STATE OF CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION Solith Central COAST AREA UITH CALIFORNIA ST., SUITE 200 UTURA, CA 93001 (805) 641 - 0142

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GRAY DAVIS, Govern

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 Commission Action:
 4/21/99

STAFF REPORT: CONSENT CALENDAR

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APPLICATION NO.: 4-99-060

APPLICANT: The Virgil Rogers Trust **AGENT:** Jason Chai (CSArchitecture)

PROJECT LOCATION: 7225 Birdview Avenue, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Remodeling of an existing single family residence including the addition of 453 sq. ft. of living area to the second story, addition of three covered porch areas, expansion of existing pool, relocation of existing spa, repaving driveway and walkways, and 252 cu. yds. of excavation on a blufftop lot.

Lot area:	1.09 acres
Building coverage:	4,515 sq. ft.
Pavement coverage:	4,010 sq. ft.
Landscape coverage:	19,005 sq. ft.
Parking spaces:	4
Height above ext. grade:	20 ft., 4 in.

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept

SUBSTANTIVE FILE DOCUMENTS: Geologic and Soils Engineering Exploration, dated 8/17/98, and Additional Recommendations, dated 1/15/99, both prepared by Grover Hollingsworth and Associates, Inc., Permit Applications 4-97-023 (Lucien); 4-95-181 (Lucien); 4-95-061 (Lucien); 4-94-164 (Lucien); 4-94-139 (Lucien); 5-90-572 (Miller)

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed application with Special Conditions relating to conformance with geologic recommendations, disposal of excess cut material, and wildfire waiver of liability. As conditioned to comply with all recommendations of the geologic consultants, to provide the disposal location of excess cut material, and to waive any liability resulting from developing in a high fire hazard area, the proposed project will minimize risks to life and property, consistent with §30253 and §30231 of the Coastal Act. While the proposed project site is located between the sea and the first public road in the area (Birdview Avenue), the proposed improvements would be located on the top of a bluff above a public beach parking lot. The proposed development would not include any improvements on the bluff face or the area at the base of the bluff. Therefore, the project will be consistent with §30210. §30211 and §30212 of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby <u>grants</u>, subject to the conditions below, a permit 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. <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. 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. <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.

III. Special Conditions

1. Plans Conforming to Geologic Recommendation

All recommendations contained in the Geologic and Soils Engineering Exploration, dated 8/17/98, and Acditional Recommendations, dated 1/15/99, both prepared by Grover Hollingsworth and Associates, Inc. shall be incorporated into all final design and construction including grading, and foundations. All plans must be reviewed and approved by a geologic/geotechnical engineer as conforming to said recommendations. 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, foundations, and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial".

2. Removal of Excess Cut Material

Prior to the issuance of the coastal development permit, the applicant shall provide for the review and approval of the Executive Director the location of the proposed disposal site for the 252 cu. yds. of excess cut material. All excess cut materials from the proposed project shall be removed from the subject site and taken to the approved disposal site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

3. Wild Fire Waiver of L ability

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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background.

The applicant proposes the remodeling of an existing single family residence and improvements to the developed and landscaped blufftop property. The project includes the addition of 453-sq. ft. of living area to the second story of the home, which will result in the expansion of the master bedroom and another existing bedroom. Three covered porch areas are proposed to be added to the residence, including two located on the seaward side of the home and one on the landward side. The applicant also proposes to lengthen the existing pool, relocate the existing spa, and to repave the existing driveway and walkways. No improvements to the existing septic system (recently replaced as discussed below) are proposed.

The project includes 252 cu. yds. of excavation, the majority of which is necessary for the proposed pool expansion. The remainder of the excavation will be carried out for foundations for the proposed additions. Therefore, the project would not include any cut or fill slope areas. Any disturbed areas would be located beneath the proposed additions.

The proposed project site is located on Birdview Avenue in the Point Dume area of the City of Malibu. While the proposed project site is located between the sea and the first public road in the area (Birdview Avenue), the proposed improvements would be located on the top of a bluff above a public beach and public beach parking lot. The proposed development would not include any improvements on the bluff face or the area at the base of the bluff. Therefore, there is no potential for the proposed project to interfere with the public's access to the beach below or to affect sand supply or other beach processes. As such, the proposed project will have no adverse impacts on beach processes or public access. Finally, the proposed improvements would not have adverse impacts on visual resources from the public beach areas below.

