

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA
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Commission Action:



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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-054

APPLICANT: WW Malibu Hillside View Estate, LLC

PROJECT LOCATION: 27454 Winding Way, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a 7,423 sq. ft., 2 story, 28 ft. high, single family residence with basement, 776 sq. ft. three-car garage, 609 sq. ft. guest unit, septic system, swimming pool, driveway, patios, landscaping, and 4196 cu. yds. of grading (3,378 cu. yds. cut and 818 cu. yds. fill). The project also includes repair of an approximately 18,500 sq. ft. landslide, including 8,326 cu. yds. of grading (2907 cu. yds. removal, 2907 cu. yds. replacement, and 2,512 cu. yds. fill).

Lot area:	2.53 acres
Driveway easement:	0.33 acres
Building coverage:	6,934 sq. ft.
Pavement coverage:	16,186 sq. ft. (including driveway)
Landscape coverage:	100,479 sq. ft.
Parking spaces:	3 (garage)

LOCAL APPROVALS RECEIVED: City of Malibu planning approval-in-concept dated 7/25/00; City of Malibu Department of Environmental Health In-Concept Approval for septic disposal system dated 10/14/99; City of Malibu Geology and Geotechnical Engineering Review approval in-concept dated 2/18/99; City of Malibu Geology Referral Sheet dated 6/20/00.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Geologic Report and update letter prepared by Donald B. Kowalewsky dated November 13, 1998, and September 20, 2000; Percolation Investigation report and update letter prepared by Alpine Geotechnical dated August 2, 1999 and February 28, 2001; Coastal Development Permits 4-99-065 (Smith), 4-98-115 (Gray), 4-94-159-G (Gray), 5-89-793 (Singer) 5-89-914 (Grusky), 5-90-1131 (Petrusis); 4-98-032 (Cislo).

SUMMARY of STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with ten (10) Special Conditions to address: (1) Revised Plans; (2) Geologic Recommendations; (3) Design and Lighting Restrictions; (4) Future Improvements; (5) Assumption of Risk for Hazards (Geology; Wildfire); (6) Drainage and Runoff Control Plan; (7) Landscaping and Erosion Control Plan; (8) Removal of Natural Vegetation; (9) Streambed Alteration; and (10) Removal of Excess Graded Material.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local governments having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

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. Revised Plans

Prior to the issuance of Coastal Development Permit 4-01-054, the applicant shall submit revised project plans. The plans shall include detailed drawings of the intersection of the driveway and the Coastal Slope Trail (Winding Way) incorporating the following criteria:

- a) grade and materials shall provide a surface suitable for equestrian footing;
- b) the driveway entrance shall be free of any obstructions, such as entry columns, light posts, or signage that would hinder or discourage equestrian passage along the margins of the trail.

2. Plans Conforming to Geologic Recommendations

- A. All recommendations contained in the geologic report prepared for the subject property by Donald Kowalewsky dated November 13, 1998, and updated September 20, 2000; and by Alpine Geotechnical dated August 2, 1999 and updated February 28, 2001, shall be incorporated into all final designs, site, grading and construction plans including but not limited to requirements for foundations, grading, landslide repair, retaining walls, drainage, and erosion control. All plans must be reviewed and approved by the consultants. Prior to the 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, including the drainage and runoff control plan required pursuant to **Special Condition Six (6)**, and the landscape and erosion control plan required pursuant to **Special Condition Seven (7)**.
- 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 in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

3. Design and Lighting Restrictions

Prior to the issuance of Coastal Development Permit 4-01-054, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of the subject residence, guest unit, driveway, decks, swimming pool, and roofs to colors compatible with the surrounding environment. Colors shall be selected to minimize the visibility of the proposed project from public viewing locations. White tones shall not be acceptable, nor shall red or red-toned materials for rooftops and other surfaces. All windows shall be of non-glare glass. All night lighting shall be downward directed and shall minimize the visibility of the project from offsite viewing locations to the maximum extent feasible, consistent with minimum safety requirements. 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 any other encumbrances which the Executive Director determines may affect the enforceability of the condition.

