CALIFORNIA COASTAL COMMISSION

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Staff:

9/16/00 MKH-V

Staff Report: Hearing Date: 5/22/00 6/13/00

Lester Tobias

Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-00-038

APPLICANT: Andrew Stern AGENT:

PROJECT LOCATION: 31653 Sea Level Drive, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a 2,509 sq. ft., 28 ft. high above existing grade, two story single family residence with spa, septic system, and 782 cu. yds. of grading (707 cu. yds. cut and 75 cu. yds. fill) on an inland lot.

Lot area:

3,145 sq. ft.

Building coverage:

1,415 sq. ft. 50 sq. ft.

Pavement coverage: Landscape coverage:

1,618 sq. ft.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Approval-in-Concept dated January 28, 2000, Environmental Health Department Septic Disposal Plan Approval-in-Concept, dated January 18, 2000.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan (LUP), Limited Geologic and Soils Engineering Investigation, dated April 22, 1999, prepared by GeoConcepts, Inc., Coastal Development Permit 4-99-031 (Donfeld).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends <u>approval</u> of the proposed project with Special Conditions relating to conformance with geologic recommendations, drainage and polluted runoff control plan, disposal of excess cut material, wildfire waiver of liability, and landscape plan. As conditioned to comply with all recommendations of the geologic consultants, to prepare plans for, and implement drainage and erosion control measures, and best management practices to control polluted runoff, to properly dispose of excess cut material, to waive any liability resulting from constructing a residence in a high fire hazard area, and to ensure timely landscaping with appropriate, locally native plant species, the proposed project will minimize risks to life and property consistent with the requirements of the applicable policies of Chapter 3 of the Coastal Act.

I. STAFF RECOMMENDATION:

MOTION:

I move that the Commission approve Coastal Development Permit

4-00-038 pursuant to the staff recommendation.

The staff recommends that the Commission adopt the following resolution:

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

- 1. <u>Notice of Receipt and Acknowledgment</u>. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Compliance</u>. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

- 4. <u>Interpretation</u>. Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- **6.** Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the Limited Geologic and Soils Engineering Investigation, dated April 22, 1999, prepared by GeoConcepts, Inc., shall be incorporated into all final design and construction including grading, foundations, septic systems, and drainage. All plans must be reviewed and approved by a geologic/geotechnical engineer as conforming to said recommendations. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of the all project plans. The applicant shall submit a copy of all project plans stamped by the consulting geologic/geotechnical engineer.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, foundations, and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal development permit. The Executive Director shall determine whether required changes are "substantial."

2. Drainage and Polluted Runoff Control Plan

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) Runoff from all roofs, parking areas, driveways and other impervious surfaces 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.
- (b) 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.

3. Removal of Excess Cut Material

Prior to the issuance of the coastal development permit, the applicant shall provide for the review and approval of the Executive Director the location of the proposed disposal site for the 707 cubic yards of excess cut material. All excess cut material from the proposed project shall be removed from the subject site and taken to the approved disposal site. Should the dumpsite be located in the Coastal Zone, the applicant shall submit evidence that the site operator has a valid coastal development permit to accept the proposed quantity and kind of material to be disposed of by the applicant pursuant to Coastal Development Permit 4-00-38.

4. 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.

5. Landscape Plan, Interim Erosion Control, and Monitoring Plan

A. Landscaping Plan

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of 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 Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. 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.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty

foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with 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.

IV. Findings and Declarations

A. Project Description.

The applicant proposes to construct a 2,509 sq. ft., 28 ft. high from existing grade single family residence with 588 sq. ft. basement, spa, 2-car garage, septic system, and 782 cu. yds. of grading (707 cu. yds. of cut and 75 cu. yds. of fill). While the proposed project is located between the sea and the first public road in the area (Pacific Coast Highway), it is located on the inland side of Sea Level Drive, a private street. As such, the proposed residence will have no adverse impacts on beach processes or public access.

