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STATE OF CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION TH CENTRAL COAST AREA UTH CALIFORNIA ST., SUITE 200

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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-02-103

APPLICANT: Ron Turner

PROJECT LOCATION: 2355 Live Oak Meadow Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a two-story, 29 ft. high, 2304 sq. ft. single family residence, detached garage with 576 sg. ft. second floor bedroom and study, two driveways, pool/spa, septic system, perimeter fence, and approximately 230 cu. yds. of grading (115 cu. yds. cut/115 cu. yds. fill).

> Lot area: 1.01 acres **Building coverage:** 3456 sq. ft. Pavement coverage: 1868 sg. ft. Landscape coverage: 2582 sq. ft. **Unimproved:** 36,090 sq. ft.

LOCAL APPROVALS RECEIVED: County of Los Angeles, Department of Regional Planning, Approval in Concept, 4/25/02; County of Los Angeles, Department of Health Services, Approval in Concept, 11/12/01; County of Los Angeles, Department of Regional Planning, Oak Tree Permit # 00-009; County of Los Angeles, Fire Department, Fire Prevention Bureau, Preliminary Fuel Modification Plan Approval 9/19/01.

SUBSTANTIVE FILE DOCUMENTS: Update Geotechnical Engineering Report and Response to the County of Los Angeles Department of Public Works-Land Development Division Soils Engineering Review Sheet Dated December 30, 1999, prepared by West Coast Geotechnical, 6/11/01; Update Geotechnical Engineering Report, prepared by West Coast Geotechnical, 10/11/99; Limited Engineering Geologic Report, Proposed Private Sewage Disposal System, prepared by Mountain Geology, Inc., 10/04/01; Oak Tree Report, prepared by Kay J. Greeley, I.S.A., 12/17/99.

SUMMARY OF STAFF RECOMMENDATION

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Staff recommends **approval** of the proposed project with nine (9) Special Conditions relative to 1) Conformance with Geologic Recommendations, 2) Drainage and Polluted Run-Off Control, 3) Pool and Spa Drainage and Monitoring, 4) Landscaping and Erosion Control, 5) Oak Tree Mitigation and Monitoring, 6) Removal of Natural Vegetation, 7) Wildfire Waiver of Liability, 8) Future Development Restriction, and 9) Deed Restriction.

The applicant is proposing to construct a two-story, 29 ft. high, 2304 sq. ft. single family residence, detached garage with 576 sq. ft. second floor bedroom and study, two driveways, pool/spa, septic system and a perimeter fence. The proposed project also includes approximately 230 cu. yds. of grading (115 cu. yds. cut/115 cu. yds. fill).

The subject property is an approximate 1 acre parcel located between Live Oak Meadow Road and Chumash Road, approximately 750 ft. south of Las Flores Canyon Road in the Santa Monica Mountains. The area surrounding the project site is a built-out subdivision that contains a variety of residential development. The project site is not visible from any designated public scenic viewing areas. The project site is not located in a designated environmentally sensitive habitat area and natural vegetation at the site is significantly degraded due to brush clearance procedures and the introduction of residential landscaping associated with adjacent development. As such, no significant native grasses or chaparral occur at the subject site. However, the subject site does contain a number of oak trees. With the exception of one permitted encroachment within the protected zone of one oak tree for the proposed driveway and turnaround, discussed further in Section C. <u>Sensitive Resources</u>, the development has been designed and located so as not to encroach within the driplines of any additional oak tree protection zones.

As conditioned the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

STAFF RECOMMENDATION

MOTION: I move that the Commission approve Coastal Development Permit No. 4-02-103 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. STANDARD CONDITIONS

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

2. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

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

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

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

III. SPECIAL CONDITIONS

Plans Conforming to Geologic Recommendations 1.

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All recommendations contained in the Update Geotechnical Engineering Report and Response to the County of Los Angeles Department of Public Works-Land Development Division Soils Engineering Review Sheet Dated December 30, 1999. prepared by West Coast Geotechnical, dated 6/11/01; the Update Geotechnical Engineering Report, prepared by West Coast Geotechnical, dated 10/11/99 and the Limited Engineering Geologic Report, Proposed Private Sewage Disposal System. prepared by Mountain Geology, Inc., dated 10/04/01, shall be incorporated into all final design and construction including foundations, drainage, and sewage disposal. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and engineering geologist.

Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, two sets of plans with evidence of the consultant's review and approval of all project plans. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, drainage, and sewage disposal. Any substantial changes in the proposed development approved by the Commission, which may be required by the consultants, shall require an amendment to the permit or a new coastal permit.