4. Future Improvements

- A. This permit is only for the development described in Coastal Development Permit No. 4-01-054. Pursuant to Title 14 California Code of Regulations sections 13250, the exemptions otherwise provided in Public Resources Code section 30610 (a) and (b) shall not apply to the entire parcel. Accordingly, any future improvements to the entire property, including but not limited to the permitted residence, guest unit, and garage, and clearing of vegetation and grading, other than as provided for in the approved landscape plan prepared pursuant to **Special Condition Seven (7)**, shall require an amendment to Permit No. 4-01-054 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall include a map to scale prepared by the consulting engineering geologist, to the Executive Director's satisfaction, that depicts the subject parcel in accordance with its legal description, and maps all faults, landslides, geologic restricted areas, or other setbacks due to geologic hazards applicable to the subject parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other 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. Assumption of Risk, Waiver of Liability, and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from fire, landsliding, earth movement, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. Prior to the issuance of Coastal Development Permit 4-01-054, 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 Coastal Commission approved amendment to this coastal development permit.

6. Drainage and 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, two (2) sets of 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 the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall also include BMPs for drainage of the repaired landslide area. The plan shall be reviewed and approved by the consulting engineering geologist to ensure that the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.

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

7. Landscape and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit two (2) sets of 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 are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

- (1) All disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of completion of final grading. 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 February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (2) During grading operations to replace the landslide all topsoil within the grading footprint shall be retained and replaced as topsoil to facilitate revegetation of the disturbed and graded areas and to further aid in maintaining slope stability. The repaired slope shall be planted and maintained immediately upon completion of grading operations.
- (3) 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;

- (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) All development approved herein shall be undertaken in accordance with the final approved plans. Any proposed changes to the approved final landscape or fuel modification plans shall be reported to the Executive Director. No changes to said plans 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 no grading shall take place during the rainy season (November 1 – March 31). In addition, within the landslide repair area, 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 control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout 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

- (1) Five years from the date of issuance of the Certificate of Occupancy by the City of Malibu, 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.
- (2) 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.

8. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding 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. Removal of natural vegetation for the purpose of landslide repair shall not occur until commencement of that project.

9. **Streambed Alteration**

Prior to the issuance of the coastal development permit, the applicant shall submit a completed Streambed Alteration Agreement with the Department of Fish and Game (DFG), or DFG notification that a Streambed Alteration Agreement is not required.

10. **Removal of Excess Graded Material**

The applicant shall remove all excavated material consisting of approximately 2608 cu. yds. of material to an appropriate disposal site locate outside of the Coastal Zone.

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

IV. **Findings and Declarations**

The Commission hereby finds and declares:

A. **Project Description and Background**

The applicant proposes to construct a 7,423 sq. ft., 2 story, 28 ft. high, single family residence with basement, attached 776 sq. ft. 3-car garage, 609 sq. ft. guest unit above the garage, septic disposal system, swimming pool, and 4,196 cu. yds. of grading (3,378 cu. yds. cut and 818 cu. yds. fill) at 27454 Winding Way, Malibu. The project also includes repair of an approximately 18,500 sq. ft. landslide, including 8,326 cu. yds. of grading (2907 cu. yds. removal, 2907 cu. yds. replacement, and 2,512 cu. yds. fill).

The project site is located within an area partially developed with houses of similar scale to that proposed by the applicant. The subject parcel is located about one quarter of a mile north of Pacific Coast Highway between Escondido and Ramirez Canyons in the City of Malibu.

The site of the proposed project is an approximately 2.5-acre parcel located on a southwest -facing slope that descends steeply (2.5:1 average) to a spring-fed drainage course on the southwest side of the property. Slope gradients at the building site average 2.86:1. Elevations within the site range from 176 feet to 316 feet above mean sea level, a total relief of 140 feet. A small landslide, which the applicant proposes to repair, has occurred at the base of the slope.

