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# CALIFORNIA COASTAL COMMISSION

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

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Staff: BCM-V Staff Report: 11/16/00 Hearing Date: 12/12-15/00 Commission Action:

# STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-00-100

**APPLICANT:** 

Mr. & Mrs. Edward Field Jr.

AGENT: James Chuda

29530 Rainsford Place, City of Malibu (Los Angeles County) PROJECT LOCATION:

**PROJECT DESCRIPTION:** Demolish the existing residence, attached decks / patios, detached garage, pumphouse, and stables on-site, leaving the detached 702 sg. ft. questhouse intact, and then construct a new 5,578 sq. ft., two-story single family residence (SFR), attached 888 sq. ft. 3-car garage, driveway, new entrance gate and fencing, pool / spa, 640 sq. ft. open pool cabana, and evapotranspiration septic system. The project also includes 1,296 cu. vds. of grading (640 cut, 656 fill).

Lot area	77,499	sq. ft.	(1.8 ac.)
Building coverage:	5,959	sq. ft.	
Pavement coverage:	12,682	sq. ft.	
Landscape coverage:	46,858	sq. ft.	
Unimproved area:	12,000	sq. ft.	
Parking spaces:	5 (3 covered)		
Ht aby fin grade:	28'0"	<b>^</b>	

LOCAL APPROVALS RECEIVED: Approval in Concept -- City of Malibu Planning Department; Approval in Concept -- City of Malibu Environmental Health Dept. (Septic System); Approval in Concept -- City of Malibu Geology and Geotechnical Engineering.

SUBSTANTIVE FILE DOCUMENTS: Notice of Decision Plot Plan Review No. 99-083, Site Plan Review No. 99-034, by City of Malibu Planning Dept., dated March 22, 2000; Soils and Engineering - Geologic Investigation for Proposed Single Family Residence and Swimming Pool, 29530 Rainsford Place, Malibu, California, by GeoSystems, dated October 13, 1998; Infiltration Testing Report, 29530 Rainsford Place, Malibu, California, by Bill Wilson Environmental Planning, dated March 25, 1999; City of Malibu Geology and Geotechnical Engineering Review Sheet for Site Address -- 29530 Rainsford Place, dated May 28, 1999; Letter/Report Re: Sewage Disposal System Design, 29530 Rainsford Place, Malibu, California, by GeoSystems, dated August 25, 1999; Updated Soils and Engineering - Geologic Investigation and Seismic Design Parameters, 29530 Rainsford Place, Malibu, California, by GeoSystems, dated January 13, 2000.

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with five (5) special conditions regarding landscape and erosion control plans, drainage and polluted runoff control plans, plans conforming to geologic recommendations, assumption of risk, and restriction of future development.

# I. STAFF RECOMMENDATION

1. <u>Motion:</u> I move that the Commission approve Coastal Development Permit No. 4-00-100 pursuant to the staff recommendation.

### 2. 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.

### 3. **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 or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

### 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 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>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. 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.

5. Terms and Conditions Run with the Land. 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. Landscaping and Erosion Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit landscaping / erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall identify the species, location, and extent of all plant materials and shall incorporate the following criteria:

### a) Landscaping

All graded and disturbed areas and appropriate visual screening areas on the subject site shall be planted and maintained within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation and to screen or soften the visual impact of development, 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 February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

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 ninety percent (90%) coverage within two (2) years, and this requirement shall apply to all disturbed soils. Planting shall 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 the applicable landscape requirements.

Vegetation within fifty feet (50') of the proposed house may be removed, and vegetation within a two-hundred foot (200') radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such removal and 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 Fire Department of Los Angeles County. Irrigated lawn, turf, or groundcover planted within a fifty foot (50') radius (fuel modification zone) of the proposed residence shall be selected from the most drought tolerant species, subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

### b) Erosion Control

The landscaping / erosion control plans shall delineate areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and/or stockpile areas. Natural areas to be left undisturbed such as native trees and vegetation shall be clearly delineated on the project site with fencing or survey flags.

The plans shall specify that should grading take place during the rainy season (November 1 – March 31), the applicant shall construct or install temporary sediment basins (including debris basins, desilting basins, and/or silt traps), temporary swales, sandbag barriers, silt fencing, and geofabric or other appropriate cover (including stabilizing any stockpiled fill cover and installing geotextiles or mats on all cut or fill slopes) on the project site. The applicant shall also 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 shall be maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment shall 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.