2. **Drainage and Polluted Runoff Control Plans**

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, 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 be reviewed and approved by the consulting geotechnical engineer and engineering geologist to ensure the plan is in conformance, with consultants' recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(a) For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

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(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.

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.

3. Pool and Spa Drainage and Maintenance

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for review and approval of the Executive Director, a written pool and spa maintenance plan, that contains an agreement to install and use a no chlorine or low chlorine purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, the plan shall, at a minimum: 1) prohibit discharge of chlorinated pool water and 2) prohibit discharge of chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters. The Permittees shall undertake development and maintenance in compliance with this pool and spa maintenance agreement and program approved by the Executive Director. No changes shall be made to the agreement or plan unless they are approved by the Executive Director.

4. Landscaping and Erosion Control Plans

Prior to issuance of the coastal development permit, the 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 geotechnical consultants to ensure that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Landscaping Plan

- (1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled <u>Recommended List of Plants for Landscaping in the Santa Monica Mountains</u>, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

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B. Interim Erosion Control Plan

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

C. Monitoring

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

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

Oak Tree Mitigation and Monitoring Plan 5.

The applicant shall retain the services of an independent biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during construction. Protective fencing shall be used around the canopies or base of the oak trees adjacent to the construction area that may be disturbed during construction or grading activities. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if an oak tree(s) is removed, damaged or impacted beyond the scope of the work allowed by Coastal Development Permit 4-02-103. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

For the one (1) oak tree adjacent to the proposed driveway at the northwest portion of the subject site, as shown on the site plan Exhibit 3, that may be lost or suffer worsened health or vigor due to driveway construction activities, replacement seedlings, less than one year old, grown from acorns collected in the area shall be planted at a ratio of at least 3:1 on the applicant's parcel (Assessor's Parcel No. 4453-019-042). Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a monitoring program to ensure that the replacement planting program is successful. An annual monitoring report on the oak tree restoration and preservation shall be submitted for the review and approval of the Executive Director for each of the 10 years.

Removal of Natural Vegetation 6.

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.

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Wildfire Waiver of Liability

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Prior to the issuance of a Coastal Development Permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where

an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

8. <u>Future Development Restriction</u>

This permit is only for the development described in Coastal Development Permit 4-02-103. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by Coastal Development Permit 4-02-103. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), and any fencing, grading, or clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 4 shall require an amendment to Coastal Development Permit 4-02-103 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

9. <u>Deed Restriction</u>

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a two-story, 29 ft. high, 2304 sq. ft. single family residence, detached garage with 576 sq. ft. second floor bedroom and study, two driveways, pool/spa, septic system and a perimeter fence. The proposed project also includes approximately 230 cu. yds. of grading (115 cu. yds. cut/115 cu. yds. fill), Exhibits 3-6.

The subject property is an approximate 1-acre parcel located between Live Oak Meadow Road and Chumash Road, approximately 750 ft. south of Las Flores Canyon Road in the Santa Monica Mountains (Exhibits 1,2). Natural topography of the project site consists of a south-facing hillside that gently descends from Chumash Road to Live Oak Meadow Road with overall gradients on the order of 3:1.

The area surrounding the project site is a built-out subdivision that contains a variety of residential development. The project site is not visible from any designated public scenic viewing areas. The project site is not located in a designated environmentally sensitive habitat area and natural vegetation at the site is significantly degraded due to brush clearance procedures and the introduction of residential, non-native landscaping associated with adjacent development. As such, no significant native grasses or chaparral occur at the subject site. However, the site does contain a number of oak trees. With the exception of one permitted encroachment within the protected zone of one oak tree for the proposed driveway and turnaround, discussed further in Section C. <u>Sensitive Resources</u>, the development has been designed and located so as not to encroach within the protected zones of any additional oak trees located on the site.

B. Geology and Fire Hazard

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

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

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

Section 30253 of the Coastal Act mandates that new development shall be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted a Update Geotechnical Engineering Report and Response to the County of

Los Angeles Department of Public Works-Land Development Division Soils Engineering Review Sheet Dated December 30, 1999, prepared by West Coast Geotechnical, dated 6/11/01; an Update Geotechnical Engineering Report, prepared by West Coast Geotechnical, dated 10/11/99; and a Limited Engineering Geologic Report, Proposed Private Sewage Disposal System, prepared by Mountain Geology, Inc., dated 10/04/01, which evaluate the proposed development in relation to the geologic stability of the site. Based on their evaluation of the site's geology and the proposed development the consultants have found that the project site is suitable for the proposed project. The Update Geotechnical Engineering Report, prepared by West Coast Geotechnical, 10/11/99 states:

It is the opinion of West Coast Geotechnical that the proposed development will be safe against hazard from landslide, settlement or slippage, and that the proposed development will not have an adverse affect on the stability of the subject site or immediate vicinity, provided our recommendations are made part of the development plans and are implemented during construction.