B. Hazards.

Section 30253 of the Coastal Act states, in part, that:

New development shall:

- 1. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- 2. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

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

The applicant has submitted a Limited Geologic and Soils Engineering Investigation, dated April 22, 1999, prepared by GeoConcepts, Inc. The consultants evaluated the site for geologic stability, presence of landslides or earthquake faults, and other considerations (such as suitability for septic disposal system construction and use) and determined that the site is stable and suitable for the proposed use. The consultants make recommendations regarding foundations, setbacks, drainage, and other aspects of construction design and implementation. The geologic consultants conclude, based on their investigation of the proposed project site that:

Based on the results of this investigation and a thorough review of the proposed development, as discussed, the site is suitable for the intended use provided the following recommendations are incorporated into the design and subsequent construction of the project. Also, the development must be performed in an acceptable manner conforming to the building code requirements of the controlling governing agency.

Based on the recommendations of the consulting geologists, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act so long as the consultants' recommendations are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting geologists as conforming to their recommendations. This is included as Special Condition 1.

One important recommendation for continued stability of the site relates to drainage and erosion control. The consultants make recommendations regarding site drainage, positive pad drainage, and conducting surface water away from foundations and slopes to suitable drainage facilities via non-erosive devices. Controlling drainage on the site is important for slope stability. Therefore, the Commission finds it necessary to also require the applicant to submit detailed drainage and polluted runoff control plans to ensure that both potential short-term erosion (post-grading) and long-term erosion (from otherwise uncontrolled runoff from increased impervious surfaces) are adequately managed. Special Condition 2 requires the applicant to prepare a plan to address the collection, filtration, and discharge of site runoff in a non-erosive manner and ensures that the applicant assumes responsibility for the maintenance of all drainage devices on site and for replacement and repair should the drainage structures fail or result in erosion.

In order to ensure that the excess cut material that is proposed to be excavated for the project is disposed of in a location and manner whereby risks and impacts to coastal resources are minimized, the Commission finds it necessary to require the applicant to provide the location where such cut material will be placed prior to issuance of the permit. If the disposal site should be located within the Coastal Zone, there must be a

valid coastal development permit for that site that includes the use of this material in an approved development. The implementation of Special Condition 3 will ensure that excess graded material is not improperly disposed of, such as by unauthorized roadside dumping or as uncontrolled fill, that could lead to erosion. This requirement is included as Special Condition 3.

In addition, the implementation of a erosion control methods and the installation of landscape plantings relying primarily upon locally native vegetation will further ensure that both short-term and long-term erosion potential is reduced. Plants native to the Mediterranean climate of the Santa Monica mountains are typically drought tolerant, deeply rooted, and therefore hold soils and reduce the requirement for application of irrigation water, which can further erode fragile topsoils. Thus, the landscape plan required by Special Condition 5 relies primarily upon the use of locally native plant species, and contains specific interim erosion control measures that further enhance the drainage and runoff control measures required under Special Condition 2. Implementation of Special Condition 5 in combination with other applicable special conditions will ensure that erosion control is achieved on site to the maximum extent feasible.

Even though the consultants have determined that the project site will be free of geologic hazards, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire. As such, the Commission can only approve the proposed project if the applicant assumes the liability from the associated risks. Through the waiver of liability the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition 4 the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

The Commission finds that, only as conditioned to incorporate all recommendations of the consultants, to implement the drainage and polluted runoff control plan, to demonstrate the disposal location of all excess cut material, to assume the liability from fire risk, and to implement the landscape plan requirements is the development consistent with Section 30253 of the Coastal Act.

C. 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, increase 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 that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

As described above, the proposed project includes the construction of a single family residence, garage, spa, and septic system with 782 cu. yds. of grading (707 cu. yds. cut and 75 cu. yds. fill) on an inland lot near the beach. The conversion of the project site from its natural state will result in an increase in the amount of impervious surface and reduction in the naturally vegetated area. Further, use of the site for residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces.

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.

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.

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 is required in order to ensure that risks from geologic hazard are minimized and that erosion and sedimentation is minimized. In order to further ensure that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the site. This plan is required by Special Condition 2. Such a plan will allow for the 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, 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.

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.

