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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA 89 SOUTH CALIFORNIA ST., SUITE 200 TURA, CA 93001 5) 585-1800

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Commission Action:			

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-085

APPLICANT: Robin Stone

PROJECT LOCATION: 4400 Encinal Cyn Rd., City of Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construction of a new 5,529 sq. ft., 28 ft. high, two-story single family residence (SFR), with a 657 sq. ft. attached four-car garage and 705 sq. ft. guest house (for a total of 6,891 sq. ft), paved driveway and motor court, swimming pool, spa, septic system, retaining walls, landscaping, and 5,000-gallon water storage tank. The project includes 2,525 cu. yds. of grading (715 cu. yds. cut, 840 cu. yds. fill, and 970 cu. yds. of overexcavation / recompaction). The applicant is also seeking after-the-fact approval for installation of a water well installed in 1992.

Lot area	253,330	sq. ft. (5.82 ac.)
Building coverage:	3,609	sq. ft.
Pavement coverage:	10,809	sq. ft.
Parking spaces:	8 (3 c	overed)
Ht abv fin grade:	28`0"	

LOCAL APPROVALS RECEIVED: Approvals in Concept, City of Malibu Planning Department, dated 5/3/1999, 3/29/2001 and 8/23/2001; Approval in Concept (Septic System), City of Malibu Environmental Health Department, dated 3/15/2001; Approval in Concept, City of Malibu, Geology Review Referral Sheet, dated 3/15/2001; Approval in Concept, Los Angeles County Fire Department, Fire Prevention Bureau, dated 8/30/2001.

SUBSTANTIVE FILE DOCUMENTS: Supplement to Preliminary Engineering Geologic and Geotechnical Investigation for Single-Family Residence, 4400 Encinal Canyon Road, by Miller Geosciences, Inc., dated March 6, 2001; Preliminary Engineering Geologic and Geotechnical Investigation for Proposed Single-Family Residence, 4440 Encinal Cyn. Rd., Malibu, California, by Miller Geosciences, Inc., dated April 18, 1998; Biological Review: Staff Supplement to ERB Resolution 99-02, by the City of Malibu, dated February 4, 1999; Negative Declaration 99-017 (CEQA), by the City of Malibu, dated May 3, 1999.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with eight (8) special conditions regarding Color Restriction, Conformance with Geologic Recommendations, Drainage and Polluted Runoff, Landscaping and Erosion Control, Removal of Natural Vegetation, Wildfire Waiver of Liability, Future Development Deed Restriction, and Condition Compliance.

I. STAFF RECOMMENDATION

1. <u>Motion:</u> I move that the Commission approve Coastal Development Permit No. 4-01-085 pursuant to the staff recommendation.

2. <u>Staff Recommendation of Approval:</u>

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

3. <u>Resolution to Approve the Permit:</u>

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. 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. Interpretation. Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

III. SPECIAL CONDITIONS

1. <u>Color Restriction</u>

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by approval of Coastal Development Permit 4-01-085. The palette samples shall be presented in a format not to exceed 8½" X 11"X ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit 4-01-085 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.

2. Plans Conforming to Geologic Recommendations

a) All recommendations contained in the Supplement to Preliminary Engineering Geologic and Geotechnical Investigation for Single-Family Residence, 4400 Encinal Canyon Road, dated 3/6/01, and Preliminary Engineering Geologic and Geotechnical Investigation for Proposed Single-Family Residence, 4440 Encinal Cyn. Rd., Malibu, California, dated 4/18/98, by Miller Geosciences, Inc., shall be incorporated into all final design and construction including <u>site preparation</u>, <u>subdrainage</u>, <u>foundation and building setback</u>, <u>foundations</u>, <u>lateral design</u>, <u>retaining walls</u>, <u>foundation settlement</u>, <u>floor slabs</u>, <u>temporary excavation</u> <u>slopes</u>, <u>pavement</u>, <u>drainage</u>, <u>sewage disposal</u>, and <u>grading</u>. All plans must be reviewed and approved by the geologic / geotechnical consultant. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs. b) The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes to the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