Furthermore, the project's consulting engineer geologist states in the Limited Engineering Geologic Report, Proposed Private Sewage Disposal System, prepared by Mountain Geology, Inc., dated 10/04/01:

Based upon our investigation, the installation and use of the proposed private sewage disposal system will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Sanitation Engineer are complied with during construction/installation.

The consulting geotechnical engineer and engineering geologist conclude that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Update Geotechnical Engineering Report and Response to the County of Los Angeles Department of Public Works-Land Development Division Soils Engineering Review Sheet Dated December 30, 1999, prepared by West Coast Geotechnical, 6/11/01; Update Geotechnical Engineering Report, prepared by West Coast Geotechnical, 10/11/99: Limited Engineering Geologic Report, Proposed Private Sewage Disposal System. prepared ---by Mountain Geology, Inc., 10/04/01 contain several recommendations to be incorporated into project construction, design, sewage disposal and drainage to ensure the stability and geologic safety of the project site and adjacent property. To ensure the recommendations of the consultants have been incorporated into all proposed development the Commission, as specified in Special Condition 1, requires the applicant to submit project plans certified by the consulting geotechnical engineer and engineering geologist as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultants, shall require an amendment to the permit or a new coastal development permit.

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The Commission finds that minimizing site erosion will aid in maintaining the geologic stability of the project site. Incorporating adequate drainage, erosion control, and appropriate landscaping into the proposed development will serve to minimize erosion at the site. To ensure that adequate drainage and erosion control is included in the proposed development the Commission requires the applicant to submit drainage and interim erosion control plans certified by the consulting geotechnical engineer, as specified in **Special Conditions 2 and 4**. Special Condition 2 also requires the applicant to maintain a functional drainage system at the subject site to insure that runoff from the project site is diverted in a non-erosive manner to minimize erosion at the site for the life of the proposed development. Should the drainage system of the project site fail at any time, the applicant will be responsible for any repairs or restoration of eroded areas as consistent with the terms of Special Condition 2.

The Commission also finds that appropriate landscaping of slopes and graded or disturbed areas on the project site will minimize erosion and serve to maintain the geologic stability of the proposed development. Therefore, **Special Condition 4**, which requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Alternatively, native plant species tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in Special Condition 4.

Furthermore, 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 6**. 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 6 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.

Wild Fire

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The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which

are highly flammable substances (Mooney in Barbour, <u>Terrestrial Vegetation of</u> <u>California</u>, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition 7**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition 6, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the promission, design, construction, operation, maintenance, existence, or failure of the permitted project.

The Commission finds that, as conditioned to incorporate all recommendations defined by the project's geotechnical and geologic engineering consultant for construction, design, drainage, erosion control, and landscaping, and inclusion of the wildfire waiver of liability, the proposed project is consistent with Section 30253 of the Coastal Act.

C. <u>Sensitive Resources</u>

Section 30230 of the Coastal Act states:

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 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, and minimizing alteration of natural streams.

Section 30240 of the Coastal Acts states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation 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.

To assist in the determination of whether a project is consistent with Section 30230, 30231, and 30240 of the Coastal Act, the Commission has relied in past permit decisions on the certified LUP, which contains numerous policies designated to protect sensitive resource areas from the individual and cumulative impacts of development. The certified LUP has been found to be consistent with the Coastal Act and provides specific standards for development in Malibu and the Santa Monica Mountains. In its findings regarding the certification of the Malibu/Santa Monica Mountains LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources and found that:

Coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparlan corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

