

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

MALIBU, CA 93001

(805) 641-0142

**RECORD PACKET COPY**

Filed: 1/15/99
49th Day: N/A
180th Day: N/A
Staff: CAREY
Staff Report: 3/19/99
Hearing Date: 4/13-16/99

STAFF REPORT: PERMIT EXTENSION REQUEST**APPLICATION NO:** 5-85-418-E12**APPLICANT:** The Adamson Companies Agent: Michael Vignieri**PROJECT LOCATION:** 24111 Pacific Coast Highway, City of Malibu, Los Angeles Co.

PROJECT DESCRIPTION: Extension of coastal development permit for the construction of 300-room hotel complex (229,717 sq. ft.), 9,674 sq. ft. restaurant, 6,209 sq. ft. medical office building, with 1,017 parking spaces, including grading, landscaping and water conservation plan.

SUBSTANTIVE FILE DOCUMENTS: Permit 5-85-418 (Adamson)**Procedural Note.**

Section 13169 of the California Code of Regulations provides that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act.

If three (3) Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period.

SUMMARY OF STAFF RECOMMENDATION:

Staff reviewed the subject extension request and determined that there were no changed circumstances affecting the subject project's consistency with the Coastal Act. Notice was provided to all known interested parties. The City of Malibu objected to this determination on the basis that the City has recently approved a much smaller project than that approved under the subject permit. However, this approval does not affect the approved project's consistency with the Coastal Act. Staff recommends that the Commission not object to the extension request.

Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background.

The original project approved by the Commission in January 1986 was for the construction of a 222,200 sq. ft. (300 room) hotel complex, a 32,800 sq. ft. community serving office structure including highway patrol and medical offices, a 10,000 sq. ft. restaurant and an information kiosk with 1,039 parking spaces.

The proposed project description has been modified since the original approval. The applicant has subsequently submitted five amendment applications for the subject permit. The proposed project was amended (first amendment) to modify the site plan to from a single hotel structure to eleven smaller structures not to exceed 222,200 sq. ft. total, to relocate the entry way, and to allowed introduced trees as accents on the slopes. The project was further amended (second amendment) to: reallocate the total square footage of all approved structures to a 229,717 sq. ft. hotel and convention complex, 9,674 sq. ft. restaurant, 6,209 sq. ft., one-story medical office building; to reduce the total parking spaces to 1,017; and to limit total water flow to total domestic wastewater including the community building to not exceed 55,300 gallons per day.

The proposed third amendment to the permit was for a modification to Special Condition No. 1 relating to the provision of on-site wastewater disposal. This amendment was denied by the Commission. The proposed project was further modified by the fourth amendment to change the approved grading plan to include a retaining wall at Pacific Coast Highway and to remediate a landslide. Finally, the applicant applied for a fifth amendment to include a revised plan for wastewater disposal but the request determined to lessen the intent of the original permit and was rejected by staff.

Extensions

The subject extension request is the twelfth request to extend Permit 5-85-418. The permit was originally granted by the Commission in January 11, 1986. The permit was valid for two years from the Commission action or to January 1988. The first extension request in 1988 was scheduled as a material extension to allow the Commission to consider whether new information about the Malibu Coast Fault should be considered a "changed circumstance" which would affect the project's consistency with the Coastal Act. There was new information at that time indicating that the fault, which crosses the subject project site, was an "active" fault. The Commission determined that the presence of the fault had been adequately addressed in the original permit approval and no objection was raised with the extension.

The Executive Director determined that no changed circumstances existed when the second, third and fourth extension requests were submitted, and no objections were raised to those determinations. In 1992, an objection was raised to the fifth extension request and the request was scheduled for consideration by the Commission. Staff identified no changed circumstances raised by that objection that would affect the project's consistency with the Coastal Act. The Commission did not object to the determination and the permit was extended. For all of the subsequent extension requests (sixth – eleventh), the Executive Director has determined that no changed circumstances existed and no objections were received.

B. Grounds for Extension.

Section 13169 of the California Code of Regulations provides for the extension of coastal development permits. An applicant may, pursuant to this section, request the extension of a valid, unexpired permit. Section 13169(a)(1) states that:

For those applications accepted, the executive director shall determine whether or not there are changed circumstances that may affect the consistency with the California Coastal Act of 1976. If the executive director determines that the proposed development is consistent, notice of such determination including a summary of the procedures set forth in this section shall be posted at the site and mailed to all parties the executive director has reason to know may be interested in the application including all parties who participated in the initial permit hearing. If no written objection is received at the commission office within ten (10) working days of publishing notice, the determination of consistency shall be conclusive.

Section 13169(a)(2) states, in part, that:

If the executive director determines that due to changed circumstances the proposed development may not be consistent or if objection is made to the executive director's determination of consistency, the application shall be reported to the commission after notice to any person the executive director has reason to know would be interested in the matter. The executive director shall include in such report a description of any pertinent changes in conditions or circumstances relating to each requested permit extension. If three (3) commissioners object to an extension on the grounds that the proposed development may not be consistent with the California Coastal Act of 1976, the application shall be set for a full hearing of the commission as though it were a new application...

As stated above, Permit 5-85-418 was approved with conditions by the Commission in January 1986. The Commission found that the proposed project, as conditioned, was consistent with the all applicable policies of the Coastal Act. The applicant submitted an application for extension of Permit 5-85-418 (Twelfth Request) on November 25, 1998. The Executive Director determined that there were no changed circumstances affecting the proposed project's consistency with the Coastal Act. Notice of this determination was mailed to all interested parties on January 5, 1999 (Attachment 1). A letter from Craig Ewing, Planning Director of the City of Malibu, objecting to this determination was received on January 12, 1999. Staff has received no other letters of objection to the extension request. Pursuant to Section 13169, staff is reporting the subject permit extension request to the Commission.

