STATE OF CALIFORNIA - THE RESOURCES AGENCY

TU23C RECORD PACKET COPY GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION

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

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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:

4-99-187

APPLICANT:

Drew and Janice Leonard

AGENT:

Barsocchini & Associates

PROJECT LOCATION: 27355 Pacific Coast Highway, City of Malibu (Los Angeles County)

PROJECT DESCRIPTION: Demolish an existing guest house, two stables, round pen, and lower corral area. Decrease size of a second existing guest house to 750 sq. ft.. Construct two story, 28 ft. high, 6,253 sq. ft. single family residence with 1,123 sq. ft. attached garage, septic system and 860 cu. yds. of grading (760 cu. yds. cut, 100 cu. vds. fill and remainder to be exported outside coastal zone). Install vegetative filter strips between residences and equestrian facilities and along periphery of site.

Lot area:

142,000 sq. ft.

Building coverage:

7,415 sq. ft.

Pavement coverage: Landscape coverage:

12,448 sq. ft.

53.556 sq. ft.

Parking spaces:

2 covered, 7 uncovered

STAFF NOTE: This item was continued from the January, 2000 Coastal Commission meeting to allow examination of equestrian area best management practices (BMPs) and local ordinance provisions.

SUMMARY OF STAFF RECOMMENDATION

The development is proposed on a lot on the coastal terrace overlooking Pacific Coast Highway and adjacent to a natural drainage draining into the sea. Staff recommends approval of the project with special conditions relating to: reduction in size of second unit and future development restriction, revised plans for guest, conformance to geologic recommendations, landscape and erosion control, drainage and polluted runoff control plan, removal of natural vegetation, wild fire waiver of liability, removal of excavated material, and archaeological resources.

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LOCAL APPROVALS RECEIVED: City of Malibu: Department of Environmental Health, In-concept Approval, March 25, 1999; Planning Department, Approval in Concept, August 16, 1999, Site Plan Review, July 29, 1999, and Biologic Review, undated.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; RJR Engineering, Geologic and Geotechnical Engineering Study, October 14, 1998 and Addendum Letter No. 1, March 17, 1998. Coastal development permit 4-98-073 (Ballard); California Coastal Commission, Procedural Guidance Manual: Addressing Polluted Runoff in the California Coastal Zone, June, 1996; Resource Conservation District of the Santa Monica Mountains, Stable and Horse Management in the Santa Monica Mountains, 1999; California Water Resources Control Board, Water Quality Control Plan, Los Angeles Region, 1994.

I. Approval with Conditions

The staff recommends that the Commission adopt the following resolution:

MOTION: I move that the Commission approve Coastal Development

Permit No. 4-00-008 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 or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

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- 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.
- **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Compliance</u>. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- **5.** <u>Inspections.</u> The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- **6.** <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. <u>Future Development Deed Restriction</u>

a. This permit is only for the development described in coastal development permit No. 4-99-187. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) and (b) shall not apply to the entire parcel and guest house. Accordingly, any future improvements to the permitted structures, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control plan prepared pursuant to Special Condition number four (4), and any change in the intensity of equestrian use (e.g. number of horses), shall require an amendment to Permit No. 4-99-187 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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b. Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. Revised Plans for Guest House

Prior to issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, revised site plans, floor plans and elevations for the proposed conversion of the existing single family residence to a guest house, as described in coastal development permit No. 4-99-187. The total interior habitable area of the guest house shall not exceed 750 square feet. The floor plans shall illustrate the interior and exterior walls to be demolished and new interior and exterior wall to be constructed.

The conversion of the existing house to guesthouse shall be completed prior to the issuance of the certificate of occupancy for the proposed single family residence proposed in permit 4-99-187.