The site is approached from Winding Way by an existing driveway, approximately 600 ft. long, that traverses the steep hillside. The applicant proposes to widen and grade the

driveway to conform to fire department standards. Winding Way is coincident with the Coastal Slope Trail, a public equestrian/hiking trail. The proposed development is visible from Winding Way, and from Pacific Coast Highway, although views from the latter are mostly blocked by foreground vegetation.

The site is generally vegetated with non-native herbs, such as mustard and oats, and a few stands of coastal sage scrub. A spring-fed drainage course on the site contains native riparian vegetation, as well as invasive species such as *Myoporum laetum*. No designated environmentally sensitive habitats or species are known to occur on site.

B. Geologic Stability and 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, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located in the Santa Monica Mountains, an area 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.

1. Geology

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and neither create nor contribute significantly to erosion, geologic stability, or destruction of the site or surrounding area. The site of the proposed project is an approximately 2.5-acre parcel located on a relatively steep (2.5:1 average) slope that descends to a spring-fed drainage course on the southwest side of the property. Slope gradients at the building site average 2.86:1. Elevations within the site range from 176 feet to 316 feet above mean sea level, a total relief of 140 feet. A small landslide, which the applicant proposes to repair, has occurred at the base of the slope. Drainage is by sheet flow runoff from the natural topography to the drainage course.

The applicant proposes to construct a 7,423 sq. ft., 2 story, 28 ft. high, single family residence with basement, attached 776 sq. ft. 3-car garage, 609 sq. ft. guest unit above the garage, septic disposal system, swimming pool, and landscaping. The applicant also proposes to widen an existing driveway and construct a turnaround to conform to

fire department requirements. The applicant estimates that 4196 cu. yds. of grading (3,378 cu. yds. cut and 818 cu. yds. fill) will be necessary to construct the driveway, residence, and associated structures. The project also includes repair of the approximately 18,500 sq. ft. landslide, including 8,326 cu. yds. of grading (2907 cu. yds. removal, 2907 cu. yds. replacement, and 2,512 cu. yds. fill).

The applicant has submitted a report prepared by their geotechnical consultant, Donald Kowalewsky, dated November 13, 1998, and an update letter dated September 20, 2000. The report contains numerous recommendations regarding grading, foundations, construction, drainage, setbacks, and other considerations affecting project design and construction. The report and update conclude that the project is feasible and will be safe from hazards provided that all recommendations in the subject reports are incorporated into the final project plans and designs.

The report notes the presence of faulting and topsoil rupture approximately 89 feet south (downslope) of the driveway and recommends a 50 foot setback from the fault traces. Consequently, the geologic map included with the report establishes a setback line from fault traces on site, and the proposed project does not extend beyond these setbacks. The report also notes a fault approximately 80 feet north (upslope) of the driveway, which is also more than 50 feet from the designated buildable area. It lists the closest active, or potentially active fault to be the Malibu Coast fault, branches of which have been mapped approximately 1,500 feet north, 2,500 feet north, and 1200 feet south of the site.

The report also notes the presence of the small landslide on the lower slope, and states that

It is probable the fault controls slope stability and the rocks northerly of the fault are stable while those south of the fault are subject to continued instability.

Using slope stability analysis, the report asserts that the presence of the slide affects the factor of safety for the upper slope and the building site, and concludes that

...a deep foundation such as skin friction piles or end bearing caissons will be required for support of structures, if the existing landslide is not stabilized. An adequate factor of safety can be achieved if the slide debris is removed and replaced as well drained, compacted fill.

In addition, the report recommends a 47 foot setback from the top of the landslide, which conforms to the fault trace setback. The applicant proposes to remove and replace the landslide, following the recommendations outlined in Kowalewsky's report.

As discussed above, the Commission notes that the applicant's engineering geologist has indicated that

Based on this investigation, including data research and testing conducted as described in this report and provided recommendations in this report are followed, the proposed building site will be safe from geologic hazards including landslide, settlement, and

slippage, in addition development will not adversely affect geologic stability of adjacent properties.

Based on the conclusions of the Kowalewsky report, the Commission finds that the proposed development will be protected from geologic hazards if all recommendations of the engineering geologist are incorporated into the final project plans and designs. Accordingly, **Special Condition Two (2)** requires the applicant to demonstrate to the Executive Director's satisfaction that all recommendations in the geologic report are incorporated into the final plans and designs.

However, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting engineering geologist, may still involve the taking of some risk. When development in areas of identified hazards is proposed, 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 subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by **Special Condition Five (5)**, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards associated with development of the site, and that may adversely affect the stability or safety of the proposed development.

2. Erosion

Section 30253 of the Coastal Act requires that new development neither create nor contribute significantly to erosion. As noted above, the proposed development is located on a site with relatively steep topographic relief, that drains by sheet flow runoff into a drainage course. The applicant proposes to grade 4196 cu. yds. of material (3,378 cu. yds. cut and 818 cu. yds. fill) to widen the access driveway and construct the residence and associated structures. In addition, the applicant proposes to remove and replace a landslide (removing and replacing 2907 cu. yds. of material) and restore the slide slope with an additional 2512 cu. yds. of fill.

The project will increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water runoff. If not controlled and conveyed off of the site in a non-erosive manner, this runoff will result in increased erosion on and off the site. Increased erosion may result in sedimentation of the nearby drainage course on an interim basis and after construction. Consequently, the consulting geologist recommended in the November 13, 1998 report that

All surface drainage shall be carefully controlled and regularly maintained to mitigate water infiltrations into the ground and prevent ponding within the site. No water shall be allowed to pond within the site, flow adjacent to foundations, or flow uncontrolled down slopes. Roof runoff and yard drainage should be intercepted and conducted via non-erosive devices to the ravine bottom.

Uncontrolled erosion leads to sediment pollution of downgradient water bodies. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

In order to ensure that the risks from geologic hazard, erosion, and sedimentation are minimized, the Commission requires the applicant to submit a drainage plan, as defined by **Special Condition Six (6)**. **Special Condition 6** requires the implementation and maintenance of 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. The plan shall also include BMPs for drainage of the repaired landslide area. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal streams. 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.

In addition, the Commission finds that temporary erosion control measures implemented during construction will also minimize erosion and enhance site stability. **Special Condition Seven (7)** requires the applicant to implement interim erosion control measures should grading take place during the rainy season, cease for a period of more than 30 days, or occur within the landslide repair area. Such measures include stabilizing any stockpiled fill with geofabric covers or other erosion-controlling materials, installing geotextiles or mats on all cut and fill slopes, and closing and stabilize open trenches to minimize potential erosion from wind and runoff water.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will reduce erosion and serve to enhance and maintain the geologic stability of the site. Therefore, **Special Condition Seven (7)** specifies that during grading operations to remediate the landslide all top soil within the grading footprint shall be retained and replaced as topsoil to facilitate revegetation of the disturbed and graded areas and to further aid in maintaining slope stability. **Special Condition 7** also requires the applicant to submit landscaping plans that require the use and maintenance of 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/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage 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. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development.

Therefore, the Commission finds that in order to ensure site stability and erosion control, the disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Seven (7)**.

The applicant proposes to excavate 2,560 cu. yds. of material from the driveway area and building site and use 2,512 cu. yds. of this material to restore the landslide area to pre-landslide grade. The applicant proposes to export the remaining 48 cu. yds. The Commission finds that stockpiling excavated material may contribute to increased erosion at the site. Furthermore, the Commission notes that additional landform alteration would result if the excavated material were to be collected and retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Ten (10)** requires the applicant to remove all excavated material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

In addition, in order to ensure that vegetation clearance for fire protection and landslide repair purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds it necessary to impose a restriction on the removal of natural vegetation, as specified in **Special Condition Seven (7)**. Through the elimination of premature natural vegetation clearance, erosion is reduced on the site and disturbance of the soils is decreased. Therefore, **Special Condition 7** specifies that vegetation shall not be removed until grading or building permits have been secured and construction of the permitted development has commenced.

For the reasons cited above, the Commission finds that the proposed project as conditioned by **Special Conditions 2, 5, 6, 7, and 10** will be consistent with the requirements of Coastal Act Section 30253 applicable to geology and site stability.

