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#### LIFORNIA COASTAL COMMISSION

UTH CENTRAL COAST AREA
UTH CALIFORNIA ST., SUITE 200
IRA, CA 93001
5) 641 - 0142



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Hearing Date:

9/14-17/99

### STAFF REPORT: CONSENT CALENDAR

**APPLICATION NO.:** 

4-99-098

**APPLICANT:** 

Andrew Rosenberg

AGENT: Hans J. Giraud

PROJECT LOCATION:

18049 Coastline Drive, Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Construct three unit apartment building with storage room and three detached garage structures totaling twelve parking spaces. Grading of 1590 cu. yds. (795 cu. yds. cut and 795 cu. yds. fill).

Lot area:

71,438 sq. ft.

Building coverage:

5,900 sq. ft.

Pavement coverage: Landscape coverage:

1,600 sq. ft. 1,200 sq. ft..

Parking spaces:

twelve covered

Height above finished grade:

33 ft.

**LOCAL APPROVALS RECEIVED:** County of Los Angeles: Regional Planning Department, Tentative Parcel Map No. 24907, Conditional Use Permit No. 97-130, March 2, 1998; Fire Department, Fuel Modification Plan In-concept Approval, March 3, 1998.

#### SUMMARY OF STAFF RECOMMENDATION

The proposal adds a three unit apartment building to an existing complex and upgrades parking for the new units and upgrades parking for existing units to current County standards. Staff recommends approval of the project with special conditions relating to: deed restriction on future development, conformance to geologic recommendations, landscape and erosion control, removal of natural vegetation, and wild fire waiver of liability.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; Mountain Geology, Inc.: Addendum Engineering Report No. 4, January 5, 1998; Addendum Engineering Report No. 3, June 29, 1998; Addendum Engineering

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Report No. 2, May 27, 1998; Addendum Engineering Report No. 1, April 5, 1998; Preliminary Engineering Geologic Report, January 14, 1998; West Coast Geotechnical: Update Geotechnical Engineering Report, January 11, 1999; Addendum Geotechnical Engineering Report No. 4, September 1, 1998; Supplemental Geotechnical Engineering Letter, July 28, 1998; Addendum Geotechnical Engineering Report # 2, June 4, 1998; Addendum Geotechnical Engineering Report # 1, April 13, 1998; Geotechnical Engineering Investigation, January 15, 1998; Coastal development Permit P-1060.

### STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

#### I. Approval with Conditions

The Commission hereby grants, 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, 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 permute 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.

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- **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. Terms and Conditions Run with the Land These terms and conditions shall be perpetual, and it is the intention of the Commission and the permute to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Conditions

### 1. Future Improvements

- a. This permit is only for the development described in coastal development permit No. 4-99-098. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a)-(b) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures shall require an amendment to Permit No. 4-99-098 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- b. 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, reflecting the above restrictions on development in the entire parcel. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

# 2. Plans Conforming to Geologic Recommendations

Prior to the issuance of a coastal development permit the applicant shall submit, for review and approval by the Executive Director, evidence of the geology and geotechnical consultants' review and approval of all project plans. All recommendations contained in the West Coast Geotechnical: Update Geotechnical Engineering Report, January 11, 1999 shall be incorporated into all final design and construction plans including site preparation, grading, and foundations. All plans must be reviewed and approved by the consultants.

The final plans approved by the consultant 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 consultant shall require an amendment to the permit or a new

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coastal development permit.

### 3. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

### A) Landscaping Plan

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of final occupancy of the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plan species which tend to supplant native species shall not be used.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) Should grading take place during the rainy season (November 1 March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- 5) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 6) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively

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thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

#### B) Interim Erosion Control Plan

- The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

# C) Monitoring.

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall

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include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

### 4. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surroundings the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

### 5. Waiver of Liability

Prior to the issuance of a 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, operation, 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 to construct a three unit apartment building with storage room and three detached garage structures totaling twelve parking spaces. The proposal adds a three unit apartment building to an existing complex, including four existing units on the project site, and upgrades parking for the existing units to comply with current County standards.

Grading consists of 1590 cu. yds. (795 cu. yds. cut and 795 cu. yds. fill). The grading is for insertion of the proposed buildings and driveway into the hillside and conforms to the footprint of these improvements to minimize disturbance of natural landform. The plan includes drainage plans which show connections to existing drains

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and construction of new hydraugers and catch basins.