Objection Letter Contentions.

The City of Malibu's objection to the permit extension relates to their recent approval of a Conditional Use Permit for a hotel on the subject project site which is substantially reduced in size from that approved by the Commission in Permit 5-85-418. The letter (Attachment 2) states that:

The City of Malibu wishes to register its objection to extension of the above permit, as it is presently described. The project was originally proposed to Los Angeles County as a 300-room in 1985. The City has since established jurisdiction over the property through our incorporation in 1991, and subsequently reviewed and approved a substantially smaller scale project -- a 146-room hotel and conference center.

A copy of the City Council resolution approving the reduced scale project is attached for your reference. The City respectfully requests that any extension of the Coastal Development Permit include limitations on the size and scope of the project consistent with the City's approval.

The referenced City Council Resolution confirms that the City approval requires the applicant to revise its proposed project such that 106 hotel rooms are provided with a maximum of 6,000 sq. ft. of conference center use in addition to other design revisions. The City permit allows for the approval of 40 additional hotel rooms in a second phase if the first phase attains certain performance objectives.

Analysis

In its objection letter the City of Malibu does not explicitly state what changed circumstances it believes affects the consistency of the proposed project or project site with the policies of the Coastal Act. The letter does give the basis for the City's objection, namely its approval of a smaller development for the project site. As discussed above, the City did approve a development that is substantially smaller in size than the project approved by the Commission in Permit 5-85-418.

In order for the applicant to develop a hotel project in accordance with the project approved by the City, the applicant will need the approval of an amendment to the coastal development permit. Standard Condition No. 3 of Permit 5-85-418 states:

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.

The applicant is aware that processing of a permit amendment will be necessary to proceed with development of the revised project approved by the City. The applicant's representative has stated that the applicant intends to submit an amendment request once revised plans have been finalized.

Staff concludes that the City of Malibu approval which result in a substantial reduction to the proposed project does not constitute a changed circumstance which affects the consistency of the original approval with the policies of the *Coastal Act*. While the City found that a different project was consistent with its ordinances, such an action does not affect the consistency of the project approved under Permit 4-85-418 with the policies of the *Coastal Act*. Additionally, the City's letter of objection does not identify the presence of any other changed circumstance. Further, staff could not identify any other changed circumstance affecting the proposed project or the project site. Finally, the City's request that this extension request be conditioned to include limitations on the size of the project cannot be accommodated because Section 13169 of the California Code of Regulations makes no provision for conditional permit extensions.

The Commission found, in its approval of the subject permit, that the proposed project, as conditioned, was consistent with the Chapter 3 policies of the *Coastal Act* and would not prejudice the ability of the County of Los Angeles (the applicable local government at the time of approval) to prepare an LCP consistent with the provisions of the *Coastal Act*. As discussed above, the objection raised by the City of Malibu did not identify changed circumstances which would affect the consistency of the proposed project with Chapter 3. Furthermore, staff has identified no other possible changed circumstances. There have been no changes to the proposed project or its site that would cause the Commission to find the project no longer consistent with the *Coastal Act*.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

89 SOUTH CALIFORNIA ST., SUITE 200

VENTURA, CA 93001

(805) 641-0142



January 5, 1999

**NOTICE OF EXTENSION REQUEST
FOR COASTAL DEVELOPMENT**

Notice is hereby given: **The Adamson Companies**
has applied for a one year extension of Permit No: **5-85-418-E12**
granted by the California Coastal January 7, 1986

for **TIME EXTENSION ON A PREVIOUSLY APPROVED CDP for
construction of a 300-room hotel complex (229,717 sq. ft.), 9,674
sq. ft. restaurant, and a 6,209 sq. ft. medical office building, and
1,017 parking spaces, including grading, landscaping, and water
conservation plan.**

at **24111 Pacific Coast Hwy., Malibu (Los Angeles County)**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,
PETER M. DOUGLAS
Executive Director


By: **BARBARA CAREY**
Coastal Program Analyst

EXHIBIT 1**5-85-418-E12****Extension Notice**



City of Malibu

23555 Civic Center Way, Malibu, California 90265-4804
(310) 456-2489 Fax (310) 456-3356

Planning Department

January 12, 1999

California Coastal Commission
South Central Coast Area
Attn: Barbara Carey
89 South California Street, Ste. 200
Ventura, CA 93001

RECEIVED

JAN 15 1999

COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

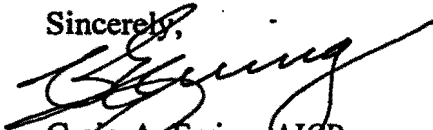
RE: TIME EXTENSION ON A PREVIOUSLY APPROVED CDP (Permit No. 5-85-418-E12) for construction of a 300-room hotel complex (229,717 sq. ft.) with appurtenant facilities and plans at 24111 Pacific Coast Highway.

The City of Malibu wishes to register its objection to extension of the above permit, as it is presently described. The project was originally proposed to Los Angeles County as a 300-room hotel in 1985. The City has since established jurisdiction over the property through our incorporation in 1991, and subsequently reviewed and approved a substantially smaller scale project - a 146-room hotel and conference center.

A copy of the City Council resolution approving the reduced scale project is attached for your reference. The City respectfully requests that any extension of the Coastal Development Permit include limitations on the size and scope of the project consistent with the City's approval.

If you have any questions about the memo, feel free to contact me at (310) 456-2489, ext. 234.

Sincerely,


Craig A. Ewing, AICP
Planning Director

attachment

c: City Council
City Manager
Michael Vignieri, 12381 Wilshire Blvd., #201, Los Angeles, CA 90025

EXHIBIT 2
5-85-418-E12
Letter of Objection