#### STATE OF CALIFORNIA-THE RESOURCES AGENCY

PETE WILSON, Governor

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\*CALIFORNIA COASTAL COMMISSION TH CENTRAL COAST AREA DUTH CALIFORNIA ST., SUITE 200 VENTURA, CA 93001 (805) 641-0142 Filed: 7/3/97 49th Day: 8/21/97 180th Day: 12/30/97 Staff: J Johnson Staff Report: 7/23/97 Hearing Date: 8/12-15/97 Commission Action: 8026A

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-120

APPLICANT: Malibu Investors, L.L.C.

Agent: John Kilbane

PROJECT LOCATION: 4765 Latigo Canyon Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a 4,365 square foot, one story, single family residence with attached 630 square foot, three car garage, swimming pool, driveway, patios, septic system, and grade 375 cubic yards of cut material to be exported to an appropriate disposal site outside the coastal zone.

Lot Area	37,204 sq. ft.
Building Coverage	4,995 sq. ft.
Pavement Coverage	4,242 sq. ft.
Parking Spaces	3
Plan Designation	Residential I
Zoning	one du/ 1 acre
Project Density	1 du/ acre
Ht abv ext grade	18 feet

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 5/30/97; In Concept Approval, City of Malibu Environmental Health, dated 4/18/97; Preliminary Approval, County of Los Angeles, Fire Department, dated 5/30/97; Geology and Geotechnical Engineering Review Sheet, City of Malibu Geology and Geotechnical Engineering Review, dated 5/28/97.

#### SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the project with special conditions addressing a landscape / erosion control plan, plans conforming to the geologic recommendations, wildfire waiver of liability, and design restrictions to bring this project into compliance with the Coastal Act. The project site is located immediately west of Latigo Canyon Road within an existing 19 lot subdivision with graded building pads and private roadways approved by the Commission in 1990. The subject lot is at the entrance to the subdivision on a small ridge within a designated viewshed area, but not within or near any environmentally sensitive habitat area.

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SUBSTANTIVE FILE DOCUMENTS: "Building Plan Review, Lot 3, Tract 46851, Latigo Canyon Road, Malibu" and "Private Sewage Disposal System Design Lots 3, 4, 7 & 11, Tract 46851 Latigo Canyon Road, Malibu," by California Geosystems, dated March 17, and March 27, 1997, respectively; Coastal Permit Number 4-97-121, (Malibu Investors LLC), Coastal Permit Number 4-96-210, (Smith); Coastal Permit Number 5-89-1149, (Larry Thorne).

# STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

# I. <u>Approval with Conditions</u>

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. <u>Standard Conditions</u>

- 1. <u>Notice of Receipt and Acknowledgment</u>. 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. <u>Expiration</u>. 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.
- 7. <u>Terms and Conditions Run with the Land</u>. 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.

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III. Special Conditions.

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# 1. LANDSCAPE/EROSION CONTROL PLAN

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a landscape / erosion control plan designed by a licensed landscape architect. The plans shall incorporate the following criteria:

a) A11 disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the submitted landscape plan within ninety (90) days of To minimize the need for occupancy of the residence. final irrigation and to screen or soften the visual impact of development. all landscaping shall consist of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled "Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains", dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils including the existing graded pad. Plantings shall include vertical elements to screen and soften the visual impact of the residence and garage as seen from Latigo Canyon Road to the east and the south, and the Latigo Canyon Road vista point to the south.

## 2. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

All recommendations contained in the "Building Plan Review, Lot 3, Tract 46851, Latigo Canyon Road, Malibu" and "Private Sewage Disposal System Design Lots 3, 4, 7 & 11, Tract 46851 Latigo Canyon Road, Malibu," by California Geosystems, dated March 17, and March 27, 1997, respectively shall be incorporated into all final design and construction plans including; foundation and building setback, foundations, lateral design, expansion index, temporary excavation slopes, retaining walls, floor slabs, pavement, swimming pool and subdrainage, drainage, and private sewage disposal system. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultants 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 consultants shall require an amendment to the permit or a new coastal permit.