The parcel is developed with four apartment units to the immediate west. A tram is located to the east of the existing building. One of the proposed garage buildings will have access off of Coastline Drive and the other two garages will have access off an existing cul-de-sac uphill from the proposed apartment building.

As discussed in greater detail below under Cumulative Impacts of Development, there are three LUP land use designations for different portions of the subject property. These allow a combined land use density of seven units for the property, which is the total number of residential units which will result from this proposal.

The proposal is in an unicorporated coastal area of Malibu to the east of the City Malibu. Surrounding development is a mixture of single family residential development and apartment units. The parcel is adjacent to the Los Angeles City limit on the northeast corner. The project is located west and across the road from a portion of the Getty Museum, including a prominent building overlooking Pacific Coast Highway.

Northeast of the site is an undisturbed area of chapparal on a steep slope which is unaffected by the proposed development. The site of the project has been previously cleared, but does contain some significant natural vegetation.

The project site is one parcel to the west of the intersection of Coastline Drive and Surfview Drive and one block inland of Pacific Coast Highway. Because of the extent of existing development, intervening topography and location one block inland of Pacific Coast Highway, the project will not have a significant impact on views to and along the coast. In addition, in contrast to the apartment building to the immediate west, the proposed design is stepped into the hillside at ground level, rather than being cantilevered off the hillside.

### B. Cumulative Impacts of Development

The proposed project is construction of a three unit apartment building with storage room and three detached garage structures totaling twelve parking spaces. Grading of 1590 cu. yds. (795 cu. yds. cut and 795 cu. yds. fill) is proposed.

Section 30250 of the Coastal Act addresses the cumulative impacts of new development.

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been

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developed and the created parcels would be no smaller than the average size of the surrounding parcels.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The Coastal Act requires that new development be permitted only where public services are adequate and only where coastal resources will suffer adverse cumulative impacts from such development. The Commission has repeatedly emphasized the need to address the cumulative impact of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impacts problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects.

Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. The Commission examines the potential future impacts on coastal resources that might occur with any further development of the proposed structure or any change to residential use. Impacts such as traffic, sewage disposal, recreational uses, and grading can affect the scenic quality and natural resources of the area and are associated with the enlargement of existing residential structures or the development of an additional unit.

The subject parcel is divided by three land use designations and the allowable intensity relative to the LUP is based on the total allowable number of fractional units, added together and rounded down. The following illustrates the proposed intensity of development in terms of the land use and development intensity breakdown in the certified LUP:

LUP designation	Units per acre	<u>Acreage</u>	Maximum allowable units
8 – A	2 - 4	1.44	5.76
8 B	4 - 6	.56	.84
9 – B	10 - 15	.60	.90
Total	two vite	•••	7.50

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The proposal for a cumulative seven units on the parcel is consistent with the Malibu/Santa Monica Mountains certified Land Use Plan, used as guidance in past Commission decisions in the County of Los Angeles. The above calculation results in an allowable number of dwelling units of over seven, which is rounded down and is the total cumulative number of units proposed. Therefore, the intensity of development is within the allowable intensity proposed by the certified LUP. Because the proposed project is located in an existing developed area with adequate public services and is consistent with the size and scale of surrounding development, the Commission finds that it will not have significant adverse effects eiher individually or cumulatively on coastal resources.

To ensure that no additions or improvements are made to the project that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction. Recordation of such a document requires the applicant to obtain an amended or new coastal permit if additions or improvements to the development are proposed in the future as required by *Special Condition number one (1)*.

Thus, the findings attached to this permit and *Special Condition number one (1)* will serve to ensure that the proposed development results in the development of the site that is consistent with and conforms to the Section 30250 of the Coastal Act. The Commission finds that as conditioned, the proposed project is consistent with Section 30250(a) and with all the applicable policies of the Coastal Act.