3. Plans Conforming to Geologist's and Engineer's Recommendations

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval by the Executive Director, evidence of the Geologist and Geotechnical Engineer consultant's review and approval of all project plans. All recommendations contained in the RJR Engineering, Geologic and Geotechnical Engineering Study, October 14, 1998 and Addendum Letter No. 1, March 17, 1998. including issues related to earthwork, foundations, utility trenches, surface drainage, planting and slope irrigation, and sewage disposal shall be incorporated in the final project plans All plans must be reviewed and approved by the geologic consultants.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

4. Revised Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit a revised landscaping and erosion control plan, prepared by a licensed landscape architect or a

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qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) Revised Landscaping Plan

- 1) 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 Plan shall also identify the location of animal waste containment areas including storage areas for bins or dumpsters. The Plan shall specify the maximum capacity of these containment areas and include provisions to contain and prevent migration of the wastes due to wind, rain or runoff. Waste containment areas shall have a solid floor, walls and roof, gutter, and drain.
 - The Plan shall specify how animal wastes will be reduced and disposed of so as not to exceed the maximum capacity of the waste containment areas. All animal wastes shall be taken offsite or dumped at an authorized solid waste collection facility for use as a soil additive of as part of an authorized off-site composting or recycling program.
- 5) The Permittee shall undertake development in accordance with the final approved Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B) Interim Erosion Control Plan

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

C) Monitoring

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

5. Drainage and Polluted Runoff Control Plan

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Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan designed by a licensed engineer which minimizes 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 the geologists' recommendations. The plan shall include but not be limited to the following criteria:

- (a) Post-development peak runoff rates and average volumes shall not exceed predevelopment conditions.
- (b) Runoff from all roofs, parking areas, driveways, other impervious surfaces, and corrals and stables shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices. The filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff in excess of this standard from the building site in non-erosive manner.
- (c) The plan shall include provisions for maintaining the drainage and filtration systems so that they are functional throughout the life of the approved development. Such maintenance shall include the following: (1) the drainage and filtration system shall be inspected, cleaned and repaired 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 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 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.
- (d) The Permittee shall undertake development in accordance with the final approved Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

6. Removal of Natural Vegetation

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

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7. Wild Fire Waiver of Liability

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

8. Removal of Excavated Material

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

9. Archaeological Resources

- (a) By acceptance of this permit the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors shall be adequate to observe the earth moving activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during earth moving operations, grading and/or excavation in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist, the City of Malibu archaeologist and the native American consultant consistent with CEQA guidelines.
- (b) All recommendations of the City of Malibu as well as any additional recommendations developed by the archaeologist(s) during project monitoring, shall be incorporated in to all final design and construction. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, a report of the Phase II Archaeological Evaluation of the projects site. If the consulting archaeologist's recommendations, based on the Phase II Archaeological Evaluation of the site, require a substantial modification or redesign of the proposed project plans, an amendment to this permit is required.

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IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to demolish an existing guest house and remove two stables, a round pen, and a lower corral within the natural drainage channel. The applicant also proposes to construct a two story, 28 ft. high, 6,253 sq. ft. single family residence with a 1,123 sq. ft. attached garage, septic system and 860 cu. yds. of grading (760 cu. yds. cut, 100 cu. yds. fill and in the same location and remainder to be exported outside coastal zone) in the location of the demolished guest house, on a 142,000 sq. ft. parcel.

The two stables to be removed are located along the east property line adjacent to the access road. The round pen, also proposed to be removed, was originally proposed to be replaced at a new location west of the smaller existing residence/guest house, but was removed in response to staff concern that the location proposed intruded beyond the break in the bank adjacent to the natural drainage swale. The submittal has been revised further on February 23 to delete all changes to equestrian facilities.

The site is presently developed with two single family residences and equestrian facilities serving ten horses. The applicant has submitted a letter on existing and proposed equestrian use, which indicates that the site will continue to serve ten horses. The proposed residence is in the approximate location of one of the two existing guest houses proposed for demolition (Exhibit 2). A second existing single family house will remain on the site. The applicant has proposed a reduction to 750 sq. ft. for this unit, but has not submitted revised plans which indicate this change. Grading is confined to the area of the driveways of the proposed house and existing house.

The proposed development is located immediately inland of the Pacific Coast Highway in the Escondido Beach area. The project drains to a natural swale, which drains under the Highway to the sea. The natural swale is not a blue line stream or environmentally sensitive habitat area (ESHA) in the certified Land Use Plan (LUP) for the Malibu/Santa Monica Mountains. The area offshore is a designated ESHA in the LUP. Vegetation in the natural swale consists of ice plant, johnson grass, fennel and other exotic vegetation.

The project vicinity contains a mixture of single family residences and equestrian facilities. A restaurant is located on the south side of the Highway across from the site. Because of the developed nature of the surrounding area and break in the terrain overlooking Pacific Coast Highway, the project will not result in impacts on scenic and visual quality.