The plans 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 swales, and sediment basins. The plans shall also specify that all disturbed areas 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 (5) years from the date of 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 plans 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 plans must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plans that have failed or are not in conformance with the original approved plans.

### 2. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plans shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate, or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.

(b) Runoff shall be conveyed off site in a non-erosive manner.

(c) Energy dissipating measures shall be installed at the terminus of outflow drains.

(d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned, and repaired when necessary prior to the onset of the storm season, no later than September 30th each year, and (2) should any of the project's surface or subsurface drainage / filtration structures or other BMPs fail or result in increased erosion, the applicant / landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage / filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

### 3. Plans Conforming to Geologic Recommendations

All recommendations contained in the Soils and Engineering - Geologic Investigation for Proposed Single Family Residence and Swimming Pool, 29530 Rainsford Place, Malibu, California, by GeoSystems, dated October 13, 1998, shall be incorporated into final design and construction including foundations, grading, and drainage. All plans must be reviewed and approved by the geologic / geotechnical consultant.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval by the Executive Director, evidence of the geologic / geotechnical consultant's review and approval of all project plans. 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 to the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

### 4. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from fire, flooding, and erosion; (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 with respect to the

Commission's approval of 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.

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, 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.

### 5. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-00-100. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a & b) shall not apply to the residence. Accordingly, any future structures, additions, or improvements related to the residence approved under Coastal Development Permit No. 4-00-100 will require a permit from the California Coastal Commission or its successor agency.

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 as follows:

# A. Project Description and Background

The applicant is proposing to demolish the existing residence, attached decks / patios, detached garage, pumphouse, and stables on-site, leaving the detached 702 sq. ft. guesthouse intact, and then construct a new 5,578 sq. ft., two-story single family residence (SFR), attached 888 sq. ft. 3-car garage, driveway, new entrance gate and fencing, pool / spa, 640 sq. ft. open pool cabana, and evapotranspiration septic system. The project also includes 1,296 cu. yds. of grading (640 cut, 656 fill). The property is situated in the Zuma Creek area of the City of Malibu, north and inland from Zuma Beach and Point Dume, between Busch Drive and Bonsall Drive, approximately 1,500 feet north of Pacific Coast Highway (PCH). Access to the property is from Pacific Coast

Highway to Busch Drive to Rainsford Place, a publicly accessible street which passes immediately north of the subject property. The area surrounding the proposed project site is developed with numerous large-lot single family residential development. Due to the extensive vegetated canopy near Zuma Creek, the site is not visible from PCH or from any public parks, beaches, or trails in the vicinity.

Topographically, the property is located along the old floodplain of Zuma Creek, a U.S. Geological Survey (USGS) designated blue-line intermittent stream which descends from the foothills of the Santa Monica Mountains down to Zuma Beach. The property gently slopes towards Busch Drive and Zuma Creek to the west. Drainage on the property occurs by overland sheetflow over the existing contours in a westerly direction towards the creek, where it travels downslope, passes into a culvert under Pacific Coast Highway, and outlets at Zuma Beach, on the western side of Point Dume. The Zuma Creek riparian corridor is a designated disturbed sensitive resource area (DSR) which includes the entire subject parcel. There are scattered trees and vegetation throughout the site including several large sycamore trees. The proposed site for the residence lies on a gently sloping upper pad area located on the east side of the property. There have been no previous coastal permits obtained for the subject property, although there is significant existing development on-site including the existing residence, detached garage, driveway, pumphouse, guesthouse, and stables. This existing development was constructed circa 1965, prior to implementation of the Coastal Act.

# B. 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 located in the developed Point Dume / Zuma Creek area of Malibu and is bordered by other residential parcels to the north, south, east, and west. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic roads. The Commission also examines the building site and the size of the proposed structure. Staff visited the subject site and found that the site is not visible from the scenic highway (Pacific Coast Highway) to the south or from any nearby public parks, beaches, or trails, and found the proposed building location to be appropriate and feasible, given the terrain and the neighboring residential development.

For this project, the applicant is proposing an estimated 1,296 cu. yds. of grading including 640 cu. yds. of cut and 656 cu. yds of fill to create the pool and cabana area and to slightly augment the upper pad area. The building plans are substantially in

character with the type and scale of development in the surrounding area, and the proposed single family residence will not be visible from Pacific Coast Highway or nearby trails. The proposed project, therefore, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Malibu / Santa Monica Mountains area. Thus, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act.