#### C. Geologic Stability and 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, 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 on a minor ridge on the coastal terrace of the Santa Monica Mountains in an area 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 prominent geomorphic features in the area are Topanga Beach to the south, Santa

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Ynez Canyon to the east, and Topanga Canyon to the west. The apartment building site is from approximately eighty to 120 feet in elevation. The lower garage off Coastline Drive is at the approximate sixty foot elevation and the upper two garages are at the approximate 140 foot elevation. Physical relief across the site is approximately one hundred feet. Slope drainage presently is through a system of drains which will be augmented as noted above. These measures will control and direct runoff from the site in a manner consistent with PRC Section 30253, as discussed further in Section 2, below.

### 1. Geology

The applicant has submitted a West Coast Geotechnical: Update Geotechnical Engineering Report, January 11, 1999 which states that:

Based on our updated geotechnical engineering review and evaluation, ... the proposed development is feasible from a geotechnical engineering standpoint, provided our recommendations included in this report and our referenced reports, approved and on file at the County of Los Angeles Department of Public Works, are made part of the development plans and are implemented during construction.

It is the opinion of the West Coast Geotechnical that the proposed development will be safe from landslide, settlement or slippage, and that the proposed development will not have an adverse affect on the stability of the subject site or immediate vicinity, provided our recommendations are made part of the development plans and are implemented. ...

Given the findings and recommendations of the consulting engineering geologists, 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 geologists as conforming to their recommendations, as noted in special condition number two (2) for the final project plans for the proposed project.

#### 2. Erosion

Surface drainage is proposed to be collected and dissipated to avoid erosion impact which may affect the site or the surrounding area. The drainage plan collects drainage through a system of drains and hydraugers connected to existing catch basins along Coastline Drive which connects to a storm drain to the sea. Surface drainage will be collected and dissipated to avoid erosion impact which may affect the site or the surrounding area.

Although the applicant has submitted a drainage plan, the Commission finds it necessary to require the applicant to submit a revised landscape and erosion control plan. A

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landscaping component, review and approval by the consulting engineering geologist, measures for replanting, soil stabilization, maintenance, sedimentation control, and monitoring are all necessary parts of this plan to minimize the potential for erosion and disturbed soils and thereby ensure site stability and protection of coastal waters. Approval with special condition number three (3) is necessary, therefore, so that the landscape and erosion control plan can ensure site stability and avoidance of the potentially adverse impacts of erosion and sedimentation in a manner consistent with PRC Section 30253.

In addition, special condition four (4) is necessary to avoid disturbance of natural vegetation prior to commencement of construction or as part of fuel modification. This will ensure against unnecessary removal of the remnants of natural vegetation in the immediate vicinity of the buildings and parking areas as well as protect the previously mentioned undisturbed significant vegetation in the northern area of the parcel.

#### 3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act 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, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean 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.

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. 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 special condition number five (4). The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

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#### D. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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).

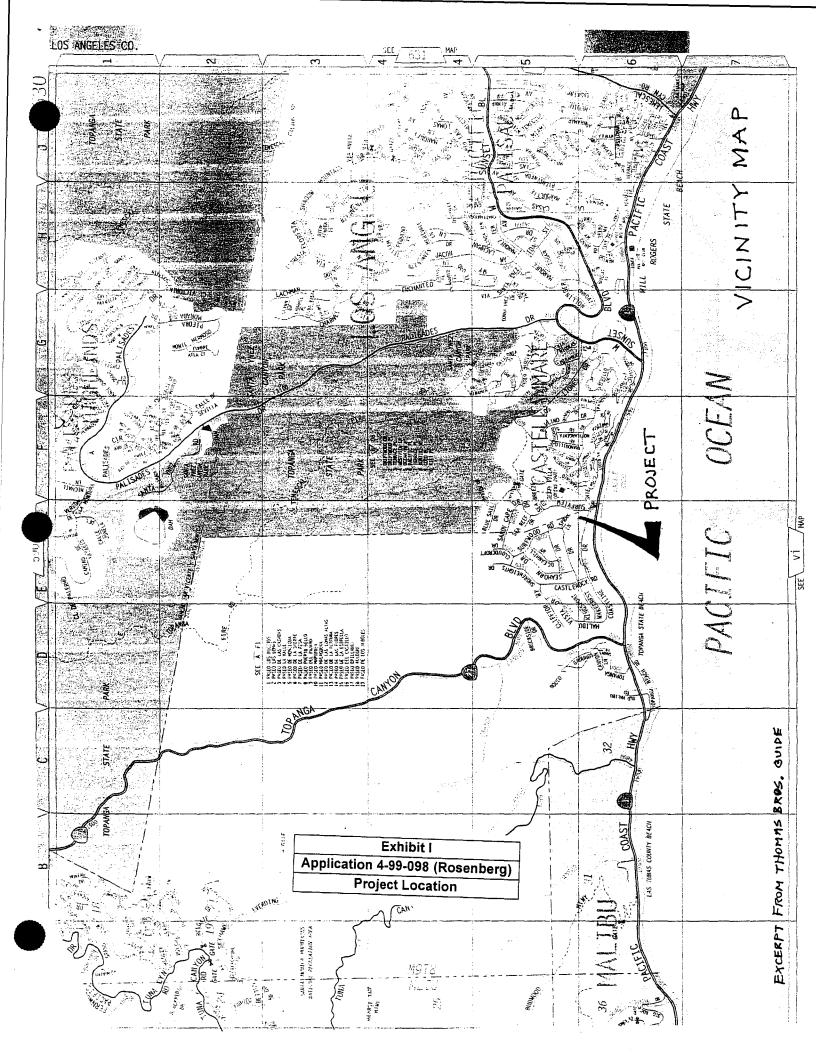
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