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Certain development on the project site was subject to a coastal development permit waiver in 1994 (4-94-141, Leonard) including construction of two 20 by 120 foot prefabricated stables replacing a three stable barn at the same location on the west side of the project, construction of two stables on the east side of the property, installation of corral fencing, and importation of 500 cu. yds. of material for the floor of a riding and dressage area.

The continuation of this item at the January, 2000 Coastal Commission meeting included the direction to staff to examine the project relative to City ordinance provisions. Staff has since reviewed the project with City of Malibu planning staff. The project is consistent with the following City provisions. Horses are allowed on properties of a minimum of 15,000 sq. ft. in size, whereas the subject parcel is 142,000 sq. ft. 1 mature animal is allowed for every 5,000 sq. ft. which would allow 28 horses. (The site presently only serves ten horses and the applicant has indicated that only ten horses are proposed.) Horses are not allowed within fifty feet of human habitation, and the existing horse facilities are located 50 ft. from the proposed residence and guest unit. The minimum acreage for a commercial horse facility is five acres and no commercial facility is proposed.

B. Cumulative Impacts of Second Residential Units

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. 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

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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 raises coastal issues related to cumulative impacts on coastal resources. The retention of the secondary residential unit on a site, where a larger, primary residence is proposed would intensify the use of a parcel, resulting in potential impacts on public services, such as water, sewage, electricity and roads. New development also raises issues regarding the location and amount of new development relative to maintaining and enhancing public access to the coast by increasing demand for such facilities or impeding their use.

Based on these policies, the Commission has limited the development of second dwelling units on residential parcels in the Malibu and Santa Monica Mountain areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action and 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 small units, the Commission found that the small size of units (750 sq. ft.), and the fact that they are likely to be occupied by one or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

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 functions which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, pool house or cabana, caretaker's unit, and farm labor unit; and 2) a guesthouse, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, 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 (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29). Therefore as a result, the Commission has found that guest houses, pool cabanas, or second units can intensify the use of a site and impact public services, such as water, sewage, electricity, and roads.

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The proposed residence is in the approximate location of the existing guest house proposed for demolition, as noted previously. A second existing single family house detached, one story, 1,162 sq. ft. guest unit is proposed to be used as storage. The applicant has proposed a reduction to 750 sq. ft. for this unit, but has not submitted revised plans which indicate this change. The Commission finds that this unit may be used as a guest unit or a single family unit in the future without inclusion of any plans in the project proposal which indicate removal of features normally associated with a single family residence such as kitchens, living rooms, etc.

The Commission has many past precedents on similar projects that have established a maximum size of 750 sq. ft. habitable space for development which may be considered a secondary dwelling unit. At 1162 sq. ft. of living area the residence would not comply with the Commission's size limit of 750 sq. ft of habitable space for guest houses. The Commission finds it necessary to require revised plans limiting the size of the remaining guest unit to 750 sq. ft. as specified in special condition number two (2). To ensure that no additions or improvements are made to the residence, which further intensifies the use, without due consideration of the potential cumulative impacts, it is necessary to require the applicant to record a future development deed restriction that the applicant obtain an amended or new coastal permit if additions or improvements to the development and convert the proposed residence to a guest house.

For the above reasons, special conditions number one (1) and two (2)) address the concerns of the Coastal Act relative to cumulative impacts of development and capacity of public services. Only through these special conditions can the Commission find that the proposed project is consistent with Section 30250 and 30252 of the Coastal Act.

C. Geologic Stability and Hazards/Water Quality

PRC 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 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.

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(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located 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 prominent geomorphic features in the area are Ramirez Canyon to the west, Pt. Dume to the southwest, Escondido Creek to the east, and Escondido Beach to the south. The site descends to the previously noted natural swale to the west.

1. Geology

The applicant has submitted a RJR Engineering, Geologic and Geotechnical Engineering Study, October 14, 1998 and Addendum Letter No. 1, March 17, 1998. The geologic stability of the site is favorable to the project, according to these reports, and no potentially active and/or active faults, adversely oriented geologic structure, or other hazards were observed by the consultants. The geotechnical consultant's and engineering geologists have provided recommendations to address the specific geotechnical conditions on the site as incorporated into the condition recommended below. In conclusion, the engineering geologic investigation of October 14, 1998 states that:

Based upon the available data, from our review, investigation and analysis, the subject residential improvements are feasible from a geologic and geotechnical standpoint and the site will be free of any geologic or geotechnical hazards, as long as the recommendations of this report are incorporated into the design and construction of the project. The site will be free of landslides, slippage and excess settlement within the guidelines described in this report, provided our recommendations are incorporated into the design and construction of the project.