# C. Environmentally Sensitive Resources

Section 30230 of the Coastal Act states:

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 longterm commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act 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 30236 of the Coastal Act states:

Channelization, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

And Section 30240 of the Coastal Act 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.

The proposed project is located partially within the 100 year flood plain of Zuma Creek, a seasonally intermittent stream characterized by irregular medium to high velocity flows with significant associated scouring. The riparian corridor along Zuma Creek is a designated Disturbed Sensitive Resource (DSR) area in the Malibu / Santa Monica Mountains Land Use Plan (LUP) since it has been substantially and adversely impacted



by development in Zuma Canyon. This existing development, including Bonsall Drive and various residential developments in the canyon and on the adjoining slopes, has reduced local riparian vegetative cover, decreased runoff infiltration, increased erosion rates, and promoted greater "flashiness" in the creek's flow characteristics.

Despite these human modifications, Zuma Creek continues to provide some important habitat for a variety of riparian species of plants and animals. Although this disturbed riparian habitat does not have the same biological significance as undisturbed Environmentally Sensitive Habitat Area (ESHA), it is sufficiently valuable to warrant protection of the existing resources. The riparian habitat in the vicinity of the subject portion of Zuma Creek does contain several unique and sensitive riparian plant and animal species including California Sycamore (*Platanus recemosa*).

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. 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 consistency with Sections 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past coastal development permit actions in the Santa Monica Mountains, looked to the 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 LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources:

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.

The Malibu / Santa Monica Mountains LUP further emphasizes the importance of protecting ESHA by stating:

P63 Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, Significant Oak Woodlands, and Wildlife Corridors in accordance with Table 1 and all other policies of this LCP; P69 Development in areas adjacent to environmentally sensitive habitat areas (ESHAs) ... 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; P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources; P79 To maintain natural vegetation buffer areas that protect all sensitive riparian habitats as required by Section 30231 of the Coastal Act, all development other than driveways and walkways should be set back at least 50 feet from the outer limit of designated environmentally sensitive riparian vegetation; P80 The following setback requirements shall be applied to new septic systems: (a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leachfields...; P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the geological, soils, hydrological, water percolation and runoff) to the site (i.e.: maximum extent feasible; P96 Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste shall not be discharged into or alongside coastal streams or wetlands.

The Commission notes that Policy 63 states that uses shall be permitted in DSRs in accordance with Table 1 of the LUP, which states that in disturbed riparian areas, structures shall be sited to minimize removal of riparian trees. Table 1 also states that vegetation removal and grading shall be minimized and accomplished in accordance with stream protection and erosion polices in order to minimize habitat impacts and that development shall be approved subject to review by the City of Malibu Environmental Review Board (ERB). The applicant submitted a Notice of Decision from the City of Malibu Planning Department issuing a Negative CEQA declaration and not requiring review by the City ERB, if certain conditions are met. The Notice of Decision states:

The project site is a developed property in the Zuma Canyon significant watershed and in the floodplain of Zuma Creek. Three of the four sycamores on the site would be classified as heritage trees and are considered a sensitive resource in a disturbed Environmentally Sensitive Habitat Area. Consequently the trees should be protected to the maximum extent feasible. ... All new development including structures, septic systems, and ornamental landscaping shall be located outside the canopy of the native sycamore trees.

The Commission notes that the applicants have clustered the proposed improvements on the east side of the parcel away from the floodplain and sycamore trees in order to protect these sensitive resources. The riparian habitat on the subject site has been previously affected by construction of the existing structures, but that the proposed new development will be located on the eastern portion of the subject site in approximately the same footprint as the existing development. In response to staff's concerns regarding the siting of the proposed structures in relation to the flood plain and to provide adequate setbacks from the creek and the trees, the applicant has redesigned the placement and orientation of buildings on-site, especially the proposed pool cabana. The applicant has also agreed to remove the existing stables which are located in the flood plain and to incorporate a landscaping plan consisting of predominantly native species for this sensitive area. The applicant has also proposed a secondary treatment evapotranspiration septic system to decrease the potential for contamination of groundwater and the nearby stream. The septic system is located over 100 ft. from the creek.