Past Commission Actions

The Commission has prev ously considered several applications for development on the proposed project site. The Commission approved Permit 5-90-572 (Miller) for the after-the-fact approval of the reconstruction of a wooden stairway with rope handrails down the bluff face. In that case, the applicant provided evidence that the stairway had existed since the 1940's and the Commission found that reconstruction of the dilapidated stairs was approvable where the creation of a new stairway would not be. This permit was conditioned for the applicant's assumption of risk and implementation of a landscaping plan. Additionally, Permit Waiver 4-94-139 (Lucien) was granted for the replacement of the failing septic system on the site. Permit 4-94-164 (Lucien) was approved for the conversion of an existing recreational vehicle garage to a 434-sq. ft. guesthouse. As conditions of this approval, the applicant was required to waive liability for wildfire hazard and to record a future improvements deed restriction. This conversion was constructed.

Further, Permit Waiver 4-95-181 (Lucien) was granted for the construction of small pond and streambed as a landscape feature. This pond was apparently never constructed. Permit Waiver 4-95-061 (Lucien) was also granted for the addition of 122 sq. ft. and the replacement of an existing wood deck. These improvements were constructed.

Finally, Permit 4-97-023 (Lucien) was approved by the Commission for the construction of an at-grade wooden stairway with rope handrails to replace the existing stairway in the same location, the removal of invasive and exotic plants and revegetation on the bluff face, and the relocation of a portion of the stairway which was inadvertently located on a neighboring property. This permit was approved with conditions for the implementation of a restoration plan, monitoring program, and the applicant's assumption of risk.

B. Hazards.

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, 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 would be located in the Santa Monica Mountains, an area that 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 existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The proposed project includes minor additions to an existing residence on a blufftop parcel on Point Dume. The additions of two deck and covered porch areas would not

Permit 4-99-060 (Virgil Rogers Trust) Page 6

extend development closer to the bluff edge than the existing deck. The most seaward edge of the proposed additions is over 60 feet from the bluff edge. As proposed, the additions would be adequately set back to minimize risks from geologic hazards. The applicant has submitted a Geologic and Soils Engineering Exploration, dated 8/17/98, and Additional Recommendations, dated 1/15/99, both prepared by Grover Hollingsworth and Associates, Inc. The consultants make recommendations regarding foundations, etc. The geologic consultants conclude, based on their investigation of the proposed project site that:

The subject property is considered a suitable site for the proposed development from a geologic and soils standpoint. It is the opinion of the undersigned that the proposed development will be safe against hazards from landslide, settlement, or slippage, and that the proposed grading and development will not have an adverse effect on the geologic stability of the property outside the building site provided our recommendations are followed during construction.

Based on the recommendations of the consulting geologists and geotechnical engineers, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act so long as the consultants' recommendations 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 geologists as conforming to their recommendations. This is included as Condition No. 1.

In order to ensure that the excess cut material that is proposed to be excavated for the project is disposed of in a location and manner whereby risks and impacts to coastal resources are minimized, the Commission finds it necessary to require the applicant to provide the location where such cut material will be placed prior to issuance of the permit. If the disposal site should be located within the Coastal Zone, there must be a valid coastal development permit for that site that includes the use of this material in an approved development. This requirement is included as Condition No. **2**.

Even though the consultants have determined that the project site will be free of geologic hazards, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire. As such, the Commission can only approve the proposed project if the applicant assumes the liability from the associated risks. 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. The wildfire waiver of liability is required in Condition No. 3. The Commission finds that, only as conditioned to incorporate all recommendations of the consultants, to identify the disposal location of excess cut material, and to assume the liability from fire risk, is the development consistent with Section 30253 of the Coastal Act.

C. Sensitive Resources.

Section 30240 of the Coastal Act states that:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed project site includes a blufftop and a bluff face that descends steeply to Point Dume State Beach below. The steep bluff faces in Malibu, particularly those on Point Dume, contain rare plant communities and have been considered by the Commission as environmentally sensitive habitat areas (ESHA) in past permit actions. The Commission has required that new development provide adequate setbacks from the edge of bluffs both to minimize impacts to ESHAs as well as to minimize risks from geologic hazards.