3. Wild Fire

Section 30253 of the Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as an individual's property rights.

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

As a result of the hazardous conditions that exist for wildfires in the Santa Monica Mountains area, the Los Angeles County Fire Department requires the submittal of fuel modification plans for all new construction to reduce the threat of fires in high hazard areas. Typical fuel modification plans for development within the Santa Monica Mountains require setback, irrigation, and thinning zones that extend 200 feet from combustible structures. The applicant has submitted fuel modification plans, approved by the Los Angeles County Fire Department, that include a 200-foot fuel modification zone around the proposed house site. The 200-foot brush clearance radius for the site encompasses parts of four adjacent developed properties, as well as part of a fifth property on which a single family residence, approved under CDP 4-99-065, is currently under construction. The approval of the project will not result in significant additional brush clearance in the vicinity of the site.

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 Five (5)**, 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 5** the applicant agrees to indemnify the Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or 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.

The Commission finds that only as conditioned by **Special Condition Five (5)** is the proposed project consistent with Section 30253 of the Coastal Act applicable to hazards from wildfire.

C. Visual Resources

Section 30251 of the Coastal Act states that:

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

As noted previously, the proposed building site is visible from the Coastal Slope Trail (Winding Way) to the northwest and minimally from Pacific Coast Highway to the southeast. The proposed project will not be visible from Escondido Canyon recreation area owned by the Santa Monica Mountains Conservancy approximately 2,000 feet to the southwest of the subject site.

Because the proposed project is visible from viewing areas along a public trail, the Commission finds it necessary to impose design restrictions to minimize the intrusion of the project into public views from the recreational trail. Accordingly, **Special Condition Three (3)** restricts the use of colors to a natural background palette, requires the use of non-glare glass, and requires downshielding of light and restrictions of total lighting to limit offsite visibility of the project at night.

In addition, to ensure that future development of the site is reviewed for potentially adverse effects on coastal visual resources, the Commission finds it necessary to impose **Special Condition Four (4)**, which requires the applicant to obtain a coastal development permit for any future development of the site, including improvements that might otherwise be exempt from coastal permit requirements.

The Commission notes that visual impacts can be further minimized by the implementation of a landscape plan that utilizes locally native plant species (**Special Condition 7**), by the implementation of erosion control measures (**Special Conditions 6, 7, and 10**), and by timely removal of vegetation on site (**Special Condition 9**). Implementation of the requirements of these conditions will ensure that the adverse

visual effects of excessive vegetation removal, obtrusive non-native landscaping, denuded slopes, and uncontrolled erosion are avoided.

For all of the reasons set forth above, the Commission finds that the proposed project, as conditioned by **Special Conditions 3, 4, 6, 7, 9 and 10** is consistent with Section 30251 of the Coastal Act.

D. Public Access and Recreation

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act has several policies which address the issues of public access and recreation within coastal areas.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act sections 30210 and 30223 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise Section 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails, shall be protected, encouraged, and provided, where feasible. In order to preserve and formalize the public's right to use trails in the Malibu/Santa Monica Mountains area, a trail system map has been included as part of the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The trail system is composed of the Backbone and Coastal Slope Trails in addition to numerous connector trails.

The proposed project site intersects the Coastal Slope Trail at the entrance to the proposed driveway. The Coastal Slope Trail is an integral part of a significant trail system that serves to provide access between the growing urban areas on and above the coastal terrace and the Santa Monica Mountain park system. The trail network provides hikers and equestrians with a large number of varied destinations and highly

scenic locations. Significant coastal views from the public trail system include panoramic views of the coastline, the Channel Islands, and mountain views.

In the Malibu/Santa Monica Mountains area, the existing system of heavily used historic trails located on private property has been adversely impacted by the conversion of open lands to housing. In addition, equestrian trails have been adversely impacted by an increase in uneven surfaces at the contact between driveway entrances and trail right-of-ways, as well as by entry columns and other structures that obstruct passage along trail margins.

