Item Th 8 h

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

DUTH CENTRAL COAST AREA 89 SOUTH CALIFORNIA ST., SUITE 200 VENTURA, CA 93001 (805) 641 - 0142

RECORD PACKET COPY

 Filed:
 9/9/99

 49th Day:
 10/28/99

 180th Day:
 3/7/00

 Staff:
 J Johnson

 Staff Report:
 12/15/99

 Hearing Date:
 1/13/00

 Commission Action:
 1/13/00

GRAY DAVIS, Governor

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-99-172

APPLICANT: Kenneth Vail & Mary Tichenor

PROJECT LOCATION: 1408 Topanga Canyon Blvd., Topanga; Los Angeles County

PROJECT DESCRIPTION: Construct a one story 3,282 sq. ft. single family residence and three car garage, a septic system, and grade 1,625 cu. yds. of cut and 1625 cu. yds. of fill, primarily for site remediation.

Lot area:	3.44 acres	
Building coverage:	3,282	sq. ft.
Pavement coverage:	1,966	sq. ft.
Ht. abv. ext. grade:	21 ½ ft.	

LOCAL APPROVALS RECEIVED: Los Angeles County Approval in Concept; Los Angeles County Health Department Approval in Concept; Los Angeles County Fire Department Approval.

SUBSTANTIVE FILE DOCUMENTS: Updated Engineering Geologic and Geotechnical Engineering Evaluation by Robertson Geotechnical Inc. dated February 20, 1998; Memorandum Update Engineering Geologic and Geotechnical Engineering Evaluation by Robertson Geotechnical Inc. dated July 15, 1999; Memorandum, Los Angeles County Code Section 111 Engineering Geologic and Geotechnical Engineering Evaluation, dated August 30, 1999 by Robertson Geotechnical. Coastal Permit No. 4-96-026, Harberger; Coastal Permit No. 5-88-997, Vail; Coastal Permit No. 4-99-164, Olson; Coastal Permit No. 4-99-073, Dillaway.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with four (4) special conditions addressing: plans conforming to geologic recommendations; landscaping, erosion control, fuel modification; removal of natural vegetation; and an assumption of risk, waiver of liability, and indemnity deed restriction. The proposed development will be located on an existing graded pad east of Topanga Canyon Blvd. A portion of the subject site is designated as significant oak woodland by the Malibu/Santa Monica Mountains Land Use Plan. The proposed development will not result in the removal of any habitat or individual oak trees on the subject site. As conditioned, the proposed project will be consistent with the policies of the Coastal Act.

Ĩ,

I. STAFF RECOMMENDATION

<u>MOTION:</u> I move that the Commission approve Coastal Development Permit No. 4-99-172 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures that would substantially lessen any significant adverse impacts of the development on the environment.

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 term or 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.

III. Special Conditions

1. Plans Conforming to Geologic Recommendation

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans. All recommendations contained in the Updated Engineering Geologic and Geotechnical Engineering Evaluation by Robertson Geotechnical Inc. dated February 20, 1998; Memorandum Update Engineering Geologic and Geotechnical Engineering Evaluation by Robertson Geotechnical Engineering Evaluation by Robertson Geotechnical Engineering Evaluation by Robertson Geotechnical Inc. dated July 15, 1999, and Memorandum, Los Angeles County Code Section 111, Engineering Geologic and Geotechnical Engineering Evaluation, dated August 30, 1999 by Robertson Geotechnical Inc., shall be incorporated into all final design and construction plans including all <u>foundation</u>, septic system, grading, and <u>drainage</u> improvements. All plans must be reviewed and approved by the engineer and the geotechnical engineering consultants as conforming to said recommendations.

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 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.

2. Landscape, Erosion Control, and Fuel Modification Plans

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final landscaping, prepared by a licensed landscape architect or a qualified resource specialist, and erosion control/drainage plans prepared by a licensed engineer for review and approval by the Executive Director. The final landscaping and erosion control/drainage plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The final plans shall incorporate the following criteria:

A) Landscaping and Erosion Control Plans

 All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for 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 <u>Recommended List of Plants for Landscaping in the Santa Monica Mountains</u>, 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) 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.
- 5) Vegetation within 50 feet of the proposed residence and garage and driveway may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively 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 final 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 final fuel modification plan, as revised, has been reviewed and approved by the Los Angeles County Fire Department, Forestry Division, Fire Prevention Bureau. Any 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.
- 6) The final drainage/erosion control plan shall be implemented within 30 days of completion of final grading. By acceptance of this permit, the applicant agrees to maintain the drainage devices on a yearly basis in order to ensure that the system functions properly. Should the devices fail or any erosion result from the drainage from the project, the applicant or successor in interests shall be responsible for any necessary repairs and restoration.

