Item Fr. 11a

STATE OF CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA 89 SOUTH CALIFORNIA ST., SUITE 200 VENTURA, CA 93001 (805) 641 - 0142

# RECORD PACKET COPY

ARNOLD SCHWARZENEGGER, Governor

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Staff:	JLA ferm	-
Staff Report:	10/27/04	
Hearing Date:	11/17-19/04	
Commission Action:		

# STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-02-187

**APPLICANT:** Jack & Edla Dwosh

**PROJECT LOCATION:** 27323 Old Chimney Road, Santa Monica Mountains, Los Angeles County

**PROJECT DESCRIPTION:** Construction of a 570 square foot, 25-foot high detached recreation room with a two car basement garage; a detached 180 square foot, 12 foot high office unit; septic system; swimming pool; retaining wall system; and 390 cubic yards of grading (390 cu. yds. cut, 50 cu. yds. fill) on a property with an existing single family residence.

Lot area: Building coverage: Landscape coverage: 2.58 acres 750 sq. ft. 1,000.sq. ft.

**LOCAL APPROVALS RECEIVED:** Los Angeles County Approval-in-Concept dated 2/26/04, Los Angeles County Preliminary Septic System Approval dated 08/25/04.

**SUBSTANTIVE FILE DOCUMENTS:** Preliminary Engineering Geologic Report for Proposed Second Structure and Swimming Pool, dated September 7, 2004, prepared by Donald B. Kowalewsky

#### SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with 8 special conditions of approval including geologic review, landscaping and erosion control plans, wildfire waiver of liability, drainage and polluted runoff control plan, future development, deed restriction, pool drainage and maintenance and removal of excess excavated material.

# **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

# I. <u>Approval with Conditions</u>

# I. STAFF RECOMMENDATION

# <u>MOTION:</u> I move that the Commission approve Coastal Development Permit No 4-02-187 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 PERMITS:**

The Commission hereby approves the 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 permits complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

# II. Standard Conditions

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

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

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

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

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

# III. Special Conditions

# 1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Engineering Geologic Report, dated September 7, 2004, prepared by Donald Kowalesky shall be incorporated into all final design and construction, including recommendations concerning <u>foundations</u>, <u>grading</u>, and <u>drainage</u>, and must be reviewed and approved by the consultant prior to commencement of development.

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 that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

# 2. Landscaping and Erosion Control Plans

*Prior to the issuance of the coastal development permit*, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or 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 geotechnical engineer to ensure that the plans are in conformance with the consultant's recommendations. The plans 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 thirty (30) days of completion of the proposed development. To minimize the need for irrigation and to screen and soften the visual impact of development, landscaping shall consist of primarily 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, and shall be compatible with the character of the surrounding native environment. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed on the site.

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, compatible with the surrounding environment, using accepted planting procedures, and consistent with fire safety requirements. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years, and this requirement shall apply to all disturbed and graded soils:

- Plantings shall 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;
- 3) 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(s) to the Coastal Development Permit(s), unless the Executive Director determines that no amendment is required.
- 4) Protective fencing shall be placed five feet from the canopy of the trees on site on site during construction. No excavation, grading, storage of materials or equipment shall occur within the five foot protective zone around the canopy of any oak tree on site.

#### B) Interim Erosion Control Plan

- 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 sites shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that grading shall take place only during the dry season (April 1 October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. 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, and shall 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 of the coastal zone or within the coastal zone to a site 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 thirty (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 (5) years from the date of completion of the proposed development, 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 these permits, 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 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.

#### 3. Wildfire Waiver of Liability

By acceptance of this permit, the applicant agrees to indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, and 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 wildfire exists as an inherent risk to life and property.

#### 4. Drainage and Polluted Runoff Control Plan

**Prior to the issuance of the coastal development permit**, the applicant shall submit for the review and approval of the Executive Director, 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 engineering geologist to ensure 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 85<sup>th</sup> percentile, 24hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30<sup>th</sup> 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 amendment(s) or new Coastal Development Permit(s) are required to authorize such work.

#### 5. Future Development Restriction

This permit is only for the development described in Coastal Development Permit 4-02-187. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by Coastal Development Permit 4-02-187. Accordingly, future improvements, or change of use to the permitted structures authorized by this permit shall require an amendment to Coastal Development Permit 4-02-187 from the Commission or shall require additional coastal development permits from the Commission or from the applicable certified local government.

#### 6. Deed Restriction

**Prior to 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 these permits, 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 these permits 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 of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### 7. Pool Drainage and Maintenance

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure 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 areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

#### 8. <u>Removal of Excavated Material</u>

The applicant shall remove all excess excavated/cut material from the subject property to an appropriate disposal site located outside the Coastal Zone, or an approved site located in the Coastal Zone with a valid Coastal Development Permit to import fill.

# IV. Findings and Declarations

The Commission hereby finds and declares:

#### A. Project Description and Background

The applicant proposes the construction of a 570 square foot, 25-foot high-detached recreation room with a two-car basement garage; a detached 180 square foot, 12-foot high office unit; septic system; swimming pool; retaining wall system and 390 cubic yards of grading (340 cu. yds. cut, 50 cu. yds. fill) on a property with an existing single-family residence (Exhibit 2).

The project site is located north of Old Chimney Road in the Santa Monica Mountains (Exhibit 1). The property is on a gently sloping ridge crest that descends toward the east. Runoff from the site drains toward Escondido Canyon located to the east of the project site. There is an existing residence on the property that was constructed in the early 1970's on a graded pad. There are single-family residences located on the adjacent properties to the east and west.