Given the findings and recommendations of the consulting engineering geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting engineering geologists as conforming to their recommendations, as noted in special condition number three (3) for the final project plans for the proposed project. In

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addition, special conditions number three (3) and five (5) include review of non-point source water pollution impacts from runoff and wastewater from the equestrian facilities required by the landscaping and erosion control plan, as discussed in greater detail below.

2. Erosion and Non-point Source Pollution

The consulting geologist has stated that drainage should be dispersed in a non-erosive manner and preclude concentration of runoff and erosion. The project drains to a natural swale, which drains under the Highway to the sea into an offshore environmentally sensitive habitat area (ESHA), including kelp beds, designated in the certified Land Use Plan (LUP) for the Malibu/Santa Monica Mountains, as well as the Santa Monica Bay which is a significant resource area.

The project will significantly increase the amount of impervious surfaces on the site, which increases both the volume and velocity of storm water runoff and result in water quality impacts to off shore areas. The adverse impacts of polluted runoff on the off shore areas include changes in physical and chemical characteristics of the water, including salinity and temperature changes.

Polluted runoff, also known as non-point source pollution, is pollution that does not originate from a distinct identifiable point source. These pollutants can originate from many different sources such as overflow septic systems, storm drains, runoff from roadways, driveways, rooftops, and confined animal facilities. The removal of natural vegetation and placement of impervious surfaces allows for less infiltration of rainwater into the soil, thereby increasing the rate and volume of runoff, causing increased erosion and sedimentation. Additionally, the infiltration of precipitation into the soil allows for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and to the ocean.

Thus, new development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels. The adverse impacts of polluted runoff on the off shore areas include changes in physical and chemical characteristics of the water, including salinity and temperature changes. Polluted runoff can include nitrogen, phosphorous, and other nutrients It can also include organic debris, sediment, heavy metals, pathogens (bacteria and viruses), petroleum hydrocarbons, and synthetic organic chemicals such as household cleaners.

The Commission finds, in addition, that the minimization of non-point source pollutants from new development is necessary to maintain and enhance the quality of coastal waters, streams, wetlands, estuaries and lakes. In the case of this project, as previously noted the offshore area is a designated ESHA. Because of the location draining into a beach area, degradation of offshore areas is an important consideration

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in projects such as the proposed development. The degradation to offshore systems can result in the following:

- Nutrients carried into water bodies reduce water clarity, deplete oxygen and reduce photosynthesis, which leads to reduced food supply and habitats.
- Excessive deposition of sediments can cover intertidal areas, blanket the bottom fauna, affect feeding areas, and destroy fish spawning areas.
- Suspended sediment abrades and coats aquatic organisms, reduces submerged vegetation.
- Pollutants in offshore waters, especially heavy metals, are taken up into the food chain and concentrated (bioaccumulated) to the point where they may be harmful to humans, as well as lead to the decline of marine species.
- Contamination results in fish or shellfish harvesting restrictions and beach closures, affecting coastal recreation uses including swimming, surfing, diving, boating, and fishing, and on-shore coastal dependent and related uses.

Animal husbandry, including equestrian facilities, is one of the most recognized sources of non-point source pollutants as such facilities concentrate the impact of animal wastes. The project site generates horse wastes, which includes manure, urine, waste feed, and straw, shavings and/or dirt bedding which an be significant contributors to pollution. Horse wastes are a breeding ground for parasites, flies and other vectors. Horse wastes contain nutrients such as phosphorous and nitrogen as well a microorganisms such as coliform bacteria which can cause eutrophication and a decrease in oxygen levels resulting in clouding, algae blooms, etc. affecting the biological productivity of the Santa Monica Bay.

Protection against non-point pollution is found in past Commission actions addressing equestrian facilities which have encouraged the use of vegetative devices ("filter strips" or "elements) to filter material before it is carried off the site. Filter strips are areas of vegetation planted between the development and the drainage course which utilize the ability of plants to slow runoff flow rates, effectively increasing percolation, and collect nutrients such as phosphorous and nitrogen reducing the amount that reach the drainage course. Use of filter elements has been found in past Commission actions (see Coastal development permit 4-98-073, Ballard) to mitigate equestrian facilities as a non-point source of pollution of coastal waters.