3. Drainage and Polluted Runoff Control Plan

Prior to issuance of a coastal development permit, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control 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 geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

4. Landscape and Erosion Control Plan and Fuel Modification

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

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are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

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 <u>Recommended List of</u> <u>Plants for Landscaping in the Santa Monica Mountains</u>, dated February 5, 1996. 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) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to soften the views of the residence and retaining walls from Pacific Coast Highway;
- (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 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) <u>Monitoring</u>

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. 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.

6. Wildfire Waiver of Liability

Prior to 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, and 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 wildfire exists as an inherent risk to life and property.

7. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-01-085. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) & 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a)&(b) shall not apply to the residence. Accordingly, any future structures, additions, or improvements related to the residence approved under Coastal Development Permit No. 4-01-085 will require a permit from the California Coastal Commission or its successor agency.

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

8. <u>Condition Compliance</u>

Within 120 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. <u>Project Description and Background</u>

The applicant is proposing construction of a new 5,529 sq. ft., 28 ft. high, two-story single-family residence (SFR), with a 657 sq. ft. attached four-car garage and 705 sq. ft. guest house (for a total of 6,891 sq. ft), paved driveway and motor court, swimming pool, spa, septic system, retaining walls, landscaping, and 5,000-gallon water storage tank. The project includes 2,525 cu. yds. of grading (715 cu. yds. cut, 840 cu. yds. fill, and 970 cu. yds. of overexcavation / recompaction). The applicant is also seeking after-the-fact approval for a water well installed in 1992 (Exhibits 3-9)

The subject site is a 253,330 sq. ft. (5.82 ac.) parcel located in the Encinal Canyon area of the City of Malibu. The natural vegetation on-site consists of primarily coastal sage scrub and grasses.

Access to the project site is from Pacific Coast Highway to Encinal Canyon Road, a public street which borders the northeast of the property. (Exhibits 1-2) The site is accessed via an unimproved road easement on the south side of Encinal Canyon Road which traverses the neighboring property to the west. The applicant has provided evidence of the ingress and egress access easement for the road over this parcel, and a letter from the subject landowner, Mr. Antony Koursaris, indicating his assent (Exhibit 10).

The site is bordered by existing single-family residences to the south and west. The site is currently vacant; however, there is a water well, installed in 1992, located on the western portion of the site. The applicant is seeking after-the-fact approval for this well under this permit application. There has been one previous Commission action with regards to the subject property. In December of 1999, the necessity for a coastal development permit was waived (CDP waiver 4-99-203-W) regarding a lot line adjustment involving the subject parcel and two others located to the south. This lot line adjustment increased the size of the subject parcel from 4.85 acres to its current size of approximately 5.82 acres.

The property is situated on the crest of a south-trending ridge of a southern portion of the Santa Monica Mountains. Slopes descend to the east, south, and west down the flanks and nose of the ridge. Maximum topographic relief on-site is approximately 200 feet. Drainage from the proposed building site is by sheetflow to the south of the site. There are no designated environmentally sensitive habitat areas (ESHA) on the site and staff did not observe any ESHA on the site. The project site is highly visible from Pacific

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Coast Highway and Encinal Canyon Road, both of which are designated scenic highways in the certified Malibu/Santa Monica Mountains Land Use Plan. There are no public trails that traverse the subject property.