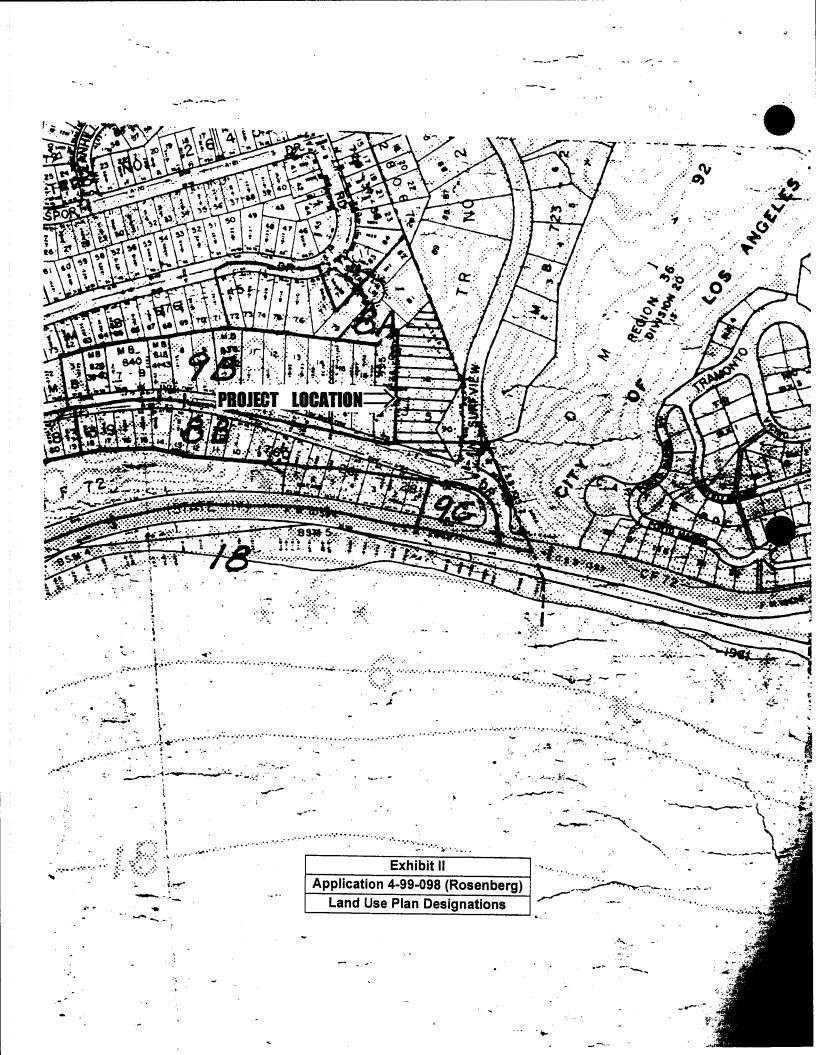
Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