# 3. WILDFIRE 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. DESIGN RESTRICTIONS

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, which restricts the color of the subject residence, garage, storage shed, and roofs to colors compatible with the surrounding environment. White tones shall not be acceptable. All windows shall be of non-glare glass. The document shall run with the land for the life of the structures approved in this permit, 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.

#### IV. Findings and Declarations

The Commission hereby finds and declares as follows:

#### A. <u>Project Description and Background</u>

The project site is located within a vacant 19 lot subdivision about a mile inland along a rising ridgeline between Latigo Canyon and Escondido Canyons. The subject lot size is about seven-eigths of an acre located adjacent to and west of Latigo Canyon Road just inside the gated private road. The subject lot is also known as lot 3 of the subdivision. The flat building pad is 16,440 sq. ft. surrounded by moderate slopes with drainage improvements leading to vacant lots within this subdivision on two sides. In addition, certain areas outside the graded pads are designated as restricted use areas and recorded as an open space easement. Eighteen (18) of these lots have building pads with one lot and portions of others deed restricted with an open space easement. The subject lot does not include an open space easement. The subject property is surrounded by single family residences to the east, and north, while vacant lands are located to the immediate south, west and north, within the 19 lot subdivision now known as Malibu Pacifica. (Exhibits 1, 2, 3, and 9)

The applicant proposes to construct a 4,365 square foot, one story, single family residence with attached 630 square foot, three car garage, swimming pool, driveway, patios, septic system, fencing, and grade about 375 cubic yards of cut material to be exported to an appropriate disposal site outside the coastal zone. (Exhibits 5 - 8)

The certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (LUP) designates the site as Residential I, allowing one dwelling per acre. Prior to the subdivision, this lot was about one acre in size (gross acreage) including a portion of the private roadway accessing this portion of the subdivision. Since the subdivision and improvements are completed, this lot, less the area of the roadway, is now less than an acre of land (net acreage). Although this lot is smaller than the designated land use, this lot is considered legal non-conforming.

To the west and southwest, about 1,500 feet beyond the subject lot are park lands managed by the Santa Monica Mountains Conservancy. (Exhibit 3) The

site is not located within a designated Significant Watershed; the site drains to the south to Escondido Canyon Creek. (Exhibit 4) The residence, as proposed, is located on an existing pad just above a LUP designated vista point along Latigo Canyon Road. Latigo Canyon Road in the vicinity of the project site provides panoramic views towards the ocean.

B. <u>Hazards</u>

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, 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 Malibu area which is generally considered to be subject to an unusually high number of natural hazards. 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 geologic hazard, the applicant has submitted two geology and engineering reports, the first titled; "Building Plan Review, Lot 3, Tract 46851, Latigo Canyon Road, Malibu" and the second "Private Sewage Disposal System Design Lots 3, 4, 7 & 11, Tract 46851 Latigo Canyon Road, Malibu," by California Geosystems, dated March 17, and March 27, 1997, respectively. These reports state:

It is the finding of this firm that the proposed building and or grading will be safe and that the site will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property in compliance with the county code, provided our recommendations are followed.

Based on the findings of our updated investigation, and on the findings of the referenced reports, the site is considered to be suitable from a soils and engineering geologic standpoint for construction of a residence and swimming pool provided the recommendations included herein are followed and integrated into the building plans.

The recommendations in these geology and engineering reports address the following issues: foundation and building setback, foundations, lateral design, expansion index, temporary excavation slopes, retaining walls, floor slabs, pavement, swimming pool and subdrainage, drainage, and private sewage disposal system.

In addition, the City of Malibu has approved "in concept" these geology and geotechnical engineering reports in the document titled: "Geology and Geotechnical Engineering Review Sheet" dated 5/28/97, by Christopher Dean, City Geologist.