B. <u>Visual Resources</u>

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The subject site is visible from two Malibu / Santa Monica Mountains Land Use Plan (LUP) designated scenic highways, Pacific Coast Highway to the south and Encinal Canyon Road to the north. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic roads. The Commission also examines the building site and the size of the proposed structure. Staff visited the subject site and found the proposed building location to be appropriate and feasible, given the terrain and the surrounding existing development. In its review, Staff explored the possible alternative locations for siting the residence. Given the topographic restraints of the site, the building site appears to be the logical location for the proposed development. As proposed, the residence will not be visible from Encinal Canyon Road. Additionally, on the adjacent lot to the west, a coastal development application (CDP# 4-01-027) has been approved by the Commission for a residence to be sited directly north and west of the proposed project. Access to the project building site would be off of the driveway approved under CDP 4-01-027, and the location of the proposed residence would allow for the clustering of development on these two sites (Exhibit 9). Although the site is sloping, and the proposed house is two-story, the design of the residence allows for it to be stepped into the hillside.

In addition, the proposed building pad is located at the terminus of a minor existing road cut, which will further reduce the amount of grading necessary for the construction of the residence and driveway. This road cut is pre-coastal, and was graded around the same time that Encinal Canyon Road was created, or shortly thereafter. It notches slightly into the hillside and is approximately 10-12 feet wide. It is thinly vegetated with grasses, and terminates at the location of the proposed building pad. The property is located on a south trending minor ridge and the finished project will be visible from the surrounding area including Pacific Coast Highway, thereby requiring mitigation of visual impacts as discussed below. Nearby residences are of a similar massing, character, and location to be similarly visible, and the proposed building plans are substantially in character with the type and scale of development in the surrounding area.

For this project, the applicant is proposing 2,525 cu. yds. of grading consisting of 715 cu. yds. of cut, 840 cu. yds. of fill, and 970 cu. yds. for removal / recompaction (Exhibit 4). The grading for the residence consists of 260 cu. yds. of cut and 300 cu. yds. of fill. This grading is primarily for the notching of the residence, garage, and swimming pool area into the hillside. The remaining grading (455 cu. yds of cut and 540 cu. yds. of fill)

proposed are for the completion of the driveway and turnaround which will be the primary access to this residence. A temporary road to the water tank is also included in the grading amounts and for the siting of the water tank into the hillside. The access road to the tank is then proposed to be graded back to its natural state and revegetated. The preparation of the site for both the residence, garage, and guest unit will also encompass an additional 970 cu. yds. of overexcavation and recompaction.

Access to the site is via an easement through the neighboring property to the west. The proposed driveway will connect with the driveway previously approved under CDP 4-01-027, thereby minimizing the amount of grading needed to access the building pad (Exhibits 4 and 9).

A series of 6 foot high retaining walls is proposed in conjunction with the development of the residence and driveway. In addition to the use of color and texture treatments, the visibility of these walls can be further mitigated through the use of landscaping elements, which will screen and soften the visual impact of the walls as seen from Pacific Coast Highway. Due to the project's location and visibility from public resources, the Commission finds it necessary to require mitigation measures, as discussed below, to minimize visual impacts as seen from nearby scenic areas.

The proposed project's impact on public views can be mitigated by requiring the residence and retaining walls to be finished in a non-obtrusive manner (i.e.: in a color compatible with the surrounding natural landscape and with non-reflective windows). The Commission therefore finds it necessary to minimize the visual impact of the project by requiring the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by **Special Condition 1**. In addition, future construction on the property has the potential to negatively affect the visual character of the area as seen from the scenic highway. To insure that no additions or improvements are made to the property that may affect visual resources on-site without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition 7**.

In addition, visual impacts associated with grading and the structure itself can be further reduced by the use of adequate and appropriate landscaping. A landscape plan relying principally on native, non-invasive plant species will ensure that the vegetation on-site remains visually compatible with the native flora of surrounding areas. In addition, vertical screening elements added to the landscape plan can soften views of the proposed residence and retaining walls from public areas such as Pacific Coast Highway. The Commission therefore finds it necessary to ensure that the final approved landscaping plans are successfully implemented to partially screen and soften the visual impact of the development, and retaining walls as required by **Special Condition 4**.

Therefore, the proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu / Santa Monica Mountains LUP.

C. <u>Geologic Stability and Hazards</u>

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, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms...