No designated environmentally sensitive habitat area or natural drainages or streams exists at the project site, but there are twenty-three individual oak trees located on the subject. The area proposed for construction of the new residence and detached accessory structure is located entirely outside of any protected zones of the oak trees on the property. However, a small portion of the proposed driveway and turnaround, located at the northwest portion of the property will require minor encroachment into the protected zone of oak tree # 18 as illustrated on the site plan, Exhibit 3. In addition, the site plan submitted for the proposed project indicates that a new private sewage disposal system with a septic tank and seepage pit are proposed in a location that is setback approximately 25 ft. from the nearest driplines of oak tree # 1 and #5 (Exhibit 3). The proposed septic tank and seepage pit are not located within any oak tree

protection zones, however, in past Commission actions, the Commission has required a minimum 100 ft. setback of seepage pits from oak tree canopy driplines, where feasible, to minimize potential impacts of sewage effluent on the health of the oak tree. In the case of the proposed project, however, due to the location of several other oak trees on the site it is not possible to located the proposed septic system such that a 100 ft. setback from all the oak tree canopy driplines can be provided. Additionally, on July 17, 2002, Staff consulted with the consulting engineering geologist regarding possible alternative location of the septic pits downslope of the proposed residence and the favorable geologic structure in that location, the proposed seepage pit location is the most reasonable location given the site constraints. Staff further notes that the proposed seepage pit location is also downslope of all oak trees located on the property, which is a benefit of the proposed site location as percolation of effluent from the proposed seepage pit is anticipated to flow downslope and away from the oak trees on site and will likely infiltrate below any nearby oak tree root system.

Nevertheless, the proposed septic system could potentially result in excessive and detrimental water discharge into the root system of oak trees #1 and #5 given its close proximity to these individual trees and the uncertain nature of establishing geologic structure and water uses that may occur in the future. Additionally, the proposed driveway and turnaround would increase the level of traffic and general use of the soils under the oak tree dripline of oak tree #18, and thereby contribute to compaction of the soils, inhibit the exchange of air and water to the root zone of the trees and introduce oils and other toxic materials from vehicular use of the road. In the article entitled, "Oak Trees: Care and Maintenance," prepared by the Forestry Department of the County of Los Angeles, states:

Oaks are easily damaged and very sensitive to disturbances that occur to the tree or in the surrounding environment. The root system is extensive but surprisingly shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases.

This publication goes on to state:

Any change in the level of soil around an oak tree can have a negative impact. The most critical area lies within 6' to 10' of the trunk: no soil should be added or scraped away. . . Construction activities outside the protected zone can have damaging impacts on existing trees. . . Digging of trenches in the root zone should be avoided. Roots may be cut or severely damaged, and the tree can be killed. . . . Any roots exposed during this work should be covered with wet burlap and kept moist until the soil can be replaced. The roots depend on an important exchange of both water <u>and</u> air through the soil within the protected zone. Any kind of activity which compacts the soil in this area blocks this exchange and can have serious long term negative effects on the

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trees. If paving material must be used, some recommended surfaces include brick paving with sand joints, or ground coverings such as wood chips . . .

This publication also notes specific considerations for watering supplements underneath and near oak trees, and states:

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Improper watering is often overlooked as the cause of tree death because it can take years for the damage to show. Once the tree shows obvious signs of decline, it is often too late to correct the problem. . . .Overwatering, especially during the summer months, causes a number of problems which can lead to decline and eventual death of the tree. It creates ideal conditions for attacks of Oak Root Fungus by allowing the fungus to breed all year. In addition, both evergreen and deciduous oaks grow vigorously in the spring and naturally go dormant in the summer. Extra water only encourages new tip growth which is subject to mildew. Oaks need this period of rest.

There should be no planting within a minimum 6 to 10 feet of the trunk. Avoid plants that require <u>any</u> supplemental water once established. Chose plants suited for "dry shade."

The Commission finds that the proposed development includes grading and a driveway/turnaround improvement, although minor and hand performed, within a portion of the dripline of oak tree #18, and that proposed septic system could potentially result in adverse impacts from effluent dispersal into the root systems of oak trees #1 and #5. The Commission further finds that the proposed construction activities can have detrimental impacts on the oak trees whose driplines are located both within and outside of the area to be disturbed by the project. Furthermore, the Commission finds that since the root systems may radiate out as much as 50 feet beyond the oak canopy driplines, even those oak trees adjacent to the development whose driplines are not within the proposed driveway or near the proposed septic system may be negatively impacted through disturbance to their root systems.

The Commission notes that damage to the oak trees resulting from the proposed project may not become apparent for many years. Therefore, the Commission finds that the applicant must mitigate for the adverse impacts resulting from that portion of the proposed driveway and turnaround that encroaches into the protected zone of oak tree #18. In past permit actions the Commission has typically required a 10:1 mitigation ratio for the loss or removal of oak trees. In this case, although the oak tree will not be removed the tree will suffer incremental adverse impacts over time from the proposed driveway/turnaround improvements. Therefore, the Commission finds that a more appropriate mitigation for the incremental long term impact to the oak tree, in this particular case, is replacement of the tree at a ratio of 3:1 on the subject site. To address potential long term impacts to any other individual oak tree on the site, including the two oak trees #1 and #5 located in close proximity to the proposed seepage pit location, **Special Condition 5** requires an oak tree mitigation and monitoring plan to be submitted to ensure that any potential damage to the oaks as a result of the proposed development are fully and adequately mitigated. The oak tree

mitigation plan requires that any oak trees adversely impacted by the proposed development shall be mitigated at a 3:1 ratio. Furthermore, pursuant to **Special Condition 5**, the applicant must also submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications. Finally, the applicant shall also submit an annual monitoring report on the oak tree mitigation and preservation process to ensure the long term health of existing oak trees on site and success of the oak tree mitigation plan.