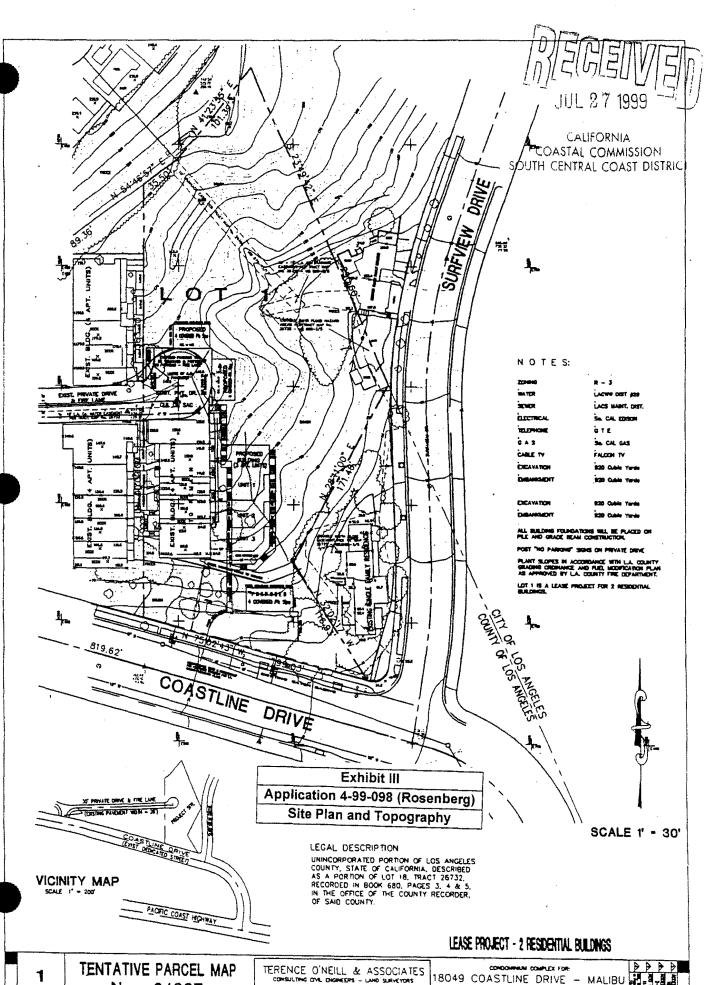
### F. California Environmental Quality Act

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)(A) 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 effects which the activity would have on the environment.

The proposed development would not cause significant, adverse environmental effects which 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.



