.5 value that is normally accepted. In fact, our analysis indicates that Las Flores Creek would have to erode approximately 150 to 200 feet into the toe of the landslide and underlying bedrock in order for the landslide to adversely affect the stability of the subject site. It is our professional opinion that such erosion during the life of the structure is inconceivable and thus the need for the requested deed restriction due to the proximity of the site to the Rambla Pacifico Landslide is unwarranted.

The new evidence submitted by the applicant, in conjunction with the initial reports submitted, provide detailed analysis of the geologic and geotechnical conditions related to the subject site. The new geology report clearly indicates that given the location of the proposed structure in relation to the slide it is inconceivable that the Rambla Pacifico landslide will affect the subject property during the life of this structure. Therefore, based on this additional geologic evidence provided by the applicant's consulting geologist, the Commission finds that the request to remove the assumption of risk special

condition is appropriate and that the proposed project, subject to special conditions 1, 3 and 4, is consistent with Section 30253 of the Coastal Act.

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