

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585 - 1800

Filed: 7/29/05
49th Day: 9/16/05
180th Day: 1/25/06
Staff: LF-V
Staff Report: 11/23/05
Hearing Date: 12/16/05
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-05-077

APPLICANT: Steven and Hillary Barth

AGENT: Schmitz & Associates, Inc.

PROJECT LOCATION: 25668 Aline Way (and 25674 Maynard Drive), Calabasas (Los Angeles County)

APN NOS.: 4456-020-003and 4456-020-004

PROJECT DESCRIPTION: Construction of a two-story, 1,590 sq. ft. single family residence, 726 sq. ft. attached three-car garage, driveway, septic system, swimming pool, spa, retaining walls, patios, landscaping, lot merger, extinguishment of development rights of Assessor's Parcel No. 4456-020-020, and approximately 255 cu. yds. of grading (10 cu. yds. cut, 245 cu. yds. fill).

Lot area	10,698 sq. ft.
Building coverage	1,483 sq. ft.
Pavement coverage	1,260 sq. ft.
Landscape coverage	7,955 sq. ft.
Height Above Finished Grade	35 ft.
Parking spaces	3

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, December 14, 2004; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, October 5, 2004; County of Los Angeles Fire Department Fire Prevention Engineering Approval in Concept, May 20, 2005; County of Los Angeles Environmental Health Department, Conceptual Approval, April 21, 2005.

SUBSTANTIVE FILE DOCUMENTS: Malibu - Santa Monica Mountains Land Use Plan (LUP); "Preliminary Geologic and Soils Engineering Investigation," GeoConcepts, Inc., May 19, 2005.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project with **NINE (9) SPECIAL CONDITIONS** regarding (1) geologic recommendations, (2) drainage and polluted runoff control, (3) landscaping and erosion control, (4) pool and spa drainage and maintenance, (5) wildfire waiver of liability, (6) future development, (7) deed restriction, (8) lot merger, and (9) cumulative impact mitigation.

The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu – Santa Monica Mountains Land Use Plan (LUP) serve as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-05-077 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. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. *Plans Conforming to Geologic Recommendations*

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the submitted geologic report ("Preliminary Geologic and Soils Engineering Investigation," GeoConcepts, Inc., May 19, 2005). These recommendations, including those concerning construction, foundations, grading, retaining walls, and drainage, shall be incorporated into all final design and construction, 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, foundations, grading, retaining walls, 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. *Drainage and Polluted Runoff Control Plans*

Prior to the Issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and written approval, two sets of final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall 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 the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

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

3. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping and erosion control plans:

A) Landscaping Plan

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) 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 20 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 twenty 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.
- 6) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- 7) Fencing of the entire property is prohibited. Fencing shall extend no further than Zone B of the final fuel modification plan approved by the Los Angeles County Fire Department pursuant to subsection (5) above. The fencing type and location shall be illustrated on the landscape plan.

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.

4. *Pool and Spa 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.

5. *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.

6. Future Development

This permit is only for the development described in Coastal Development Permit No. 4-05-077. Pursuant to Title 14 California Code of Regulations §13250(b)(6), the exemptions otherwise provided in Public Resources Code §30610(a) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation and fencing, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition No. 3 shall require an amendment to Coastal Development Permit 4-05-077 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. 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 against the parcel(s) governed by this permit 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; and (2) imposing the 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 entire parcel or parcels governed by this permit. 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.

8. Lot Merger

Prior to issuance of the coastal development permit, the applicant shall provide evidence, for the review and approval of the Executive Director, that the properties identified as assessor's parcel numbers 4456-020-003 and 4456-020-004 have been legally merged into one parcel pursuant to applicable State and Local statutes. The merged lot shall be held as one parcel of land for all purposes including, but not limited to, sale, conveyance, development, taxation, or encumbrance.

9. Cumulative Impact Mitigation

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, evidence that all potential for future development has been permanently extinguished on Assessor's Parcel No. 4456-020-020 to comply with the requirements of the slope intensity formula in accordance with Policy 271(b)(2) of the previously certified 1986 Malibu/Santa Monica Mountains Land Use Plan provided such lot is either a) legally merged with an adjacent developed or developable parcel(s) or b) dedicated in fee title

to a public agency. The maximum allowable gross structural area of 1,302 sq. ft. may be increased by 300 sq. ft. upon extinguishment of the development rights of Assessor's Parcel No. 4456-020-020 consistent with this special condition.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes to construct a two-story, 35-foot high, 1,590 sq. ft. single family residence, with 726 sq. ft. attached three-car garage, driveway, septic system, swimming pool, spa, retaining walls, patios, landscaping, lot merger, extinguishment of development rights of Assessor's Parcel No. 4456-020-020, and approximately 255 cu. yds. of grading (10 cu. yds. cut, 245 cu. yds. fill) (**Exhibits 3 - 10**).