Most of the development proposed herein will be located landward of the existing residence. Two decks, one wood and one flagstone, each with a covered porch over them, are proposed to be added to the seaward side of the existing residence. The most seaward edge of this proposed development would be located over 60 feet from the bluff edge and no further seaward than the existing wood deck on the house. The applicant proposes no other development closer to the bluff edge. As proposed, the additions will be adequately setback to minimize impacts to the bluff face ESHA. Therefore, the Commission finds that the proposed project is consistent with Section 30240 of the Coastal Act.

D. Local Coastal Program.

Section 30604 of the Coastal Act states, in part, 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

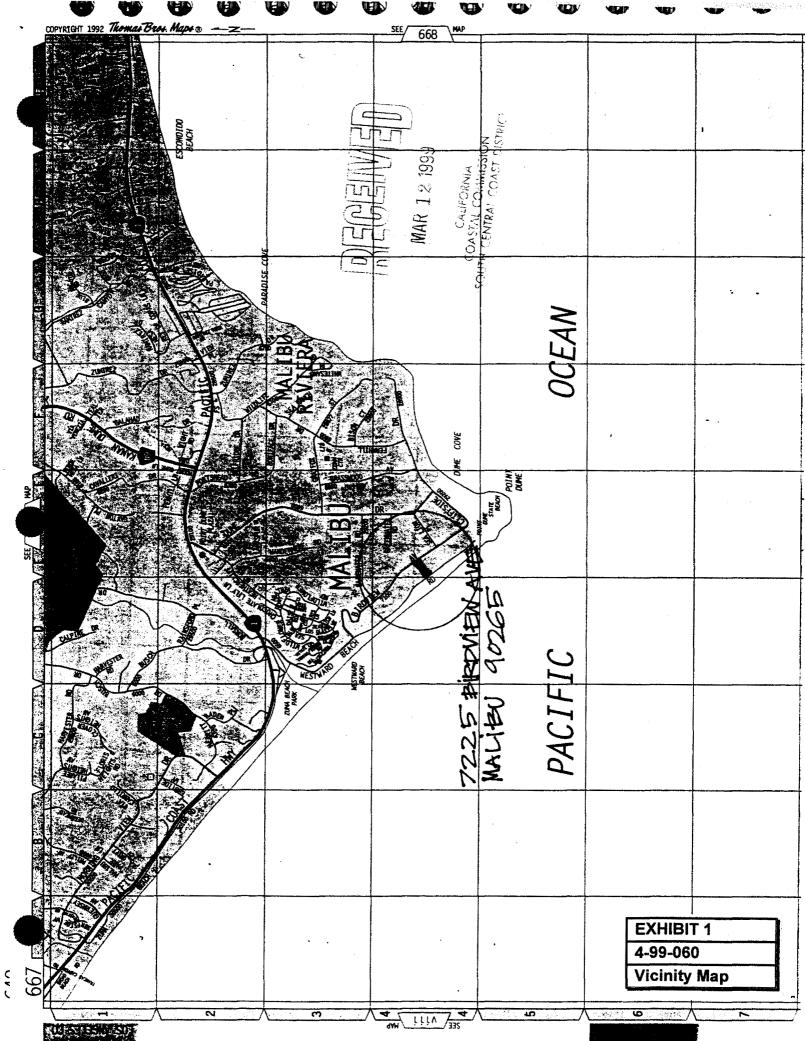
Permit 4-99-060 (Virgil Rogers Trust) Page 8

