STATE OF CALIFORNIA -- THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

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Staff Report: Hearing Date: Commission Action:

# STAFF REPORT: REGULAR CALENDAR

APPLICATION NO .: 4-01-095

APPLICANT: Paul Azzi

PROJECT LOCATION: 6385 Zuma Mesa Drive, Malibu, Los Angeles County APN 4467-016-009

### **PROJECT DESCRIPTION:**

Construction of a new 6,240 sq. ft., 28 ft. high, two-story single family residence (SFR), with a 1,250 sq. ft. basement, 480 sq. ft. of balconies, 744 sq. ft. attached three-car garage, 750 sq. ft. guest house, driveway, swimming pool, septic system, retaining walls, and approximately 960 cu. yds. of grading (410 cu. yds. cut, 550 cu. yds. fill, 140 cu. yds. import).

Lot area:	69,596 (1.59 acres)
Building coverage:	8,065 sq. ft.
Pavement coverage:	3,500 sq. ft.
Landscape coverage:	20,000 sq. ft.
Unimproved area:	40,721 sq. ft.
Maximum height:	28 ft.

LOCAL APPROVALS RECEIVED: : Approval in Concept, City of Malibu Planning Department, dated 5/3/2001; City of Malibu Environmental Health Department Approval in Concept (Septic), dated 12/18/2000; Approval in Concept, City of Malibu, Geology and Geotechnical Engineering Review Sheet, dated 2/21/2001; Los Angeles County Fire Department Preliminary Fuel Modification Plan Approval, dated 4/16/2001.

SUBSTANTIVE FILE DOCUMENTS: Preliminary Geotechnical and Geologic Investigation for Proposed Two Single Family Residential Development, by Soilutions, Inc., dated 7/21/2001; Limited Supporting Geologic Report for Two Proposed Seepage Pits, by Soilutions, Inc., dated 11/30/2000; City of Malibu Plot Plan Review Determination, Site Plan Review Determination, and Minor Modification Determination for 6385 and 6395 Zuma Mesa Drive, dated 4/23/2001; Response Number Two to City of Malibu Review Sheet, by Soilutions, dated 1/30/2001; Addendum to Response Number Two to City of Malibu Review Sheet, by Soilutions, dated 2/15/2001;

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

**4.** <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.

5. <u>Terms and Conditions Run with the Land</u>. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

# III. SPECIAL CONDITIONS

## 1. Plans Conforming to Geologic Recommendation

All recommendations contained in the Responses to City of Malibu Geology and Geotechnical Engineering Review Sheet, dated 11/30/00, 1/30/01, 2/15/01, 2/19/01, *Preliminary Geotechnical and Geologic Investigation for Proposed Two Single Family Residential Development*, by Soilutions, Inc., dated 7/21/2001, and Limited Supporting Geologic Report for Two Proposed Seepage Pits, dated 11/30/2000, shall be incorporated into all final design and construction including foundations, grading, drainage, and sewage disposal. Final plans must be reviewed and approved by the project's consulting geotechnical engineer. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

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

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) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the residence and retaining walls to minimize the visibility of development from Kanan Dume Road.
- (4) 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.
- (5) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (6) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively 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

Development Permit 4-01-095 if such changes are specifically authorized by the Executive Director as complying with this special condition.

*Prior to the issuance the coastal development permit,* the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

## 5. Future Improvements

This permit is only for the development described in Coastal Development Permit No. 4-01-095. 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. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-01-095 shall require an amendment to Permit No. 4-01-095 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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 incorporating all of the above terms of this condition. The deed restriction shall include legal description of the applicant's entire parcels. 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.

### 6. Wildfire Waiver of Liability

*Prior to the issuance of a coastal development permit*, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

## 7. Revised Plans

*Prior to issuance of the coastal development permit,* the applicant shall submit, for review and approval of the Executive Director, revised project plans which demonstrate that the height of the guest unit basement does not exceed six feet in height at any point, and which delete the interior staircase connecting the habitable portion of the guest unit to the basement.

development rights on four lots within the Santa Monica Mountains coastal zone. The special conditions were never fulfilled for this permit, and the permit was never issued.

## B. Geology and Fire Hazard

Section 30253 of the Coastal Act states in pertinent part that new development shall:

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

The proposed development is located in the Malibu/Santa Monica Mountains area, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu/Santa Monica Mountains area 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.

## Geology

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The project site consists of a 1.59 acre, vacant hillside parcel consisting of a westerly facing slope on the order of 6:1. The building site for the proposed residence is located on the upper, eastern portion of the site, adjacent to Zuma Mesa Drive. As the slope descends towards Kanan Dume, steeper regions of 4:1 slope appear before flattening out to a level region of fill left over from the creation of Kanan Dume Road.