The Resource Conservation District of the Santa Monica Mountains has published a report on Stable and Horse Management in the Santa Monica Mountains, 1999. According to this report (p. 17), the size of the filter strip is related to steepness of slope, surface water flow, topography, vegetative cover upslope of the strip, and soil type. As noted in California Coastal Commission, Procedural Guidance Manual: Addressing

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Polluted Runoff in the California Coastal Zone, June, 1996 (p. AG-5a) the goal for confined animal facilities is to minimize the discharge of runoff from storms.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, such measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site would be allowed to return to the soil, overall runoff volume is reduced and more water is available to replenish groundwater and maintain stream flow. The slow flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load will be greatly reduced.

The applicant has proposed a number of measures to decrease water quality impacts resulting from the proposed development and existing development on the site. The applicant has submitted, subsequent to the January, 2000 hearing, revised project plans including a drainage plan, map of existing vegetation, irrigation plan, and landscape plan. The plans include removal of exotic vegetation including an extensive stand of ice plant (Carpobrotos edulis), and Johnson grass and other exotic vegetation, in the natural swale. Extensive plantings of native vegetation is proposed below the bank edge of the natural swale on the project site including several seed mixtures with different maturities. The native vegetation proposed will provide elements of vegetative filter, such as densely rooted shrubs, to reduce pollution and sedimentation. The revised plans also include a berm and drainage system consisting of a vegetated berm along the bank edge of the natural swale, directing water through a system of drains to reinforced concrete and rip rap energy dissipators within the swale. Below the energy dissipators are vegetative filters of unspecified size.

The proposed berm and drainage system is inconsistent with the design criteria for filter strips as found, as cited under substantive file documents, the 1996 Commission's Procedural Guidance Manual and the 1999 Resource Management Districts's manual on Stable and Horse Management in the Santa Monica Mountains. A filter strip is "A strip or area of vegetation for removing sediment, organic matter and other pollutants from runoff and wastewater. ... Such filter strips trap solids from the runoff flowing in sheet flow through the filter." (California Coastal Commission, Procedural Guidance Manual: Addressing Polluted Runoff in the California Coastal Zone, June, 1996, p. 4-18) The proposed design does not slow down and filter sheet flow from the equestrian areas, but rather collects such flow through a system of berms and drains and conveys it into the natural drainage. Consequently, sediment, pollutants and organic matter are not removed from runoff before reaching the natural swale. Filter strips require a slowing of water velocity to allow the filtering process to take place. This slowing of velocity can only take place behind the break of the bank into the natural drainage. where the terrain is of a lower gradient allowing for percolation of runoff and removal of pollutants. As noted in Resource Conservation District of the Santa Monica Mountains, Stable and Horse Management in the Santa Monica Mountains, 1999 (p. 17) at least a

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ten foot wide area is necessary. Therefore, the proposed drainage and polluted runoff control plan is not adequate to properly filter storm water runoff from the proposed and existing development on the subject site.

In addition, the proposed project represents a major redevelopment of the site that will increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water from the site. Section 30231 of the Coastal Act states in part that:

The biological productivity and the quality of coastal waters, streams, ... 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, ...

In order to control runoff from the propose and existing development on site and ensure that runoff is properly filtered so that the biological productivity of coastal waters is maintained, the Commission finds that a comprehensive runoff and polluted runoff control plan is necessary in this case, as specified in condition 5. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial, "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, condition 5 requires the applicant to 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. As described above, the project is conditioned to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan will also ensure that risks from geologic hazard are minimized and that erosion and sedimentation is minimized.

The applicant has proposed a horse manure collection area on the project site that is located approximately 200 feet from the centerline of the natural swale. The applicant has proposed an asphalt paved waste disposal containment area and has noted that the facility has daily removal of manure. However, to ensure horse wastes are properly contained in this area and are not dispersed due to wind, rain, and runoff, special condition number 4 for a landscaping plan contains a provision that all animal wastes are contained in bins or dumpsters; that the waste containmen area has a solid floor, walls, gutters and drain; and specifies how the waste will be reduced and disposed of so as to not exceed the maximum capacity of the collection facility. These provisions will prevent the dispersion of manure on and off site and minimize any adverse impacts to water quality.