The proposed development will not result in the removal of any undisturbed environmentally sensitive chaparral vegetation. No additional fuel modification for fire protection purposes will be required for the proposed development due to overlapping fuel modification zones from the existing residence and neighboring residences. There are several oak trees on the property located to the northwest of the project site. The proposed development will not encroach within the canopy or protected zones of the oak trees.

The proposed development will not be visible from any scenic roadways, trails, or other public viewpoints.

#### B. <u>Hazards and Geologic Stability</u>

The proposed development is located in the Malibu/Santa Monica Mountains area, 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 area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

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.

#### Geology

The 2.58 acre site is located north of Old Chimney Road on a gently sloping ridge crest that descends toward the east. The proposed development is located on an existing pad and will require excavation into a hillside that will be supported by a retaining wall system. The retaining wall system consists of three walls ranging in length from approximately 36 feet to 50 feet with a maximum height of 6 feet separated by planted terraces (Exhibit 2).

The applicant has submitted the Engineering Geologic, dated September 7, 2004, prepared by Donald Kowalewsky, which addresses the geologic conditions on the site.

The geologic consultant has found the geology of the proposed project site to be suitable for the construction of the proposed structures and swimming pool. The geologic and geotechnical engineering consultant concluded that:

From a geotechnical standpoint, proposed construction of secondary structures including swimming pool is considered feasible. Provided the following recommendations are incorporated in the plans and implemented, all proposed

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# construction will be safe from hazards related to landslide, settlement or slippage. In addition development will not adversely affect offsite property.

The geotechnical consultant concludes that the proposed development is feasible and will be free from geologic hazard provided his recommendations are incorporated into the proposed development. The Geotechnical Report contains several recommendations to be incorporated into project grading, construction, drainage, foundations and sewage disposal to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultant 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 geologist and geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the Commission, Any substantial changes to the proposed developments, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

The Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will minimize erosion and add to the geologic stability of the project site.. To ensure that adequate drainage and erosion control are included in the proposed development the Commission requires the applicant to submit drainage and interim erosion control plans certified by the consultants, as specified in **Special Conditions 2 and 4**. Special Condition 4 requires the applicants to maintain a functional drainage system at the subject sites to insure that run-off from the project site is diverted in a non-erosive manner to minimize erosion at the site for the life of the proposed developments. 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 4.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will serve stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition 2** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. Special Condition 2 also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project sites.

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 notes 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. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion.

Finally, to ensure excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at a appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition 8**.

The Commission finds that the proposed project, as conditioned, will minimize potential geologic hazards of the project site and adjacent properties.

#### Wild Fire

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition 3**, 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 3, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted projects.

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

#### C. <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.

As described in detail in the previous sections, the applicant is proposing the construction of two accessory structures on a hillside parcel that drains into Escondido Creek. The site is considered a "hillside" development, as it involves sloping hillside terrain with soils that are susceptible to erosion.

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 project 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 sites. 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 85<sup>th</sup> percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 4**, and finds this will ensure the proposed developments 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 applicant proposes to construct a swimming pool that may use chemicals such as chlorine and algaecides if drained from the site into Escondido Creek may be harmful to riparian plant and animal species. The Commission notes that the proposed project is conditioned to incorporate the recommendations of the project's consulting geologists and geotechnical engineer related to the construction of the swimming pool and to incorporate adequate site drainage, and erosion control.

However, the Commission also notes that both leakage and periodic maintenance drainage of the proposed swimming pool, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing instability of the site and adjacent properties and potential impacts from pool chemicals (i.e. pool water algaecides, chemical pH balancing, and other water conditioning chemicals) on the designated ESHA and Significant Watersheds. Therefore, the Commission imposes **Special Condition 7** on the subject application which requires the applicant to utilize and non-chemical or low chemical water purification system and maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool will not include excessive chemicals that may adversely affect the downstream Environmentally Sensitive Habitat Areas.

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 postdevelopment stage. Therefore, the Commission finds that **Special Condition 2** is necessary to ensure the proposed developments 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 proposed recreation unit. The applicant's geologic

consultants conducted percolation tests on the site. On the basis of these tests, the septic system was designed to utilize a leach field located just north of the proposed development. 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 coastal resources.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, are consistent with Section 30231 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:

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

## Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (I) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as

water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

Based on the requirements of Coastal Act §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 1986 Malibu/Santa Monica Mountains 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 unitrather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCPs have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area.

The applicant is proposing to construct a detached 570 square foot recreation unit and a detached 180 sq. ft. office (Exhibit 2). Although the proposed 570 sq. ft. recreation room is not intended for residential use it could be utilized as a second residential unit. The Commission notes that the proposed 570 sq. foot recreation unit is consistent with the Commission's past actions in allowing a maximum of 750 sq. ft. for second dwellings in the Malibu area. The proposed 180 sq. ft. office includes one room and a small bathroom (toilet and sink). The proposed office is a very small unit and would not likely be utilized as a second residential unit. In addition, the total square footage for the office unit and recreation unit is 750 sq. ft. which is in conformance with the Commission's standard of 750 sq. ft. However, the Commission notes that additions or improvements to the recreation unit or office unit could easily convert these units to

habitable square footage, beyond that approved by the Commission, thereby increasing the potential to use the proposed structures as a second residential units.

The Commission finds it necessary to ensure that no additions or improvements are made to the detached recreation unit and office unit in the future that may enlarge or further intensify the use of those structures without due consideration of the cumulative impacts that may result. Thus, the Commission finds it necessary to require the applicant to record a future development deed restriction, as specified in **Special Condition No. 5**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the structures are proposed in the future. Finally, **Special Condition 6** 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 subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with §30250 and §30252 of the Coastal Act.

## E. Local Coastal Program

Section 30604 of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development 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 projects and are accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

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# F. <u>CEQA</u>

Section 13096(a) of the Commission's administrative regulations requires Commission

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