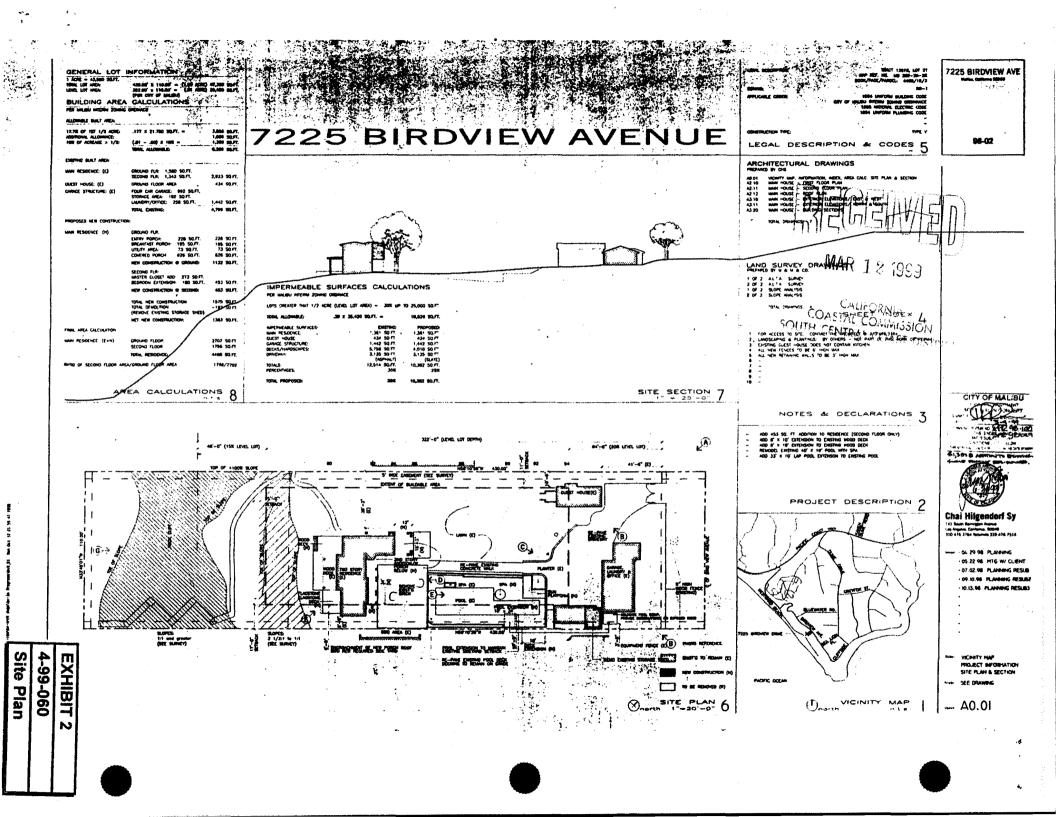
jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the 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 will not prejudice the City's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

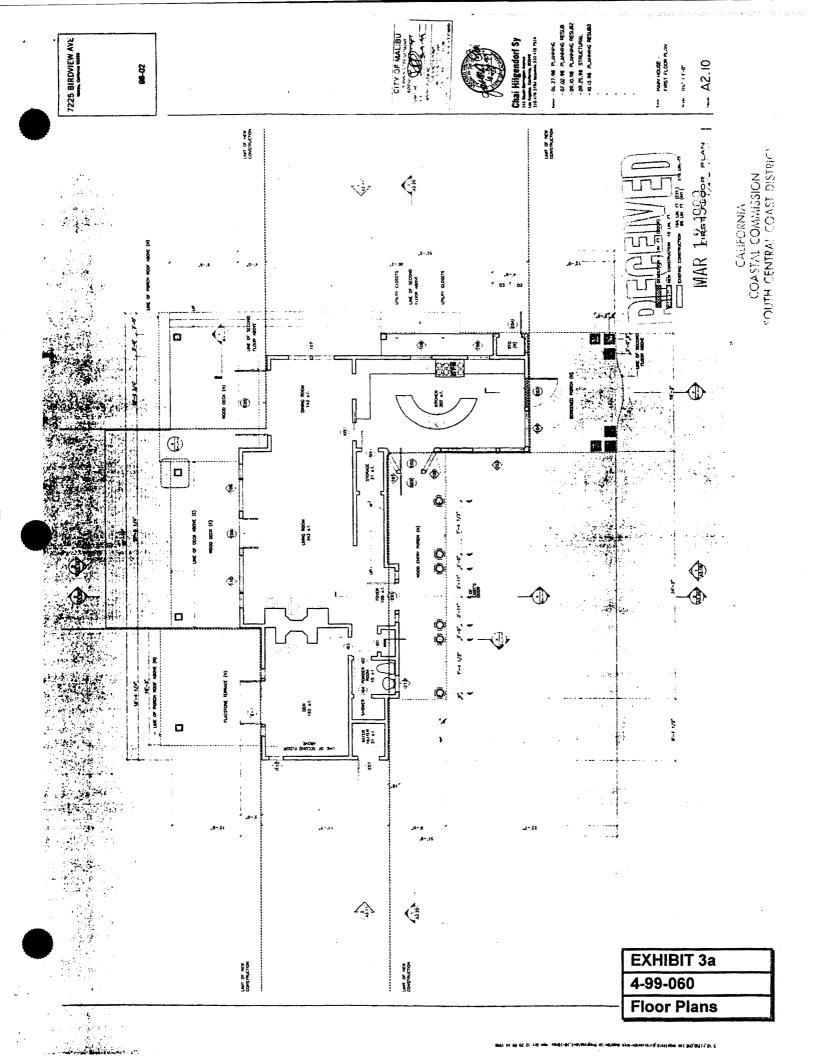
E. California Environmental Quality Act.