Based on the findings and recommendations of the consulting engineering geologist and engineer and the action of the City of Malibu geologist, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting Engineering Geologist and engineer as conforming to their recommendations, as noted in condition number two (2) for the final project design for the proposed project.

Minimizing erosion of the site is important to reduce geological hazards on the site and minimize sediment deposition in the drainages leading to Escondido Canyon Creek. Therefore, the Commission finds that it is necessary to require the applicant to submit landscape and erosion control plans for the proposed development. These plans will incorporate native plant species and illustrate how these materials will be used to provide erosion control to those areas of the site disturbed by development activities. Special condition number one (1) provides for such a landscape/erosion control plan prepared by a licensed landscape architect.

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act also recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish 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.

Vegetation in the coastal areas of 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, <u>Terrestrial Vegetation of California</u>, 1988). Chaparra1 and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer Mediterranean conditions of the 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.

The applicant has received a preliminary approval of the project in concept from the Los Angeles County Fire Department with the provision that a driveway be constructed with less than a 20 % grade and 15 foot minimum driveway width. Because the lot is readily accessed from the adjacent roadway, the applicant's plans appear to meet this requirement.

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 applicant assumes the liability from these associated risks. In fact, the property burned in the 1993 Malibu Fire. 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 is the proposed project consistent with Section 30253 of the Coastal Act.

### C. <u>Visual Impacts</u>

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 area 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.

In addition, the certified Malibu/Santa Monica Mountains Land Use Plan includes numerous policies which are applicable to the proposed development. These policies include: minimize alterations of physical features, such as ravines and hillsides; site and design new development to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands; design and locate structures so as to create an attractive appearance and harmonious relationship with the surrounding environment; in highly scenic areas site and design new development (including buildings, fences, paved areas, signs, and landscaping) to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP; minimize the alteration of natural landforms; landscape to conceal raw-cut slopes; be visually compatible with and subordinate to the character of its setting; site development so as not to significantly intrude into the skyline as seen from public viewing places; and site structures to conform to the natural topography, as feasible.

The Commission examines the building site, the proposed grading, and the size of the building pad and structures. The development of the residence and garage raises two issues regarding the siting and design: one, whether or not public views from public roadways will be adversely impacted, or two, whether or not public views from public parks and trails will be impacted.

As previously stated, this project involves the construction of an 18 foot high, 4,995 square foot, one story single family residence on a flat graded pad west of Latigo Canyon Road. The site is located along an gently ascending ridgeline west of Latigo Canyon Road. Latigo Canyon Road is designated as a priority one scenic highway and the lower portions of Latigo Canyon and Escondido Canyons are designated as a priority one viewshed in the Malibu/Santa Monica Mountains Land Use Plan. It is important to point out that a portion of the entire subdivision (particularly to the west and south) includes an easement for open space, view preservation and habitat protection as required by coastal permit 5-89-1149 authorizing the subdivision of this lot and surrounding property. (Exhibit 9) Specifically, the subject site does not include this easement.

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In the review of this project, the Commission reviews the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. The Malibu/Santa Monica Mountains Land Use Plan (LUP) protects visual resources in the Santa Monica Mountains. Significant viewsheds and vista points are given special treatment when evaluating potential visual impacts caused by new development. The project site is located along the eastern side of a visual ridgeline, within an area designated as as viewshed area having ocean views.

The site is located along a north - south trending ridge and consists of a graded building pad terrace and surrounding engineered slopes at 2:1. The proposed one story residence will be visible from Latigo Canyon Road to the east and the road and the vista point along Latigo Canyon Road to the south of the subject site.