B) Interim Erosion Control Plan

- 1) 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 geo-fabric covers or other appropriate cover, install geo-textiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion 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 geo-textiles 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 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.

3. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding 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

4. Assumption of Risk, Waiver of Liability and Indemnity Deed Restriction

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide, slope failure, erosion, and wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. PRIOR TO 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 incorporating all of the above terms of this condition. 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a one story 3,282 sq. ft. single family residence and three car garage, a septic system, and grade 1,625 cu. yds. of cut and 1,625 cu. yds. of fill, primarily for site remediation. Grading necessary for the construction of the

residence after the site is remediated consists of 70 cubic yards of cut and 70 cubic yards of fill. The subject site is a 3.44 acre lot located in the Topanga Canyon area of Los Angeles County that is accessed from Topanga Canyon Boulevard along a private road (Exhibits 1 - 8). Slopes on site descend from the building pad approximately 80 feet to the west to Topanga Canyon Blvd. (Exhibits 3 and 4).

A flat building pad with fill on the pad and along the edges of the pad has been graded on the subject site where the residence is proposed to be located. The applicant's engineering geologist recommends that uncompacted fill on this building pad be removed and recompacted to modern day standards to provide suitable support for the proposed structure. Based on a review of the Commission's historic photographs, the building site was graded prior to 1977, the effective date of the Coastal Act of 1976. An existing paved private roadway accesses the building site and three other existing single family residences in the immediate vicinity. The subject parcel includes designated environmentally sensitive habitat area (ESHA), oak woodland, which is located about two hundred feet from the proposed building site along the canyon slopes near Topanga Canyon Boulevard. Due to the separating distance, the proposed project will not adversely affect this ESHA. The Malibu/Santa Monica Mountains Land Use Plan designates most of the subject lot as Rural Land III, one dwelling unit per two acres, and a small portion along the west as Residential I, one unit per acre. Therefore, the proposed residence on a 3.44 acre lot is conforming to the land use plan designation.

The following provides a brief historical perspective of previous coastal permits and developments on and in the vicinity of the subject property. In 1979, the Commission approved a four lot subdivision of a 28 acre parcel, Coastal Permit No. P-4946, which was recorded in 1981 and created the subject site. The Commission's approval required the recording of a deed restriction prohibiting further subdivision of these four lots. The parcel where the subject building site is located was about three acres in size at that time. In 1981 five small lots to the west were recombined and the development rights restricted through the Commission's Transfer of Development Credit (TDC) Program. These TDC lots were joined with the subject lot in 1990 in its configuration at that time. (The combined acreage of these TDC lots are not included in any of the lot sizes listed in this report.) In 1983, a lot line adjustment was recorded that increased the size of the subject lot to about five acres in size, without the benefit of a coastal development permit. In 1988, another lot line adjustment was recorded that further increased the size of the lot to about seven acres in size, also without benefit of a coastal development permit. In 1997, the Commission approved a re-division of three lots (Coastal Permit No. 4-96-028) that included the larger seven acre lot. In the Commission's approval of the re-division, the two above lot line adjustments were also approved after the fact. The result of the 1997 Commission approved re-division, reconfigured the applicant's lot to become about four acres in size (gross acreage) and 3.44 acres (net acreage) not including the size of the TDC lots noted above which were joined to this lot. The subject parcel is illustrated in Exhibit 9 as New Parcel 1, four TDC lots are now joined to this lot. In 1989, the Commission approved Coastal Permit No. 5-

88-997 (Vail) to construct a 5,128 sq. ft. residence, grade about 6,500 cubic yards of material, and complete a lot line adjustment. The permit file indicates that no Coastal Permit was issued and the permit expired. Staff's site inspection confirmed that the residence was not constructed.