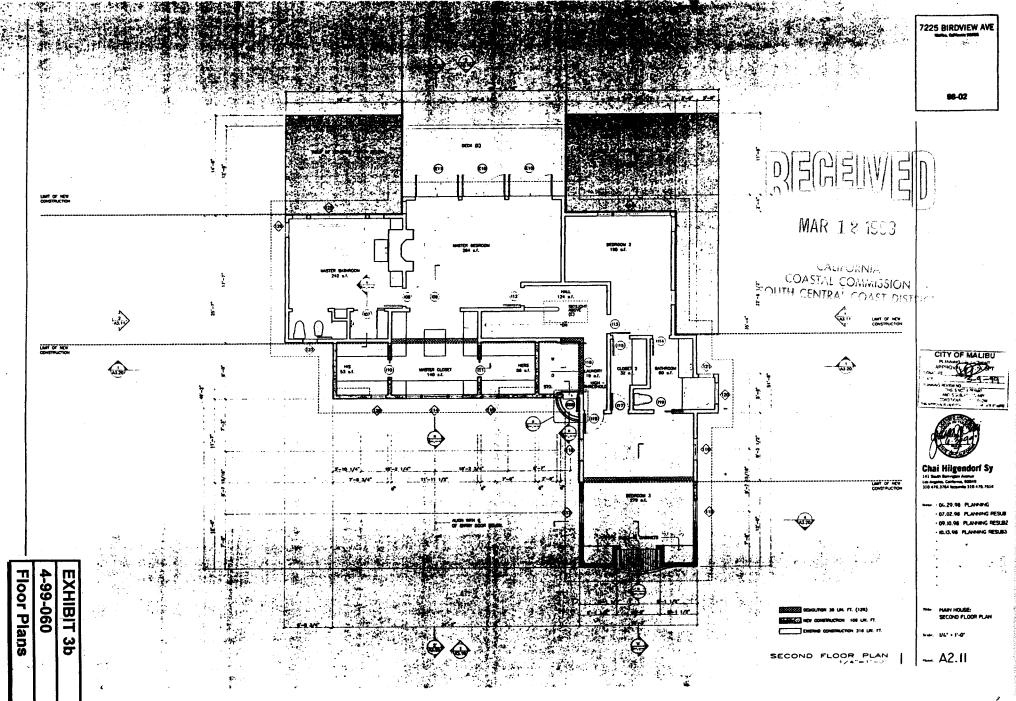
Section **13096(a)** of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality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

The proposed development would not cause significant, adverse environmental effects that would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.