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

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

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The prominent geomorphic features in the area are the Santa Monica Mountains to the north, the Pacific Ocean and various beaches to the south, Los Alisos Canyon to the west, and Encinal Canyon to the east. Additionally, the Malibu Coast Fault is located approximately 400 to 500 feet south of the proposed building site. The project site is located on southern facing slope; a significant amount of grading is proposed mostly to excavate the slopes for retaining wall construction, and to construct the driveway. Surface drainage on-site is currently accomplished naturally by overland sheetflow to the south.

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project. Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have prepared reports addressing the specific geotechnical conditions related to the site.

The Preliminary Engineering Geologic and Geotechnical Investigation for Proposed Single-Family Residence, 4400 Encinal Canyon Road, Malibu, California, by Miller Geosciences, Inc., dated April 19, 1998, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

Based on the findings of our investigation, the site is considered suitable from a soils and engineering geologic standpoint for construction of a two-story, single-family residence, a swimming pool, and associated retaining walls provided the recommendations included herein are followed and integrated into the building plans.

The GeoSciences report mentions the presence of landslide debris existing at the project site:

The primary geotechnical issues that will influence the proposed addition will be the presence of landslide debris beneath the building pad, the foundation set-back requirements from the descending slope, and the design of the proposed retaining

walls and pool shell... Based on our analyses, it is recommended herein that a combination of friction piles and grading will be used to provide a building site with a safety factor in excess of 1.5.

The Commission notes that the geologic and engineering consultants have included a number of recommendations regarding <u>site preparation</u>, <u>subdrainage</u>, <u>foundation</u> <u>and building setback</u>, <u>foundations</u>, <u>lateral design</u>, <u>retaining walls</u>, <u>foundation</u> <u>settlement</u>, <u>floor slabs</u>, <u>temporary excavation slopes</u>, <u>pavement</u>, <u>drainage</u>, <u>sewage disposal</u>, and <u>grading</u> which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition 2**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed offsite in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a nonerosive manner. Interim erosion control measures implemented during construction will minimize short-term erosion and enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and through implementation of a drainage and runoff control plan. To ensure that runoff is conveyed off-site in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Conditions 2, 3, and 4**, to submit drainage / erosion control plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director, to adequately control runoff from impervious surfaces, and to assume responsibility for the maintenance of all drainage devices on-site.

In addition to controlling erosion during grading operations, landscaping of the graded and disturbed areas of the project will enhance the stability of the site. Long-term erosion can be minimized by requiring the applicant to revegetate the site with native plants compatible with the surrounding environment. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that such plant species do not serve to stabilize slopes and may adversely affect the overall stability of a project site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Invasive, non-indigenous plant species tend to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has already caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover. invasive and fast-growing trees and groundcovers originating from other continents which have been used for landscaping in this area have seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed, graded, and sloped areas on-site shall be landscaped with appropriate native plant species, as specified in Special Condition 4.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 5.** This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The

limitation imposed by **Special Condition 5** avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

The Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the property.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the wildfire waiver of liability, as incorporated in Special Condition 6, 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. For fire suppression, and to protect residences, the Fire Department requires the reduction of fuel through the removal and thinning of vegetation for up to 200 feet from any structure. The applicant has submitted a Fuel Modification Plan with final approval by the Los Angeles County Fire Department Fuel Modification Unit for this project. The fuel modification required for the proposed residence will overlap onto the properties located immediately to the west and south of the subject site. (Exhibit 9). Additionally, a coastal development permit (CDP# 4-01-027) for the adjacent property to the west was approved by the Commission in July 2001. This permit is for the construction of a residence to be sited directly north and west of the currently proposed residence, which will result in the clustering of development and minimization of the potential impacts of fuel modification for both properties. Therefore, Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 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, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

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

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waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