As mentioned, with the exception of encroachment into the protected zone of one oak, all development proposed on site has been set back outside of the protected zones of on site oak trees. However, to ensure that the protected zones will not be inadvertently violated by the permitted development activities, **Special Condition 5** also requires that protective fencing be placed around the protected zones of the oak canopies within or adjacent to the construction area that may be disturbed during construction or grading activities.

As discussed previously, natural vegetation at the project site is substantially degraded due to extensive brush clearance and thinning that has already occurred on the subject parcel to protect structures on the adjacent properties. The applicant has submitted a fuel modification plan for the proposed development which indicates that no previously undisturbed habitat areas will be impacted by implementing a landscaping/fuel modification plan for the proposed development. However, the Commission 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. Furthermore, the Commission finds that excessive water irrigation and infiltration that may accompany inappropriate residential landscaping may adversely impact the sensitive root systems of the oaks on site and that use of primarily native, drought resistant plant species compatible with these areas will minimize the need for irrigation and water, thereby preventing additional adverse impacts on the oak resources on site. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area. Special Condition 4 requires that all landscaping consist primarily of native plant species compatible with the surrounding environment and oak tree habitat and that invasive plant species shall not be used.

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 environmental constraints discussed above. Therefore, 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, **Special Condition 8**, the future development restriction, has been required. Finally, **Special Condition 9** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

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

D. <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:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (I) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity 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 Sections 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 a detached garage with 576 sq. ft. second floor bedroom and study that is not proposed to be used as a second residential unit, however, the detached structure that could potentially be converted for residential use in the future.

Based on the requirements of Coastal Act Section 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 LCP's 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 two-story, 29 ft. high, 2304 sq. ft. single family residence, detached garage with 576 sq. ft. second floor bedroom and study. The applicant is not proposing to construct a second residential unit, but is proposing to construct a significant detached structure and 576 sq. ft. habitable studio that could

potentially be converted for residential use in the future. The Commission finds that the two car garage is not proposed as habitable square footage and that the proposed 576 sq. ft. second story bedroom and study meets the 750 sq. ft. limitations for maximum habitable square footage for second units which may be considered a secondary dwelling. However, the Commission notes that should the garage and gym be converted into habitable square footage in the future, the total detached structure would exceed the Commission's 750 sq. ft. limitation for second units.

The Commission has many past precedents on similar project proposals that have established a 750 sq. ft. maximum of habitable square footage for development of detached units which may be considered a secondary dwelling. The Commission notes that the applicant is not proposing to utilize the entire detached structure as a guest unit or secondary dwelling, therefore the structure may be reviewed as an accessory building to the proposed single family residence. However, the Commission finds it necessary to ensure that no additions or improvements are made to the detached structure 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 imposes **Special Condition 8**, the Future Development Restriction, 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 Section 30250 and 30252 of the Coastal Act.

E. <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, 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. The project site is a hillside parcel in the Santa Monica Mountains. As described in detail in the previous sections, the applicant is proposing to develop the subject site with a new single-family residence and other appurtenant structures.

The proposed development will result in an increase in impervious surface at the subject site, which in turn decreases the infiltrative function and capacity of existing permeable land on site. 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.

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.

For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. 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 2**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

In addition, the proposed project is conditioned to also implement a pool and spa drainage and maintenance plan to prevent uncontrolled drainage of the proposed swimming pool and spa such that drainage of pool water does not result in discharge of chemically treated water to coastal streams and drainages. The pool and spa drainage and maintenance plan, as detailed in **Special Condition 3**, requires the applicant to submit a written pool and spa maintenance plan that contains an agreement to install and use a no chlorine or low chlorine purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, Special Condition 3 prohibits discharge of pool water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition 4** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system to serve the residence. The County of Los Angeles, Department of Health Services, has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

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F. Local Coastal Program

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Section 30604 of the Coastal Act states:

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

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

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

G. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmentally 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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