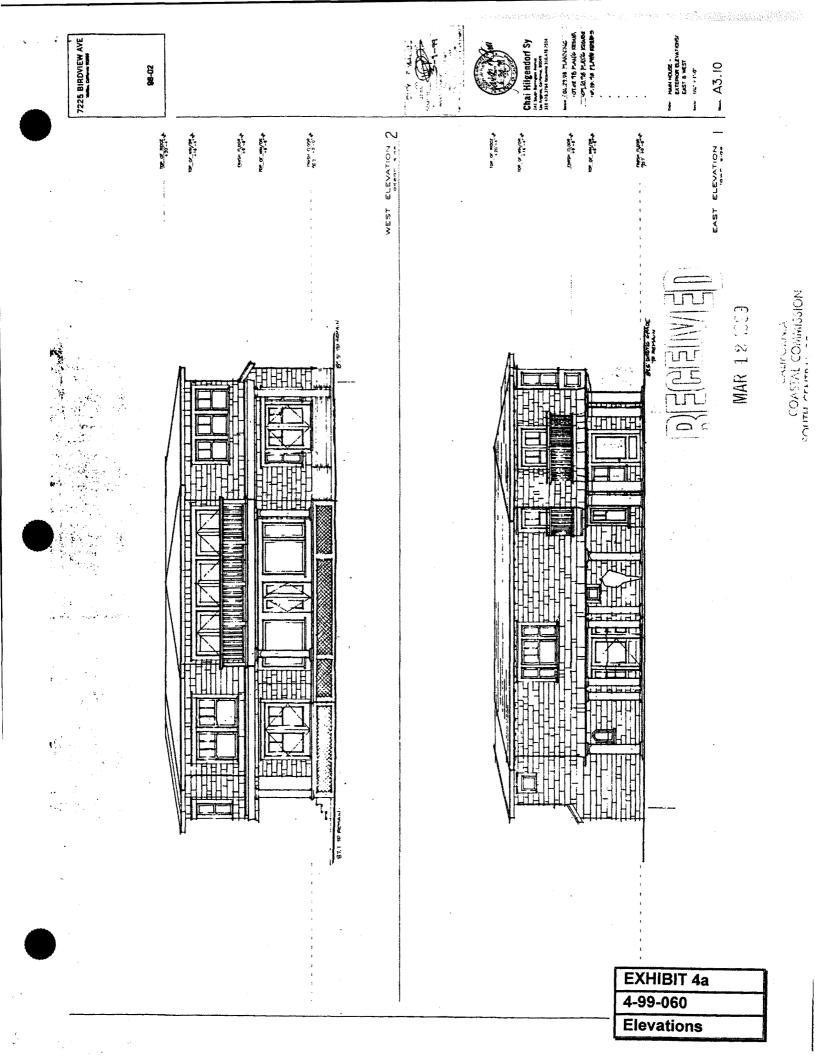


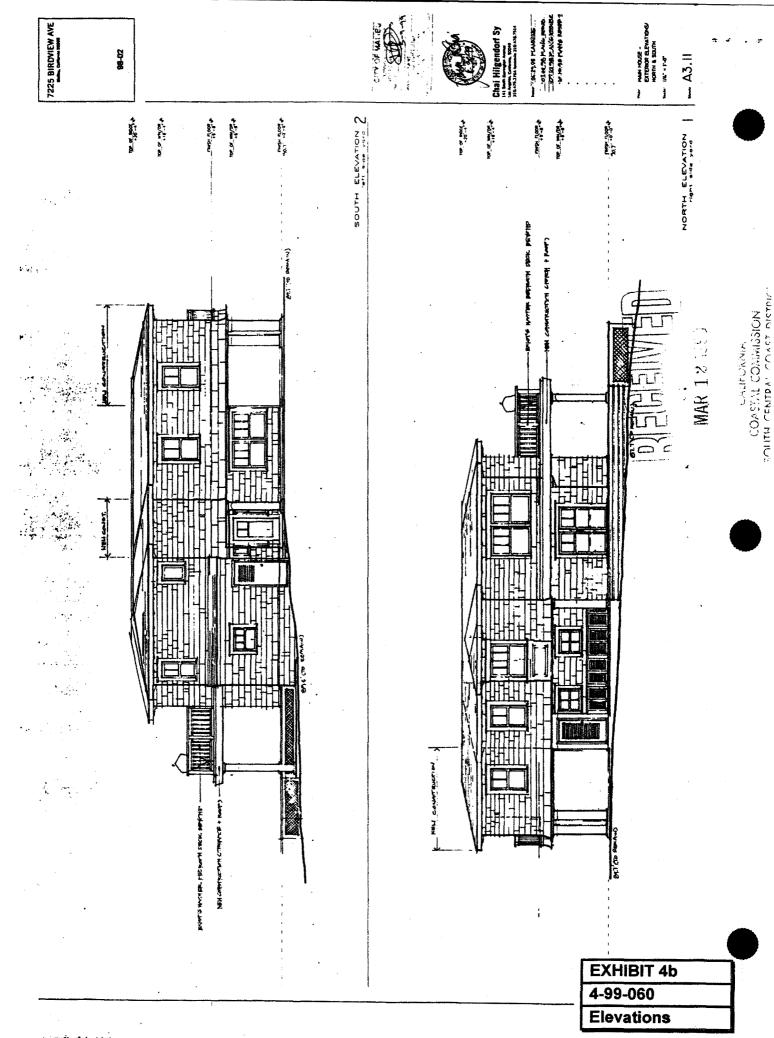


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