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 is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The applicant is proposing to construct a one story 3,282 sq. ft. single family residence and three car garage, a septic system, and grade 1,625 cu. yds. of cut and 1625 cu. yds. of fill primarily for site remediation. The proposed residence will be located on a previously graded flat building pad located about 80 feet above Topanga Canyon Boulevard. The applicant proposes to over excavate about two to three feet of the building pad and recompact the same material on the building site. The proposed residence will be constructed on caissons to penetrate this surficial material and will be founded into bedrock.

The applicant submitted an Updated Engineering Geologic and Geotechnical Engineering Evaluation and a Memorandum to update this report dated February 20, 1998 and July 15, 1999 respectively, prepared by Robertson Geotechnical, Inc. In addition, the applicant also submitted a Memorandum, Los Angeles County Code Section 111 Engineering Geologic and Geotechnical Engineering Evaluation, dated August 30, 1999 by Robertson Geotechnical. These reports indicate that the geologic structure of bedrock in the central and eastern portion of the building pad area was found to be favorable for gross stability, an inactive fault extends across the extreme western portion of the site, and landslides exist on the west facing slope descending to Topanga Canyon Blvd. and the access road. The building site is located beyond the Foundation Setback Line established by the applicant's geotechnical engineer.

The reports indicate that there remains the potential for continued instability of the landslides. The February 20, 1998 Engineering Geologic Report noted above states:

The site is underlain by fill, soil, alluvium, weathered bedrock and bedrock at depth. Dump fill placed over soil exists around the margin of the building pad. An uncompacted fill wedge exists in the southern portion of the pad and extends down to the canyon below. The fill has not been compacted to modern day standards and is subject to creep, yielding and consolidation. The fill is considered unsuitable for structural support. The risk of mass failure of the fill wedge below the building area is considered low. Good drainage control and providing the pad with a compacted fill blanket can reduce the risk.

Slides exist on the west facing slope which descends down to Topanga Canyon Boulevard. The steep scarps around the margins of the slides are potentially unstable. Scarp failure can be anticipated. Raveling, sloughing and deterioration of the margins of the slides can be expected. The geologic structure of the bedrock in the area of the proposed development is favorable for the gross stability of the building site. The previously recommended Foundation Setback Line should be observed.

These Engineering Geologic reports conclude that:

The presence of the slides and uncompacted fill will put constraints on the proposed development but do not preclude safe development of the property. Based upon the previous exploration, the recent site visits and experience on similar projects, regrading of the surface of the pad and constructing a single family residence is considered feasible from an engineering geologic and soils engineering standpoint provided our advice and recommendations presented in the referenced reports and in this report are made a part of the plan and are implemented during construction.

Further, the Memorandum, Los Angeles County Code Section 111 Engineering Geologic and Geotechnical Engineering Evaluation, dated August 30, 1999 by Robertson Geotechnical concludes that:

It is the opinion of the undersigned based on the findings of the referenced engineering geologic and soils engineering reports, that provided our recommendations are followed, the proposed residence will be safe against hazards from landslide, settlement or slippage and that the proposed residence will have no adverse effect on the geologic stability of the property outside the building site.

The Updated Engineering Geologic and Geotechnical Engineering Evaluation and a Memorandum to update this report dated February 20, 1998 and July 15, 1999

respectively, and the Memorandum, Los Angeles County Code Section 111 Engineering Geologic and Geotechnical Engineering Evaluation, dated August 30, 1999 all prepared by Robertson Geotechnical, Inc. include a number of geotechnical recommendations to ensure the stability and geotechnical safety of the site. Therefore, to ensure that the recommendations of the geotechnical engineer and engineer consultants have been incorporated into all proposed development, Special Condition number one (1) requires the applicant to submit project plans certified by both the consulting geotechnical engineer and the engineer as conforming to all recommendations regarding structural and site stability. 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 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.

However, the Commission notes that, although the subject building site is considered stable from a geologic standpoint, the western slopes on the subject site are still subject to potential erosion and landslides. The Commission finds that minimizing site erosion will improve the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants compatible with the surrounding environment. In past permit actions, the Commission has found that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foliage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize steep slopes, such as the slopes on the subject site, and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foliage weight but also by their low irrigation and maintenance requirements. Therefore, in order to ensure the stability and geotechnical safety of the site, Special Condition number Two (2) requires that all proposed disturbed and graded areas on the subject site be stabilized with native vegetation.