In addition, the Commission finds it necessary, as further specified in *special condition* four (4) to require the applicant to condition the project to require the applicant to submit an interim erosion control and landscaping measures plan for several reasons. A

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landscaping component, review and approval by the consulting engineering geologist, measures for replanting, soil stabilization, maintenance, sedimentation control, and monitoring are all necessary parts of this plan to minimize the potential for erosion of disturbed soils and thereby ensure site stability and stream protection and, therefore, need to be part of Commission approval. In addition, a program for monitoring and maintaining the drainage system to ensure removal of contaminants and water pollution impacts is necessary. Further, although a landscaping plan has been submitted, specific augmentation of the required landscaping plan is needed to ensure: prompt replanting of vegetation, use of natives, revegetation within a reasonable period, and conformance to the approved plan.

In summary, special conditions four (4) and five (5) are necessary to ensure site stability relative to PRC Section 30253 and avoidance of the potentially adverse impacts of erosion and sedimentation in a manner consistent with PRC Section 30231 relative to protection of the biological productivity and quality of coastal waters.

In addition, special condition number six (6) is necessary to ensure that removal of natural vegetation for fuel modification purposes does not take place prior to construction of the proposed single family residence. Unnecessary fuel modification should be avoided as it is contrary to the provisions of PRC Sections 30231 and 30253 including ensuring site stability and avoiding adverse impacts of erosion and sedimentation. Further, special condition number eight (8) is necessary to ensure that excess excavated material is disposed of in an appropriate dump site and that a permit be obtained if the dump site is in the Coastal Zone.

Finally, the proposed development includes the installation of an on-site septic system to serve the residence. The applicants' geologic consultants performed percolation tests and evaluated the proposed septic system. The report concludes 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. Finally, the City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project

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site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by condition number five (5).

The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

D. Archaeological Resources

PRC Section 30244 of the Coastal Act states that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The proposed development is located in a region of the Santa Monica Mountains which contains one of the most significant concentrations of archaeological sites in southern California. The coastal act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures.

Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied

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collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites, which remain intact.

The applicant proposes to demolish an existing guest house, remove two stables, remove a corral, remove a round pen, and remove a lower corral within the natural drainage channel. The applicant also proposes to construct a two story, 28 ft. high, 6,253 sq. ft. single family residence with a 1,123 sq. ft. attached garage, 1,008 sq. ft. corral, septic system and 860 cu. yds. of grading (760 cu. yds. cut, 100 cu. yds. fill and remainder to be exported outside coastal zone) on a 142,000 sq. ft. parcel. According to Chester King, the City of Malibu Archaeologist, an archaeological site extends onto the property. (personal communication) The City of Malibu has required a Phase 2 Archaeological Study prior to the issuance of building permits, but this study has not yet been prepared. The City of Malibu Notice of Decision does not indicate that a Phase 1 Archaeological investigation has been prepared.

To ensure that impacts to archaeological resources are minimized, special condition eight (8) requires that the applicant have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation in order to monitor all earth moving operations. In addition, if any significant archaeological resources are discovered during construction, work shall be stopped and an appropriate data recovery strategy shall be developed by the City of Malibu archaeologist and the Native American consultant consistent with California Environmental Quality Act (CEQA) guidelines. In addition, further mitigation measures will be initiated if found necessary by the City Phase 2 Archaeological Study. The Commission further finds that it is necessary to require that the applicant to conform to all recommendations of the City of Malibu as well as any additional recommendations developed by the archaeologist(s) during project monitoring and, if a substantial modification or redesign of the proposed project plans is necessary, an amendment to this permit is required.

Thus, the Commission finds that. based on the findings of the archaeological report and other available evidence, the proposed development, as conditioned to monitor the site during earth moving activities and to incorporate the recommendations of the archaeological consultant will mitigate any adverse impacts on archaeological resources, is consistent with Section 30244 of the Coastal Act.