In order to avoid any cumulative and site specific adverse effects to public access resulting from the proposed development and to enhance the Santa Monica Mountains Trail System, **Special Condition One (1)** requires the applicant to submit revised plans specifying that the grade and materials used at the intersection of the proposed driveway and the Coastal Slope Trail will provide a surface suitable for equestrian footing. In addition, **Special Condition 1** requires the driveway to be free of obstructions or signage that would hinder or discourage equestrian passage along the margins of the trail. The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30210, 30213, and 30223 of the Coastal Act.

D. 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, 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 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, the proposed project includes construction of a two-story, 28 ft. high, 7,423 sq. ft. single family residence with an attached 776 sq. ft. garage, 609 sq.ft. guest unit above the garage, septic system, swimming pool, driveway, turnaround, and 4,196 cubic yards of grading. The project also includes the removal and replacement of a landslide located downslope from the building site and adjacent to a spring-fed drainage course. The site is considered a "hillside" development, as it involves steeply to moderately sloping terrain with soils that are susceptible to erosion.

1. Drainage and Polluted Runoff

The proposed development 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. Furthermore, 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, under **Special Condition Six (6)**, 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. 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 Six (6)**, 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, repair of the landslide, 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 Seven (7)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

2. Coastal Waters

The Commission notes that the applicant proposes to remove and recompact a landslide that is located adjacent to a spring-fed drainage course. In a report dated November 13, 1998, the applicant's engineering geologist makes several recommendations for remediating the landslide, including installation of a subdrain system, removal of slide debris and vegetation at least five feet beyond the landslide area, and excavation of a fill key "a minimum of 2 feet into competent bedrock." The report notes however, that

Actual fill key width and depth will be controlled by the geometry of the landslide and can only be determined by field observations during grading.

A grading plan submitted by the applicant and signed by the engineering geologist on June 4, 2001 shows the maximum extent of excavation to be within 15 feet of the stream bed.

In order to minimize potential impacts to the drainage course, including the removal of riparian vegetation and the transport of sediments into the streambed, **Special Condition Seven (7)** requires that the applicant employ interim erosion control measures during grading within the landslide area and revegetate riparian areas with native riparian species. In addition, **Special Condition Eight (8)** prohibits the removal of vegetation prior to commencement of landscape repair grading operations. Along with these conditions, the Commission finds that **Special Condition Ten (10)** is necessary to ensure that appropriate measures are taken to minimize streambed alteration. **Special Condition 10** requires the applicant to submit a Department of Fish and Game Streambed Alteration Agreement, or notification that such a permit is not required. Habitat impacts are further discussed in Section E.

3. Septic System

The applicant proposes to construct a new 1,500 gallon septic tank and disposal system as shown on the plans approved by the City of Malibu Department of Environmental Health, dated October 14, 1999. The conceptual approval by the City indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code. The Commission has found the City of Malibu's minimum health and safety standards for septic systems to be protective of coastal resources and to take into consideration the percolation capacity of soils, the depth to groundwater, and other pertinent information. Therefore the Commission further finds that project compliance with the City's standards for septic disposal will minimize any potential for wastewater discharge that could adversely impact coastal waters.

For all of these reasons, therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. Sensitive Resources

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 states:

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

substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through means such as minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

The project site is a vacant hillside parcel that descends to a spring-fed drainage course, surrounded by both native riparian vegetation and invasive species such as *Myoporum (Myoporum laetum)*. The stream runs parallel to the southwest property boundary of the subject site. The area proposed for construction of the new single family residence is the northeastern portion of the site, located upslope from the drainage course. The proposed single family residence and associated structures will be located at the end of an existing driveway and stepped down the hillside. The residence will be set back from the drainage course a minimum of 150 feet, in order to conform to a geologic setback recommended in the geologic report prepared by Donal Kowalewsky on November 13, 1998. Therefore, the proposed development does not include any structural development on the steeper slopes of the site and will not result in the direct displacement of any sensitive natural habitat areas established on the canyon slopes or within the stream corridor by physical development. In addition, the building setback limits the extent of fuel modification zone requirements on the canyon slopes and into the canyon bottom.