The project site consists of two adjacent parcels, totaling approximately $\frac{1}{4}$ acre, in the Monte Nido small lot subdivision in the Santa Monica Mountains (**Exhibits 1 - 2**). The lots are vacant and are surrounded on three sides by existing single-family residences. The proposed building site for the residence is a south-facing slope that descends steeply to an unnamed drainage course. The drainage course is highly degraded, devoid of native vegetation, and immediately adjacent to an existing single-family residence on the opposite bank. The site for the proposed swimming pool/spa and septic pits is a small flat area between the south facing slopes and a near-vertical northeast facing slope on Lot 41 (**Exhibits 4 and 11**). Several oak trees are located near the northeast facing slope, on an adjacent property; however, no development is proposed within the protected zones of those trees. The proposed project is located more than 100 feet away from any environmentally sensitive habitat areas (ESHAs), and is not visible from public viewing areas.

The subject parcels were created by Tract Map No. 10423, prior to the January 1, 1977 effective date of the Coastal Act. Therefore, the subject parcels are considered legal lots.

B. GEOLOGY AND HAZARDS

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

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 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.

Geology

The applicant has submitted a geologic report ("Preliminary Geologic and Soils Engineering Investigation," GeoConcepts, Inc., May 19, 2005) that evaluates the geologic stability of the subject site in relation to the proposed development. 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 project's geotechnical consultants state in the May 19, 2005 report:

It is the finding of this corporation, based upon the subsurface data that the proposed project will be safe from landslide, settlement or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the County of Los Angeles and Uniform Building Code are followed and maintained.

The geotechnical engineering consultants conclude that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The submitted geologic reports contain several recommendations to be incorporated into project construction, foundations, grading, retaining walls, and drainage, to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultants have been incorporated into all proposed development, the Commission, as specified in **Special Condition One (1)**, requires the applicant to comply with and incorporate the recommendations contained in the submitted geologic reports into all final design and construction, and to obtain the approval of the geotechnical consultants prior to commencement of construction. 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 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 also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicant to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Conditions Two (2) and Three (3)**.

Furthermore, the Commission finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition Three (3)** requires the applicant

to submit landscaping plans that 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/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established 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 Three (3)**.

Wildfire

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition Five (5)**, the 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 Five (5)**, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

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

C. WATER QUALITY

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of

waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

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

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 to accommodate (infiltrate, filter or treat) the runoff from the more frequent storms, rather than for the largest infrequent storms, results in improved BMP performance

The American Society of Civil Engineers (ASCE) and the Water Environment Federation (WEF) have recommended a numerical BMP design standard for storm water that is derived from a mathematical equation to maximize treatment of runoff volume for water quality based on rainfall/runoff statistics and which is economically sound.¹ The maximized treatment volume is cut-off at the point of diminishing returns for rainfall/runoff frequency. On the basis of this formula and rainfall/runoff statistics, the point of diminishing returns for treatment control is the 85th percentile storm event. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Two (2)**, and

¹ *Urban Runoff Quality Management, WEF Manual of Practice No. 23, ASCE manual and Report on Engineering Practice No. 87.* WEF, Alexandria, VA; ASCE, Reston, VA. 259 pp (1998); Urbonas, Guo, and Tucker, "Optimization of Stormwater Quality Capture Volume," in *Urban Stormwater Quality Enhancement - Source Control, Retrofitting, and Combined Sewere Technology, Proceedings of an Engineering Foundation Conference*, Harry C. Torno, ed. October 1989. New York: ASCE, pp. 94-110.

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.

As stated previously, the proposed project includes a swimming pool and spa. There is the potential for swimming pools and spas to have deleterious effects on aquatic habitat if not properly maintained and drained. In addition, chlorine and other chemicals are commonly added to pools and spas to maintain water clarity, quality, and pH levels. Further, both leakage and periodic maintenance of the proposed pool and spa, 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 may result in the transport of chemicals, such as chlorine, into coastal waters, adversely impacting intertidal and marine habitats. In order to minimize potential adverse impacts from the proposed swimming pool and spa, the Commission requires the applicant to install and use a no chlorine or low chlorine purification system, as detailed in **Special Condition Four (4)**. The condition also requires the applicant to ensure that any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality and that will prohibit the discharge of any chlorinated water or prohibit the discharge of non-chlorinated pool water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters.

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

Finally, the proposed development includes the installation of an on-site septic system to serve the residence. The applicants' geologic consultants have evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. Further, the County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of coastal resources.

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

D. CUMULATIVE IMPACTS

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 (1) 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.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The proposed project involves the construction of a new single-family residence, which is "development" as defined under the Coastal Act. Pursuant to Coastal Act Sections 30250 and 30252 cited above, new development raises issues relative to cumulative impacts on coastal resources.