In addition, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by Special Condition Two (2), to submit erosion control/drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. Further, to ensure that the project's drainage structures will not contribute to further destabilization of the project site or surrounding area and that the project's drainage devices shall be repaired should the devices fail in the future, Special Condition number two (2) also requires that the applicant agree to be responsible for any repairs should the drainage devices fail or result in erosion. An interim erosion control plan is also needed to minimize erosion during grading and construction, particularly if conducted during the rainy season. A monitoring plan is needed to ensure that the landscaping meets the approved

landscaping plan after a five year time period from the time of occupancy of the residential unit. In addition, in the event the proposed grading occurs during the rainy season (November 1 – March 31) sediment basins need to be installed on the project site prior to or concurrent with grading operations and maintained through the development process to minimize sediment from runoff waters during construction. Therefore, the Commission finds it necessary to require a landscape plan with an interim erosion control plan, and a monitoring plan to further minimize and control erosion as noted in Special Condition number two (2).

The Commission is also concerned about the removal of natural vegetation for the purpose of fuel modification and the timing of the removal. The removal of natural vegetation for the purpose of fuel modification should not occur until the applicant has obtained necessary building or grading permits for the development approved pursuant to this permit within the 50 foot zone surrounding the proposed structure. Vegetation thinning within the 50-200 foot fuel modification zone should not occur until commencement of construction of the structure(s) approved pursuant to this permit. These requirements as noted in Special Condition number three (3) are necessary to minimize potential erosion on the site and the conveyance of sediment beyond the building site into the drainages and creeks in the watershed.

The submitted Engineering Geologic Report indicates that there are landslides along the western slope of the subject property. The Coastal Act recognizes that development, such as the proposed residential project 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 determine 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.

As such, the Commission finds that due to the foreseeable possibility of landslides or slope failures, erosion, and wildfire the applicant shall assume these risks as a condition of approval. Therefore, Special Condition Number Four (4) requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development and to indemnify and hold harmless the Commission with respect to the Commission's approval of the project against any and all liability. The applicant's assumption of risk, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

C. Environmentally Sensitive Resources

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 states:

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.

Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

To assist in the determination of whether a project is consistent with Sections 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past coastal development permit actions for new development in the Santa Monica Mountains, looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The Malibu LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. In its findings regarding the certification of the Malibu/Santa Monica

Mountains LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources finding that:

Coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

Specifically, Policy 79 of the LUP provides that in order to protect sensitive riparian habitats, all development, other than driveways and walkways, should be setback at least 50 ft. from the outer limit of designated environmentally sensitive riparian vegetation to maintain a natural buffer area. Table 1 of the LUP further provides that new structures shall be located at least 100 ft. from the outer limit of the riparian tree canopy. Policy 79 of the LUP also provides that seepage pits for new septic systems shall be located at least 100 ft. from the outer edge of the riparian or oak canopy. In addition, Policy 82 of the LUP, in concert with the Coastal Act, provides that grading shall be minimized to ensure that the potential negative effects of runoff and erosion on watershed and streams is minimized. Further, Policies 84 and 94, in concert with the Coastal Act, provide that disturbed areas shall be revegetated with native plant species within environmentally sensitive habitat areas and significant watersheds.

The project site is characterized as canyon terrain with a small ridge previously graded as a flat building pad below other ridges and mountainous areas to the east. Slopes on site descend from the building pad approximately 80 feet in elevation in a westerly direction to Topanga Canyon Boulevard and Topanga Canyon Creek west of the Boulevard and located on the canyon floor. The subject property extends only to the edge of Topanga Canyon Boulevard and does not include Topanga Canyon Creek. The offsite Creek is designated as an environmentally sensitive habitat area (ESHA) by the Malibu/Santa Monica Mountains LUP and as a blueline stream by the United States Geologic Service. In addition, portions of the subject site along the western canyon slopes along Topanga Canyon Boulevard are designated as significant oak woodland by the LUP. The proposed development will be located about 200 feet east of the significant oak woodland and will not result in the removal of any riparian or oak tree habitat or directly affect the habitat. The project site is also located about 350 feet east of Topanga Canyon Creek.

In past permit actions regarding new development adjacent to oak woodland habitat, the Commission has required that new development be located more than 100 feet from the outer limit of the oak woodland vegetation canopy in order to provide for an adequate buffer area from new development. In this case, the proposed project including the septic system will be located about 200 feet from the designated oak woodland and about 350 feet from Topanga Creek. As a result, development of the subject site will not directly impact these ESHA resources. However, the proposed project does have the potential to have indirect adverse effects as a result of site erosion and offsite sedimentation.