In addition, policies 84 and 94 of the LUP, 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 Commission notes that any development within riparian areas may result in potentially adverse effects to resources from increased erosion, contaminated stormwater runoff, disturbance to local wildlife, and loss of riparian plant and animal habitat. The subject site has been previously disturbed by construction of the existing structures on the applicant's property. However, the proposed new development will be located in approximately the same location as the existing development some 150 ft. from the creek and, therefore, will not displace any riparian vegetation in the stream bed area nor interfere with creek flow in the stream channel itself. There is an adjoining parcel with residential development between the subject property and Zuma Creek.

The project is conditioned to implement and maintain a drainage plan designed to ensure that runoff is conveyed in a non-erosive manner and that sedimentation of the nearby creek is minimized. In order to further minimize the volume, velocity, and pollutant load of stormwater leaving the developed site thereby ensuring that adverse impacts to water quality do not result from the proposed project, the Commission finds it necessary to require the applicant, through **Special Condition Two**, to submit a

drainage and polluted runoff control plan, designed by a licensed engineer, for review and approval by the Executive Director, which incorporates filter elements that intercept and/or treat the runoff from the site and to assume responsibility for the maintenance of all drainage devices on-site. Such a plan will allow for the filtering of runoff from the developed areas of the site as water runs off towards Zuma Creek. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development. The Commission therefore finds that the project, as conditioned, is consistent with Sections 30230; 30231, 30236, and 30240 of the Coastal Act.

### D. Geology / Hazards

Section 30253 of the Coastal Act states (in part):

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...

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

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 is located in southern foothills of 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, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides. The prominent geomorphic features in the area are the ridgelines of the Santa Monica Mountains and the continuation of Zuma Canyon to the north. Point Dume to the southeast, and Zuma Beach to the southwest.

The building site is located on a gently sloping, southwest trending meadow descending to Zuma Creek, the USGS-designated blue-line intermittent creek below. A FEMA flood hazard area has been designated adjacent to the creek, extending to the western half of the property, but the proposed development is setback from these areas. Although the site is relatively flat, no portion of the proposed new development is located within the 100 year or 500 year floodplain areas for the nearby creek. Overall elevation change from east to west across the site is approximately nine feet (9'). Some grading is proposed to create a more elevated, level pad area for the new residence, swimming pool, and pool cabana on the eastern side of the parcel.

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project. Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have prepared reports and provided recommendations to address the specific geotechnical conditions related to the site. The Soils and Engineering - Geologic Investigation for Proposed Single Family Residence and Swimming Pool, 29530 Rainsford Place, Malibu, California, by GeoSystems, dated October 13, 1998, states:

No known faults underlie the site. ... Major foundation problems are not anticipated as a result of earthquake induced liquefaction, fault ground rupture or displacement, and differential settlement of natural earth-materials, provided the foundation system is constructed as herein recommended [deepened friction pile foundation system]. ... Based on the findings of our investigation, it is our conclusion that the potential for ground rupture due to faulting in the building area is minimal. ... Based on the findings of our investigation, the site is considered to be suitable from a soils and engineering geologic standpoint for construction of the proposed single family residence and pool provided the recommendations included herein are followed and integrated into the building plans. ... It is the finding of this firm that the proposed residence and swimming pool will be safe and that the site will not be affected by any hazard from landslide, settlement or slippage, and the completed work will not adversely affect adjacent property in compliance with the City of Malibu code provided our recommendations are followed.

The Commission notes that the geologic and engineering consultants have included a number of recommendations which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition Three**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The Commission requires that new development minimize the risk to life and property in areas of high natural hazards while recognizing that new development may involve the taking of some risk. When development is proposed in areas of identified hazards, 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 the property. The Federal Emergency Management Agency (FEMA) has identified a flood hazard area on the subject site, but the proposed design addresses this hazard by locating development away from the floodplain and using a deepened friction pile foundation system. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. Because there exists some inherent risk in building on sites located within or near potential flood hazard or wildfire prone areas, such as the subject site, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by Special Condition Four. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, 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 and agrees to assume any liability for the same.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed offsite in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downstream water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a nonerosive manner. The building pad area is gently sloping down to Zuma Creek to the west. Because of these slopes on-site and the resultant potential for significant water velocities, soil erosion, and sedimentation of the drainage course, it is important to adequately control site drainage through velocity reduction and/or other best management practices (BMPs). To ensure that runoff is conveyed off-site in a nonerosive manner, the Commission finds it necessary to require the applicant, through **Special Condition Two**, to submit a drainage and polluted runoff control plan and to assume responsibility for the maintenance of all drainage devices on-site.