However, the project also includes the removal and replacement of a landslide located downslope from the building site and adjacent to a spring-fed drainage course. A grading plan submitted by the applicant and signed by the engineering geologist on June 4, 2001 shows the maximum extent of excavation to be within 15 feet of the stream bed. In the report prepared by Donald Kowalewsky on November 13, 1998, the engineering geologist recommends removing vegetation at least five feet beyond the landslide area.

The applicant has submitted a Fuel Modification Plan, approved by the County of Los Angeles Fire Department, which indicates that the fuel modification zone requirements for the proposed residence will extend over the entire parcel and into the sensitive habitat area along the canyon slopes and canyon bottom. However, the Commission notes that although fuel modification requirements will be imposed over the entire subject parcel, the proposed building footprint limits the Zone A fuel modification requirement to the upper portion of the site, approximately 100 feet upslope of the drainage course. In addition, the proposed footprint and location of development and associated fuel modification requirements allow for a Zone C fuel modification area to be established over the lower portion of the canyon slopes and bottom, where natural and native habitat may be enhanced and maintained consistent with Fire Department requirements. As such, the lower canyon slopes and canyon corridor habitat will be maintained consistent with Zone C requirements, which allow for maintaining an array of existing and native plant species without a substantial reduction of canopy cover and root systems within the habitat. Finally, the applicant has submitted a Fuel Modification Plan indicating that invasive and exotic plant species at the site will be removed and that appropriate native plant species will be planted in order to enhance and maintain the sensitive habitat area and as well as control erosion. Therefore, the proposed development is sited and designed to minimize potential adverse impacts to native vegetation and sensitive habitat areas at the project site

The Commission further finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition Seven (7)** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

The Commission notes that seasonal streams and drainages, such as the drainage course directly adjacent to the subject site, in conjunction with primary waterways, provide important habitat for sensitive plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to sensitive habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant

species, disturbance of wildlife, and loss of riparian plant and animal habitat.

In the case of the proposed project, the Commission notes that, as described in detail above, the development and necessary fuel modification requirements proposed will serve to minimize potential adverse impacts on the sensitive resource area. However, the Commission finds that the value and quality of the sensitive habitat at the subject site is directly related to the water quality of the coastal stream that sustains the habitat. As such, the Commission finds that potential adverse effects of the proposed development on sensitive habitat at the site may be further minimized by maintaining good water quality through the implementation of a drainage and polluted runoff control plan, which will ensure that erosion is minimized and polluted run-off from the site is controlled and filtered before it reaches the natural drainage. Therefore, the Commission requires **Special Condition Six (6)**, which requires the applicants to incorporate appropriate drainage devices and Best Management Practices (BMPs) to ensure that run-off from the proposed structures and impervious surfaces is conveyed off-site in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways. (See Section D. Water Quality for a more detailed discussion of coastal water quality). The Commission finds that controlling and treating run-off from the site as described will reduce potential adverse impacts on water quality and will therefore prevent impacts that would significantly degrade the identified sensitive habitat, as well as sensitive resources located downstream of the project site.

In order to further minimize potential impacts to the drainage course, including the removal of riparian vegetation and the transport of sediments into the streambed, **Special Condition Seven (7)** requires that the applicant employ interim erosion control measures during grading within the landslide area and revegetate riparian areas with native riparian species. In addition, **Special Condition Eight (8)** prohibits the removal of vegetation prior to commencement of landscape repair grading operations. To further ensure that appropriate measures are taken to minimize streambed alteration, **Special Condition Ten (10)** requires the applicant to submit a Department of Fish and Game Streambed Alteration Agreement, or notification that such a permit is not required.

Finally, the Commission finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the above mentioned environmental constraints. Therefore, in order to ensure that any future structures, additions, change in landscaping, or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, the Commission requires the applicant to record a future development deed restriction, as detailed in **Special Condition Four (4)**.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

(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 coastal program that is in conformity with Chapter 3 (commencing with Section 30200).

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

G. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires that Commission approval of a Coastal Development Permit application be supported by a finding showing the proposed development, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

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