D. Local Coastal Program.

Section 30604 of the Coastal Act states, in part, that:

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

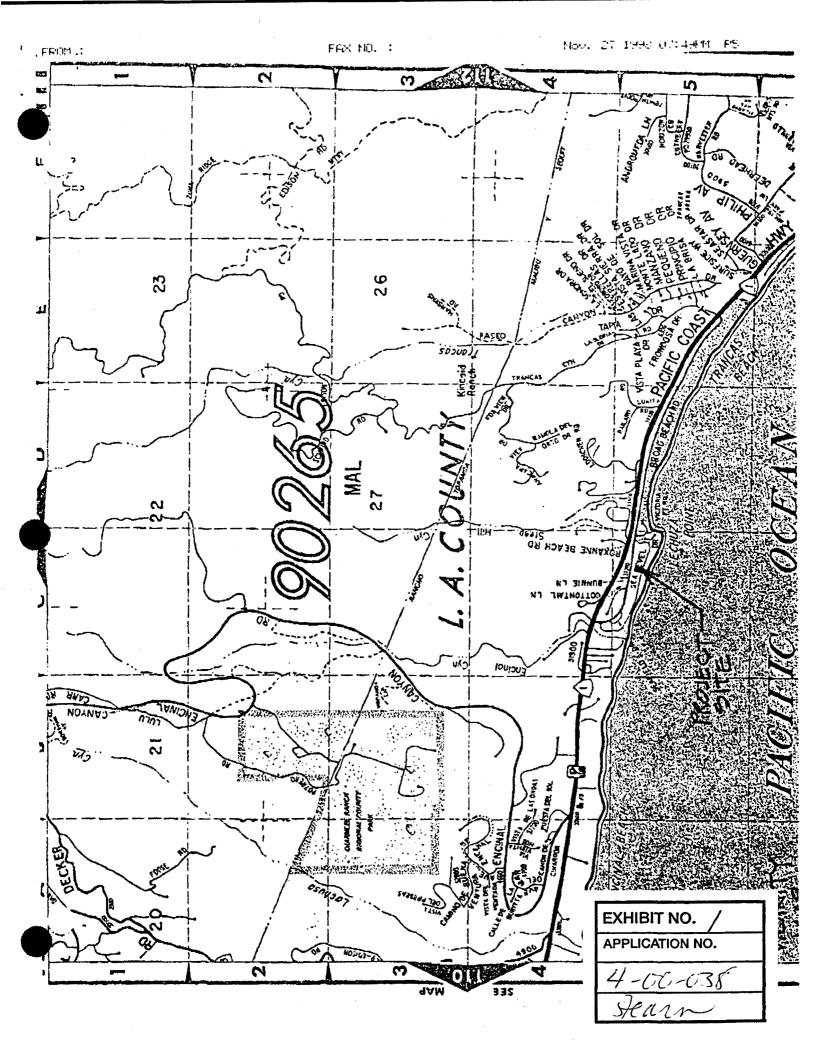
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies

of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

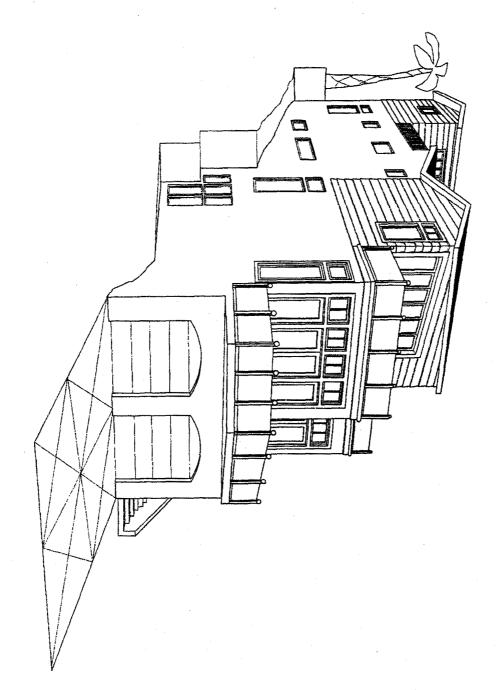
E. California Environmental Quality Act.

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

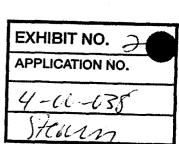
The proposed development would not cause significant, adverse environmental effects that would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.