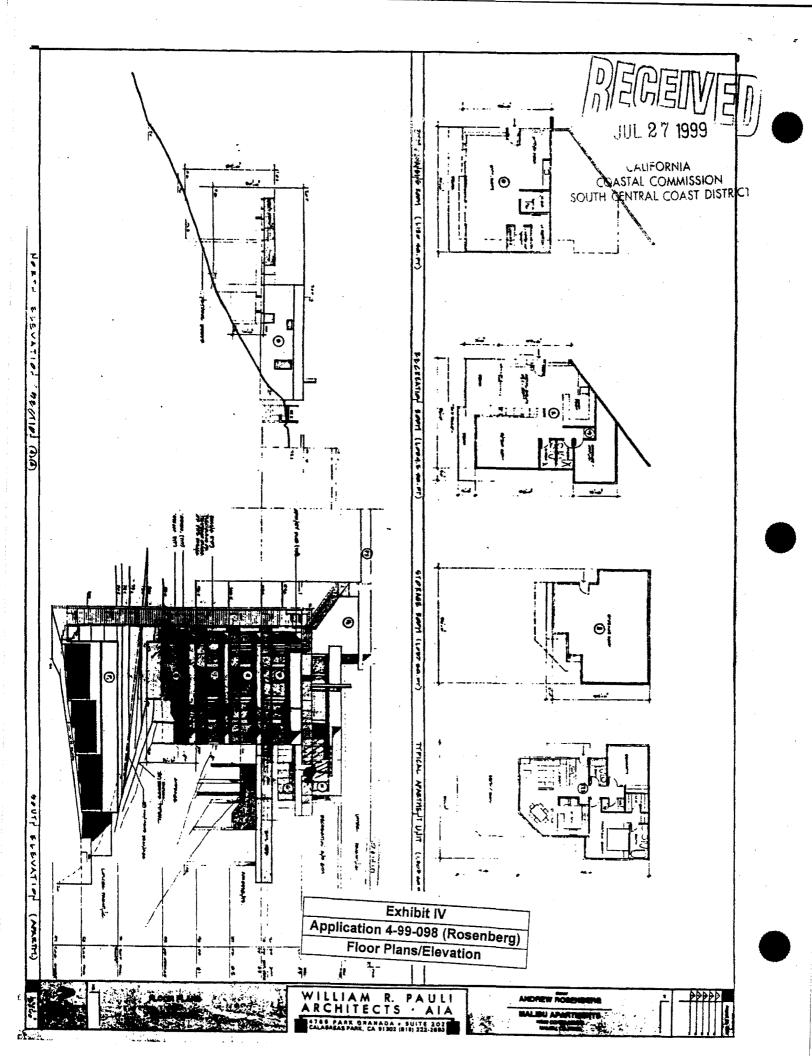


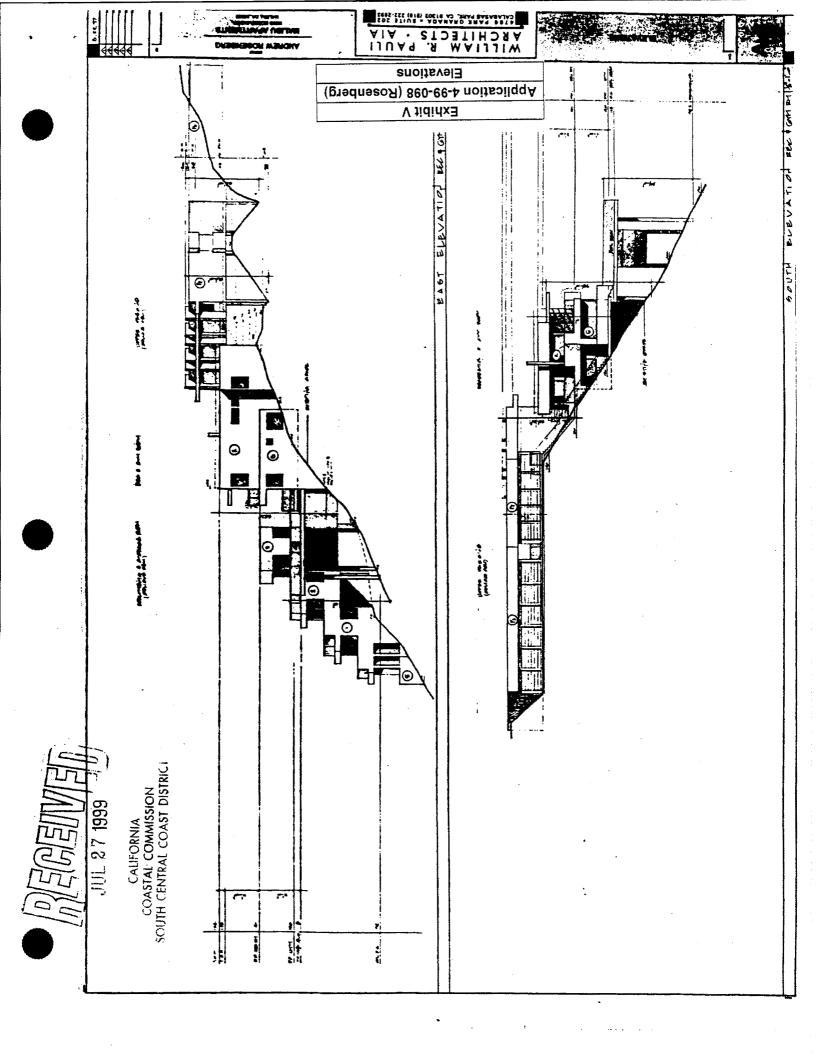


No. 24907

150 EAST LOS ANGELES AVENUE - SLATE 105 MOCRPARK, CA 93071 (805) 537-9958

18049 COASTLINE DRIVE - MALIBU ANDREW ROSDHERRS - DEVELOPER
3 GREENWOOD LANE - AMARLLO, TEXAS' 70609





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