In addition, erosion and sedimentation can also be minimized by requiring the applicant to stabilize all dirt from cut / fill / excavation activities. The applicant has estimated 1,296 cu. yds. of grading including 640 cu. yds. of cut and 656 cu. yds of fill. The Commission has found that minimization of grading and exposed earth on-site can reduce the potential impacts of sedimentation in nearby creeks, streams, rivers, and the Special Condition One requires landscaping of the graded and disturbed ocean. areas of the project in order to enhance the geological stability of the site. Interim erosion control measures required by the condition and implemented during construction will minimize short-term erosion and enhance site stability. Long-term erosion can also be minimized by requiring the applicant to revegetate all disturbed areas of the site with native plants, compatible with the surrounding environment, in accordance with the requirements of the special condition. Should grading take place during the rainy season the applicant is required to construct or install temporary sediment basins, swales, sandbag barriers, silt fencing, and geofabric or other appropriate cover on the project site. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and shall be maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

# E. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, construction of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act 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.

As described previously, the proposed project includes the construction of a new 5,578 sq. ft., two-story single family residence (SFR), attached 888 sq. ft. 3-car garage. driveway, new entrance gate and fencing, pool / spa, 640 sq. ft. open pool cabana. evapotranspiration septic system, along with demolition of most of the existing structures on-site. The project also includes 1,296 cu. yds. of grading (640 cut, 656 fill). The continued conversion of the project site from its natural state will change the amount of impervious coverage and naturally vegetated area on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion. affect site stability, and impact downslope water quality. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from vard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Surface drainage on-site is currently accomplished naturally by sheetflow towards Zuma Creek, the USGS-designated blue-line intermittent stream, located approximately 125 feet west of the proposed building pad. Runoff is then transported south in the creek, flows under Pacific Coast Highway, and outlets at Zuma Beach. The subject property is gently sloping from the eastern to the western property boundaries. In order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms. results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e.: the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Two**, and finds this will ensure the

proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition One** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources. If additional development is proposed in the future, the applicant will need to apply for a new permit, as required by **Special Condition Five**, in order to allow Commission staff to evaluate potential water quality impacts.

the proposed development includes the installation of an on-site Finally. evapotranspiration septic system to serve the residence. 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 applicants' geologic and wastewater system consultants performed percolation tests and evaluated the proposed septic system. The reports conclude that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant has submitted in-concept approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the Uniform Plumbing Code. The City of Malibu minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources. The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

# F. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new development. Section 30250(a) of the Coastal Act states:

(a) 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 only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

#### Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (I) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office

buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

New development and reconstruction of or addition to previously existing development raises issues related to cumulative impacts on coastal resources. The existence of a second unit and construction of a detached pool cabana on the site where a primary residence is also being built or reconstructed intensifies the use of a parcel creating potential impacts to public services, such as water, sewage, electricity, and roads. Such development also raises issues regarding maintaining and enhancing public access to the coast.

Based on Coastal Act policies, the Commission has limited the development of second potential dwelling units on residential parcels in the Malibu and Santa Monica Mountains areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these second units, the Commission found that the small size of the units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people, would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms such as: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; or 2) a guesthouse, with or without separate kitchen facilities. Past Commission actions have consistently found that second units, guesthouses, pool cabanas, maids' quarters and the like have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCPs have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area.

There is an existing, detached, 702 sq. ft., one-story guesthouse on the subject property which is not being demolished as part of the site redevelopment. However, since the existing guesthouse is less than 750 sq. ft., it meets the guidance in the LUP for reducing potential cumulative impacts on coastal resources. Although the proposed 640 sq. ft. detached pool cabana is not a second residential unit at this time, it could be potentially converted to a second residential unit in the future. To ensure that no additions or improvements are made to the site (i.e.: additional guest units) 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, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition Five**. The Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

# G. Local Coastal Program

Section 30604(a) of the Coastal Act states (in part):

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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with Chapter 3 (commencing with Section 30200). ...

Section 30604(a) of the Coastal Act stipulates 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 significant adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for the City of Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

# H. California Environmental Quality Act (CEQA)

Section 13096(a) of the Coastal Commission's administrative regulations requires Commission approval of a 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.

BCM/bcm

















EXHIBIT 8
CDP 4-00-100 (Field)
 Grading Plan

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