Regarding public trails, two existing hiking trails, the Coastal Slope Trail and the Escondido Falls Trail, are located about 2,000 feet south and 2,200 feet east of the project site, respectively. Due to the distance and topography of the subject site, public views of the proposed residence from these trails will be either limited in regards to the Coastal Slope Trail or invisible as in regards to the Escondido Falls Trail. The structure will not be visible from either the Escondido Falls Trail or the Escondido Canyon Creek lands now owned by the Santa Monica Mountains Conservancy, because there is an intervening plateau blocking the view of these lands and the trail located within the canyon below.

Regarding landform alteration, the amount of final grading to prepare the building site is minimal, comprising only of 375 cubic yards of cut primarily for the swimming pool. The cut material will be exported to an appropriate disposal site located outside the coastal zone. The applicant's project will minimize grading and will not significantly alter the existing landform on the property, which is a previously cut and fill building site; therefore, the proposed project is clearly consistent with the Coastal Act and the guidance provided by the Malibu/Santa Monica Mountains Land Use Plan (LUP) policies regarding landform alteration.

As previously stated, the proposed residence will be visible from a scenic highway to the east and south, and a vista point to the south of the project site. To conform with the policies of the Coastal Act and LUP regarding visual impacts, the Commission has in past permit actions required that structures not break ridgelines by siting them down the slope, in areas not visible, or when no other alternative is available, restricting the height of the structure. In this case, given the topography and size of the property, the relatively flat site of the graded pad, the pad is the most suitable site on the property for the proposed structure. Further, the applicant proposes to construct a one story residence at 18 feet above the existing grade. This height is less than the 22.5 foot maximum proposed by the applicant for this lot in the project description for approved coastal permit number 5-89-1149.

Because the proposed project will be visible from designated scenic areas, mitigation to address potential visual impacts is needed. The proposed one story residence and garage will be less visually intrusive through the use of earth tones for the structures and roofs and non-glare glass which helps the structure blend in with the natural setting. The Commission finds it necessary to impose condition number four (4), design restrictions, to

restrict the color of the subject structures to those compatible with the surrounding environment and prohibit the use of white tones, while requiring the use of non-glare glass windows to reduce visual impacts.

Although there is no way to fully screen the residence from public view, it is possible to partially screen the proposed structure by requiring the applicant to landscape the site with native plants, compatible with the surrounding environment and designed to screen and soften the visual impacts of the development. The Commission has found that the use of native plant materials. including vertical elements, in landscaping plans can soften the visual impact of new development in the Santa Monica Mountains. The use of native plant materials to revegetate disturbed areas reduces the adverse affects of erosion, which can degrade visual resources, in addition to causing siltation deposition in ESHAs, and soften the appearance of development within areas of high scenic quality. Condition number one (1) requires that the landscape plan be completed within thirty (90) days of residential occupancy and that planting coverage be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage. The landscaping plan shall include vertical elements to break up the view of the proposed structures as seen by the public from the east and south. Therefore, the Commission finds that the project, as conditioned, minimizes impacts to public views to and along the coast and thus, is consistent with Section 30251 of the Coastal Act.

# D. <u>Septic Systems</u>

The proposed development includes the installation of an onsite septic system to provide sewage disposal. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains, 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, and minimizing alteration of natural streams.

The applicant is proposing a private septic system to accommodate the sewage generated by the proposed development. A favorable percolation test was performed on the site which indicates that the percolation rate exceeds the Uniform Plumbing Code requirements. The applicant's engineering geologist has made specific recommendations noted above which will be incorporated into the project design for the sewage disposal system as required by condition number two (2). The City of Malibu has completed a review of the proposed septic system with a 1,500 gallon septic tank and drainfield. The City granted approval in concept on April 18, 1997. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration depth of groundwater. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

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E. Local Coastal Program.

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 included 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 and the Santa Monica Mountains which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a). 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.

# F. California. Environmental Ouality Act (CEOA)

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 conditions addressing coastal issues discussed above. As conditioned, there are no mitigation measures available, beyond those required, which would lessen any significant adverse impact that the activity may have on the environment within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project has been determined to be consistent with CEQA and the policies of the Coastal Act.

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