E. Local Coastal Program

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

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government

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to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

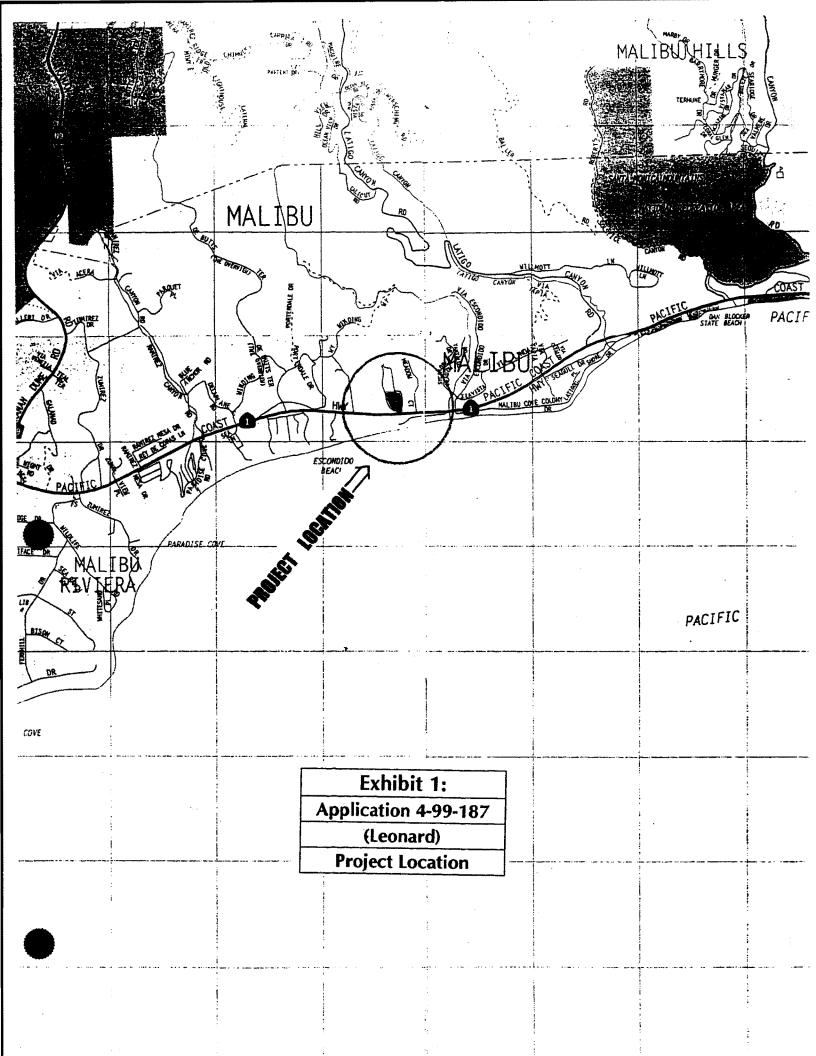
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

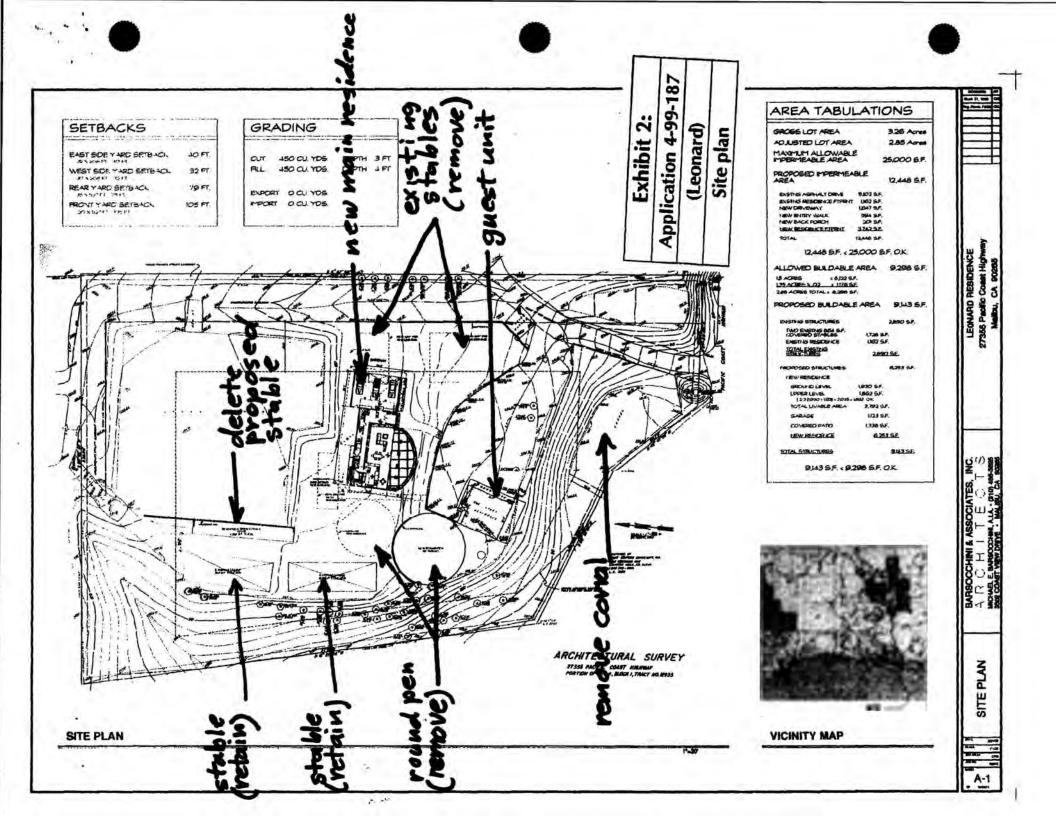
Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible, available mitigation measures which would substantially lessen any significant adverse effects which the activity would have on the environment.