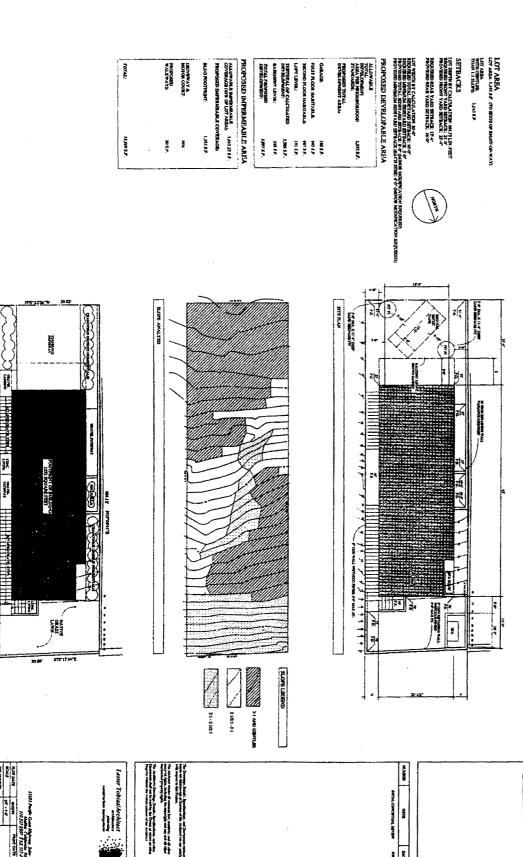
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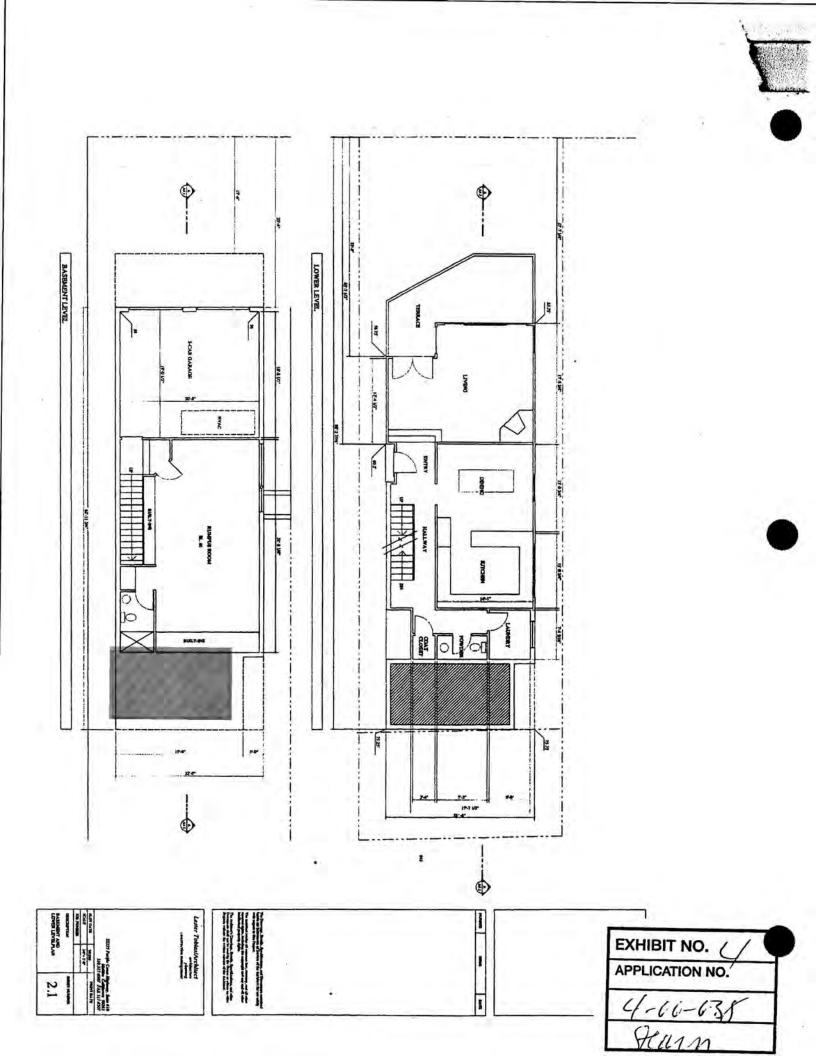
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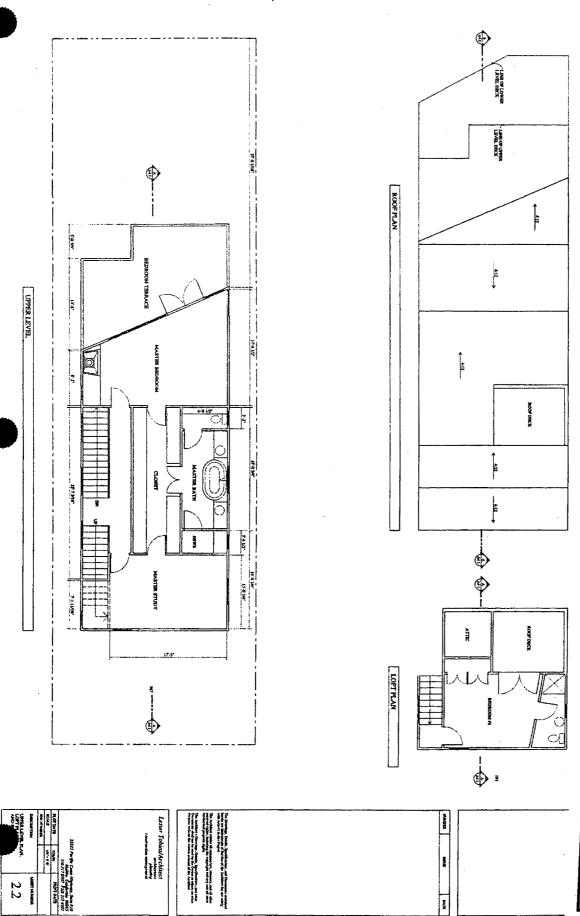