The Commission notes that the proposed project includes approximately 3,250 cu. yds. of grading (1,625 cu. yds. of cut and 1,625 cu. yds. of fill primarily for the purpose of site remediation). Although no grading is proposed within the riparian or creek corridor located offsite or the oak tree habitat located on the subject site, the proposed grading will result in potential adverse effects to the oak woodland habitat on site including increased erosion on site and potential increased sedimentation of the drainage course and downstream areas. The Commission finds that minimizing site erosion will minimize the project's potential individual and cumulative contribution to adversely affect the natural drainage course. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes or habitat areas and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. Therefore, in order to minimize erosion and resultant sedimentation of the drainage course and downstream areas. Special Condition number two (2) requires that all disturbed and graded areas shall be stabilized and vegetated with appropriate native plant species. The Commission further notes that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant community habitat by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant species habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area. Special Condition Number two (2) also requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used. In addition, Special Condition number three (3) is required to ensure that no vegetation may be removed on the subject site for the purpose of fuel modification until after the local government has issued a building or grading permit for the proposed development.

Further, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by Special Condition numbers one (1) and three (3), to submit erosion control/drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. Further, to ensure that the project's drainage devices will not contribute to further destabilization of the project site or surrounding area and that the project's drainage devices shall be repaired should the devices fail in the future, Special

Condition Two (2) also requires that the applicant agree to be responsible for any repairs or restoration of eroded areas should the drainage devices fail or result in erosion.

Therefore Special Condition number two (2) requiring a landscape and erosion control plan is necessary to minimize erosion on the site and offsite sedimentation to adequately protect the designation ESHA.

Therefore, for the reasons discussed above, the Commission finds that the proposed amendment, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act states that:

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 areas 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.

The subject site is surrounded by lots developed with single family residences to the north, west and east. To the south and some of the lots to the west are vacant. Additional residences are located further to the south and south west along Topanga Canyon Boulevard. This northern area of Topanga Canyon is characterized by lower intensity rural-type residential development.

Regarding public roadways, the project site is located about 80 feet above the elevation of Topanga Canyon Boulevard which is located to the south and west of the site. Visibility of the subject building site will be limited due to the intervening topography and the oak woodland. The Malibu/Santa Monica Mountains Land Use Plan designates Topanga Canyon Boulevard as a second priority scenic highway. Because the location of the proposed residence is partially screened from the Boulevard and the proposed residence will be a one story structure, the size and appearance of the residence will be limited as viewed by the public from the Boulevard.

Regarding public lands and trails, the proposed project site is located about 500 feet west of the Santa Maria Canyon Trail connecting Topanga to the south along the Topanga – Henry Ridge Trail to the Woodland Hills area to the north. The trail traverses the hillside to the east about 150 feet in elevation above the proposed residence. Topanga State Park lands are also located further to the east. As a result, the public visibility of this project site is limited to the roof (proposed Mission style

concrete tile) from the distance of the Santa Maria Canyon Trail and Topanga State Park. In addition, the proposed residence is located within an area of numerous existing residences.

Potential public visibility issues can be mitigated by requiring all graded areas and the perimeter of the structures to be adequately landscaped. The landscaping should consist primarily of native, drought resistant plants. As required by Special Condition Number two (2) the landscape plan will be designed to minimize and control erosion, as well as, screen and soften the visual effect of the structure from the public trail and public lands. The Commission finds that the proposed project, as conditioned, will not result in any adverse effects to public views and is consistent with Section 30251 of the Coastal Act.

E. Septic System

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. The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. 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, minimizing alteration of natural streams.

Section 30250(a) of the Coastal Act states in part that:

New residential, ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed development includes constructing a septic system for the new residence to provide for adequate sewage disposal. The applicant has submitted a conceptual approval for the sewage disposal system from the Department of Health Services, Los Angeles County, dated July 23, 1999. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the County of Los Angeles Uniform Plumbing Code. The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Sections 30231 and 30250 of the Coastal Act.

F. Local Coastal Program

Section **30604** of the Coastal Act states 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 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 Los Angeles County which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 effect which the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

499172vail&tichenorreport

