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







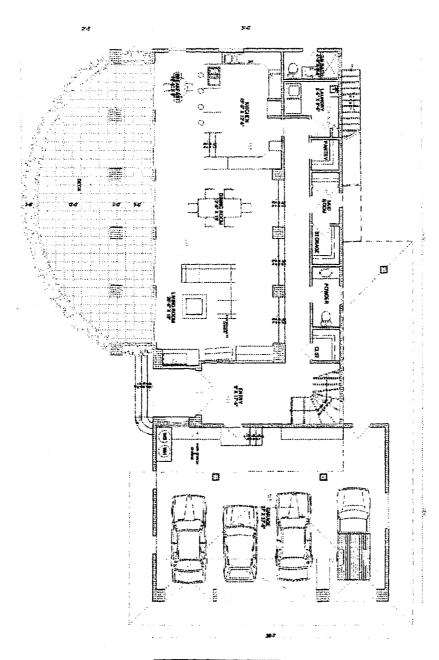


Exhibit 3a:

Application 4-99-187

(Leonard)

Floor Plan

1.0

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A. R. C. H. I. T. E. C. T. S.
MICHAEL E. BARSOCCHINI, A.I.A. - (2) 0) 455-3825
S502 COAST VIEW DRIVE - MALIBU, CA. 80285

LEONARD RESIDENCE 27355 Pacific Coast Highway Malibu, CA 90285

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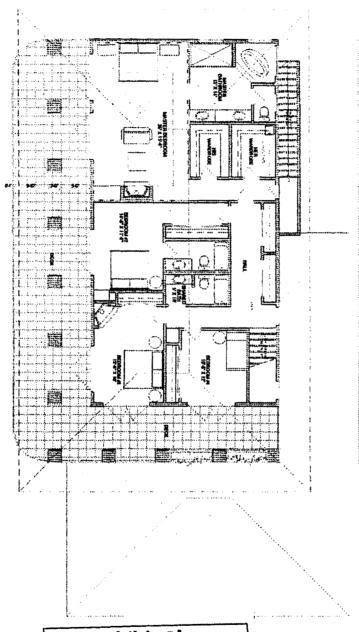


Exhibit 3b:

Application 4-99-187

(Leonard)

Floor plan

A-3

PLANS

BARSOCCHINI & ASSOCIATES, INC. A R C T S MICHAEL E BARSOCCHINI, ALA - (5/10) 455-3625 3602 SOASTY WEND PRIVE - MALIBUL CA 90025

LEONARD RESIDENCE 27355 Pacific Coast Highway Malibu, CA 90265

EAST ELEVATION NORTH ELEVATION Exhibit 4a: Application 4-99-187 (Leonard) Elevation BARSOCCHINI & ASSOCIATES, INC. A FI C H I T E C T S MICHAEL E. BARSOCCHINI, A.I.A. (810) 458-3625 \$502 COAST VIEW DRIVE - MALIBU, CA 90285 LEONARD RESIDENCE **ELEVATIONS** 27355 Pacific Coast Highway Malibu, CA 90265