As described above, the proposed project includes the construction of a new 5,529 sq. ft., 28 ft. high, two-story single-family residence (SFR), with a 657 sq. ft. attached fourcar garage and 705 sq. ft. guest house (for a total of 6,891 sq. ft), paved driveway and motor court, swimming pool, spa, septic system, retaining walls, landscaping, and 5,000-gallon water storage tank. The project includes 2,525 cu. yds. of grading (715 cu. yds. cut, 840 cu. yds. fill, and 970 cu. yds. of overexcavation / recompaction). The applicant is also seeking after-the-fact approval for installation of a water well. The conversion of the project site from its natural state will increase the amount of impervious coverage and reduce the naturally vegetated area on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. Further, 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 building area is sited on the crest of a south-trending ridge, with much of the proposed development being designed to set into the adjacent hillside. However, much of the site encompasses significant elevation change down towards the drainage located to the east, and continues down the slope to the south and Pacific Coast Highway. Because of these slopes, the increase in impervious coverage, and the resultant potential for significant water velocities, soil erosion, and pollutant transport, it is important to adequately control site drainage through runoff detention, velocity reduction, filtration, and/or other best management practices (BMPs).

The conversion of the project site from its natural state will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

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, drainage and water pollution control 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 is returned to the soil, overall runoff volume is reduced. Slow surface 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 is greatly reduced.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The project is conditioned, by **Special Condition 3**, 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, sedimentation, and polluted runoff are minimized to reduce potential impacts to coastal streams, natural drainages, and environmentally sensitive habitat areas. 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, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 3**, 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 resource protection policies of the Coastal Act.

In addition, the clearance of land for fire protection purposes without adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans may result in increased erosion and sedimentation deposition in the offsite blueline stream. Therefore, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 5.** This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by **Special Condition 5** avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

Finally, the proposed development includes the installation of an on-site septic system with 4000-gallon tank to serve the residence. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains and the resultant installation of septic systems may contribute to adverse health effects and geologic hazards in the local area. The applicants' geologic 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. The applicant has submitted in-concept approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the Uniform Plumbing Code. The City of Malibu minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources. The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

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 transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development. Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing to construct an attached 705 sq. ft. guesthouse, on the lower level of the main residence (Exhibits 3 and 6).

Based on the requirements of Coastal Act Sections 30250 and 30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by quests, 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, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq, ft. encourages the units to be used for their intended purpose -as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or 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. Thus, conditions on coastal development permits and standards within LCPs have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The applicant proposes to construct a one-story, 705 sq. ft. guesthouse on the lower level of the main residence (see Exhibit 6). The guesthouse is a discrete unit and is not accessed from the interior of the main residence. The 705 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 guesthouse 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 7**, 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. 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. <u>Violations</u>

Section 30106 of the Coastal Act states that:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; use of land,... ...change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility...

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

As stated previously, the installation of a water well in 1992, occurred without the required coastal development permit (Exhibit 3). The applicant has submitted evidence of the local approvals received regarding the well installation and drilling, and seeks after-the-fact approval for the installation of the well under this permit application. To ensure that the violation portion of this development project that is addressed in this permit action is resolved in a timely manner, **Special Condition 8** requires that the applicant satisfy all conditions of this permit, which are prerequisites to the issuance of this permit, within 120 days of Commission action.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

G. Local Coastal Program

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

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

Section 30604(a) of the Coastal Act stipulates that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are

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

H. California Environmental Quality Act (CEQA)

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

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

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CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

June 20, 2001

Mr. Robin N. Stone STONE PACIFIC CORPORATION 23852 Pacific Coast Highway Malibu, California 90265

RE: 4400 Encinal Canyon Malibu, California

Dear Rob:

Please accept this letter as my agreement that you may have road access and/or other access for water well and fire fuel modification on my property located at 4440 Encinal Canyon Road, Malibu, California. My property is contiguous to yours.

I understand you will be submitting this letter to the California Coastal Commission. Should there be additional questions, I can be contacted at 310.317.9667

Very truly yours,

Rela 2

Tony Koursaris 23410 Civic Center Way Malibu, California 90265