Throughout the Malibu/Santa Monica Mountains coastal zone there are a number of areas that were subdivided in the 1920's and 30's into very small "urban" scale lots. These subdivisions, known as "small lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development In the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: Geologic, road access, water quality, disruption of rural community character, creation of unreasonable fire hazards and others. Following an intensive one year planning effort regarding impacts on coastal resources by Coastal Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2) to reduce the potential effects of buildout as discussed below.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots that already exist, many in remote, rugged mountain and canyon areas. From a

comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of this, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP, which has been used as guidance by the Commission, requires that new development in small lot subdivisions comply with the Slope Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development that may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. The basic concept of the formula assumes the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on resources. Following is the formula and description of each factor used in its calculation:

Slope Intensity Formula:

$$\text{GSA} = (A/5) \times ((50-S)/35) + 500$$

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. The building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

$$S = I \times L/A \times 100$$

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

In addition, pursuant to Policy 271 of the Malibu/Santa Monica Mountains LUP, the maximum allowable gross structural area (GSA) as calculated above, may be increased as follows:

- (1) Add 500 square feet for each lot which is contiguous to the designated building site provided that such lot(s) is (are) combined with the building site and all potential for residential development on such lot(s) is permanently extinguished.

- (2) Add 300 square feet for each lot in the vicinity of (e.g. in the same small lot subdivision) but not contiguous with the designated building site provided that such lot(s) is (are) combined with other developed or developable building sites, or dedicated in fee title to a public agency, and all potential for residential development on such lot(s) is permanently extinguished.

The proposed project is located in the small lot subdivision of Monte Nido and involves the construction of a new 35 ft. high, two story, 1,590 sq. ft., single-family residence with attached 726 sq. ft. garage, driveway, septic system, swimming pool, spa, retaining walls, patios, landscaping, and approximately 255 cu. yds. of grading on two lots within a small lot subdivision. The applicant has submitted a GSA calculation in conformance with Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP. This calculation arrived at a maximum GSA of 1,302 sq. ft. of habitable space, considering the total area of both lots as one.

In addition, the applicants propose to extinguish the development rights of Assessor's Parcel No. 4456-020-020, a lot in the Monte Nido subdivision that is nearby but not contiguous with the subject lots. As noted above, the applicants may add an additional 300 sq. ft. provided that the development rights of Assessor's Parcel No. 4456-020-020 are extinguished and the lot is either combined with other developed or developable building sites, or dedicated in fee title to a public agency. With the addition of 300 sq. ft., the maximum allowable GSA for the project is 1,602 sq. ft. The proposed 1,590 sq. ft. of habitable space is consistent with the maximum allowable GSA of 1,602 sq. ft. thus provided.

Therefore, in order to ensure that the applicants' proposal to extinguish the development rights of Assessor's Parcel No. 4456-020-020 is implemented, **Special Condition Nine (9)** requires the applicants to submit, for the review and approval of the Executive Director, evidence that all potential for future development has been permanently extinguished on Assessor's Parcel No. 4456-020-020 and that such lot is either a) legally merged with an adjacent developed or developable parcel or b) dedicated in fee title to a public agency.

Some additions and improvements to residences on small sloping lots within these small lot subdivisions have been found to adversely impact the area. Many of the lots in these areas are so steep or narrow that they cannot support a large residence without increasing or exacerbating the geologic hazards on and/or off site. Additional buildout of small lot subdivisions affects water usage and has the potential to impact water quality of coastal streams in the area. Other impacts to these areas from the buildout of small lot subdivisions include increases in traffic along mountain road corridors and greater fire hazards.

For all these reasons, and as this lot is within a small lot subdivision, further structures, additions or improvements, including the conversion of garage or understory area to habitable space, on the subject property could cause adverse cumulative impacts on the limited resources of the subdivision. The Commission, therefore, finds it necessary for the applicant to record a future improvements deed restriction on this lot, as noted in **Special Condition Six (6)**, which would require that any future structures, additions or improvements to the property, beyond those approved in this permit, would require review by the Commission to ensure compliance with the policies of the Coastal Act regarding cumulative impacts and geologic hazards. At that time, the Commission can ensure that the new project complies with the guidance of the GSA formula and is consistent with the policies of the Coastal Act.

In addition, the Commission notes that the proposed residence is proposed to be built on two lots, Lots 40 and 41 of Tract 10423 (APNs 4456-020-003 and 004), and that the maximum allowable gross structural area was calculated considering the total area of both lots as one. The Commission has long required that lots in small lot subdivisions using the GSA formula, as noted above, be combined. Such a combination was required in earlier permit decisions for development of a residence on two-lots in a small lot subdivision [CDP No. 4-03-059 (Abshier and Nguyen), CDP No. 4-02-247 (McCain), CDP No. 4-00-092 (Worrel), 4-00-252 (Arrand), 4-00-263 (Bolander)]. The applicants are proposing to merge Lots 40 and 41 as part of this application. In order to ensure that the applicants' proposal is implemented, and the two lots are merged, **Special Condition Eight (8)** requires the applicants to submit evidence, prior to the issuance of the coastal development permit, that the two subject lots have been legally merged into one parcel pursuant to applicable State and Local statutes. Finally, **Special Condition Seven (7)** 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.

The Commission therefore finds that the proposed project, only as conditioned, is consistent with Sections 30250(a) and 30252 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act states:

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 that 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 of the Coastal Act. 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 Malibu/Santa Monica Mountains area that is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

F. 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 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 any 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.