The applicant has submitted a Preliminary Geotechnical and Geologic Investigation for Proposed Two Single Family Residential Development, dated 7/21/2001, and a Limited Supporting Geologic Report for Two Proposed Seepage Pits, dated 11/30/2000, prepared by Soilutions, Inc., the project's geologic consultants. The submitted reports evaluate the geologic conditions of the site and the suitability of the site for the proposed project. The geology consultants address potential geologic hazards associated with the nearby faults, including the Malibu Coast Fault, located approximately 4,500 ft. north of the proposed building site, and the potential for groundwater seepage and soil expansion to adversely affect the proposed development. In evaluating the geologic conditions of the project site and adjacent properties in relation to the proposed development, the geology consultants have determined that the proposed project will be safe from geologic hazards provided their recommendations are incorporated into the proposed development. As a result of the expansive soils at the site and the potential for settlement and retention of water on-site, the consulting geologists in their Preliminary Geotechnical and Geologic Investigation for Proposed Two Single Family Residential Development, dated 7/21/2001, provide the following recommendations to ensure the safety and stability of the site and proposed development:

the applicant in order to reduce the amount of landform alteration necessary for the construction of the residence. The applicant has submitted revised plans which now estimate a total of 960 cu. yds. of grading (consisting of 410 cu. yds of cut, 550 cu. yds of fill, 140 cu. yds. import).

In addition to minimizing the amount of landform alteration necessary for the construction of the residence, the Commission finds that appropriate landscaping of slopes and graded or disturbed areas on the project site will minimize erosion and serve to enhance and maintain the geologic stability of the proposed development. Therefore, **Special Condition 3** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. **Special Condition 3** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Alternatively, native plant species tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition 3**.

### Wild Fire

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in 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, <u>Terrestrial Vegetation of California</u>, 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 **Special Condition 6**, the wildfire waiver of liability, the applicant acknowledges 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 6**, 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.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

Despite the mitigation measures incorporated into the proposed project to minimize visual impacts, the proposed development will be visible from Kanan Dume Road. Due to the highly visible nature of the project site from Kanan Dume Road, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

The Commission finds it necessary to require the applicant to record a deed restriction providing specific limitations on the materials and colors acceptable for the development on the subject site, as specified in **Special Condition 4**. These restrictions generally limit colors to natural tones that will blend with the background of the environment and require the use of non-glare glass. White, metallic, and red tones are not acceptable. If fully implemented by present and future owners of the proposed residence, **Special Condition 4** will ensure that development of the site will be as visually unobtrusive as possible.

In addition, visual impacts associated with the proposed retaining walls, grading, and the structure itself, can be further reduced by the use of appropriate and adequate landscaping. The applicant has provided a landscaping plan utilizing native, noninvasive plant species compatible with natural vegetation of the surrounding area consistent with **Special Condition 3**. **Special Condition 3**, the landscaping and fuel modification plan, also requires that vertical screening elements be incorporated into the landscaping plan to soften views of the proposed residence and retaining walls. Implementation of **Special Condition 3** will serve to partially screen and soften the visual impact of the development as seen Kanan Dume Road. In order to ensure that the final approved landscaping plans are successfully implemented, **Special Condition 3** also requires the applicant to revegetate all disturbed areas in a timely manner, and includes a monitoring component, to ensure the successful establishment of all newly planted and landscaped areas over time.

Finally, regarding future developments or improvements, certain types of development to the property, normally associated with a single-family residence which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that future development or improvements normally associated with the entire property, which might otherwise be exempt, are reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition 5** the Future Development Deed Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

Therefore the Commission finds that, as conditioned, the proposed development will minimize adverse impacts to scenic public views in this area of the Santa Monica Mountains, and is consistent with section 30251 of the Coastal Act.

### D. <u>Water Quality</u>

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, runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Two (2)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Three (3)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of on-site septic systems utilizing a 4000-gallon to serve the residence. The applicant's geologic consultants performed percolation tests and evaluated the proposed septic systems. 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.

### E. <u>Cumulative Impacts</u>

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

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



The applicant proposes to construct a detached one-story, 750 sg. ft. guesthouse, with basement/laundry facilities (see Exhibits 3,10-11). The 750 sq. ft. guest unit conforms with past commission permit actions in allowing a maximum of 750 sq. ft. for second units in the Malibu area. The Commission finds it necessary to ensure that no additions or improvements are made to the questhouse in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicant to record a future improvements deed restriction, as specified in Special Condition 5, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the detached structure are proposed in the future. Additionally, the Commission finds it necessary to require, as specified in Special Condition 7, for the applicant to submit revised plans, for the review and approval of the Executive Director, which clearly delineate that the height of the basement associated with the guest unit does not exceed six feet at any point, and which delete the existing interior staircase connecting the guest unit to the basement. This will discourage use of this space as an extension of the habitable area of the guest unit, which would be contrary to the intent of the Commission's 750 sg. ft. limitation on the size of secondary units. Therefore, as conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with Sections 30250 and 30252 of the Coastal Act.

# F. Local Coastal Program

Section 30604 of the Coastal Act states:

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

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

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

# G. California Environmental Quality Act