APPLICATION NO.

4-01-038

Hearn





APPLICATION NO.

4-11-135

SHAM

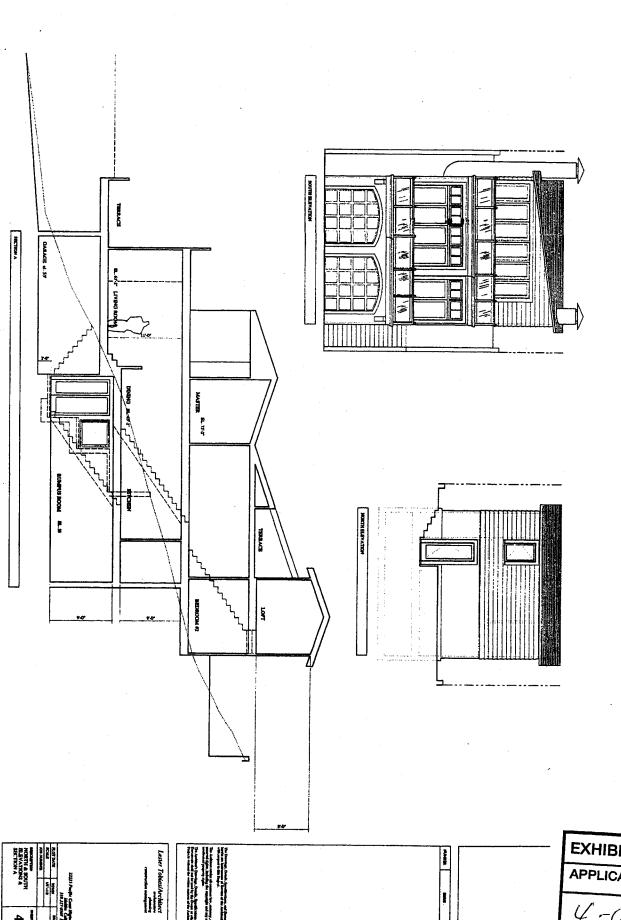


EXHIBIT NO. 6

4-00-38 Steam

