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CALIFORNIA COASTAL COMMISSION

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Commission Action:



STAFF REPORT: PERMIT EXTENSION REQUEST

APPLICATION NO.: 4-00-277-E3

APPLICANT: Yeh Man Li, LLC and Man Li Yeh

PROJECT LOCATION: 6170 Ramirez Canyon Road, City of Malibu (Los Angeles County)

PROJECT DESCRIPTION: Request for time extension on previously approved coastal development permit to construct a new two-story, 4,052 sq. ft. single-family residence, 462 sq. ft. attached garage, motor court, septic system, swimming pool, and 1,360 cu. yds. of grading (670 cu. yds. cut and 690 cu. yds. fill). One-year time extensions on the permit (4-00-277-E1 and 4-00-277-E2) were approved on August 21, 2003 and September 13, 2004.

<i>Original Permit No.:</i>	4-00-277
<i>Original Permit Expiration Date:</i>	July 10, 2003
<i>Permit Expiration Date Following Approval of Extension 4-00-277-E2:</i>	July 10, 2005
<i>Permit Expiration Date Proposed:</i>	July 10, 2006

SUBSTANTIVE FILE DOCUMENTS: Letters from Constanze Heynold dated May 9, 2005, June 3, 2005, and September 13, 2005; letter from Debra Huff Evans dated May 12, 2005; letter from Alpine Geotechnical re: site observations, dated June 6, 2005; Coastal Development Permit Nos. 5-89-957 (Jameson), 5-89-957-A1 (Jameson), 5-91-206 (Jameson), and 4-00-277 (Zinnemann).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the extension be granted because there are no changed circumstances that have occurred since the approval of the subject coastal development permit which affect the project's consistency with the Coastal Act.

PROCEDURAL NOTE: The Commission's regulations require that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstance the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act (14 C.C.R. Section 13169).

If three (3) Commissioners object to the extension on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional year. Thus, if this extension is granted, the extended permit will expire on July 10, 2006.

I. STAFF RECOMMENDATION

Staff recommends that the Commission find no changed circumstances, which results in **approval** of the request for a one-year extension of the permit:

MOTION: I move that the Commission grant a one-year extension to Coastal Development Permit no. 4-00-277 because there are no changed circumstances that affect the project's consistency with the Coastal Act.

STAFF RECOMMENDATION TO EXTEND PERMIT

Staff recommends a **YES** vote on the motion. Pursuant to Section 13169 of Title 14 of the California Code of Regulations, the extension request will be granted unless three Commissioners object to the extension of the permit. If three Commissioners object to the extension, the application will be scheduled for a full hearing as if it were a new application.

RESOLUTION TO EXTEND THE PERMIT

The Commission hereby grants the request to extend Coastal Development Permit No. 4-00-277 because there are no changed circumstances that affect the project's consistency with the Coastal Act.

II. STAFF ANALYSIS

A. PROJECT DESCRIPTION

The project site is an undeveloped 1.5-acre flag lot located off Ramirez Canyon Road in the City of Malibu (**Exhibit 8**). The subject lot is one of seven existing lots (four of which contain single family residences) clustered around the “flag” portion of the lot and parallel easements (**Exhibit 9**). The main portion of the property is gently sloping and descends in a southeasterly direction to East Ramirez Creek, a United States Geologic Service (USGS) designated blue-line stream. The flag portion of the lot crosses Ramirez Creek, also a USGS designated blue-line stream, at the lot’s intersection with Ramirez Canyon Road. The riparian corridors of both creeks in the vicinity of the subject lot are designated environmentally sensitive habitat areas (ESHAs) in the City of Malibu Local Coastal Program (LCP) (**Exhibit 8**). The subject lot is not visible from any public viewing areas.

On July 10, 2001, the Commission approved Coastal Development Permit No. 4-00-277 (**Exhibit 7**). The coastal permit was issued and returned signed by the applicants, David and Christine Zinnemann, on March 7, 2002. The coastal development permit was for construction of a new two-story, 4,052 sq. ft. single-family residence, 462 sq. ft. attached garage, motor court, septic system, swimming pool, and 1,360 cu. yds. of grading (670 cu. yds. cut and 690 cu. yds. fill). The permit was approved with seven special conditions regarding (1) geologic recommendations, (2) landscaping and erosion control, (3) drainage and polluted runoff control, (4) removal of natural vegetation, (5) assumption of risk, (6) future improvements, and (7) woodburning fireplace restriction, which were satisfied prior to issuance of the permit. In approving CDP 4-00-277, the Commission found the project, as conditioned, to be in conformance with the Chapter Three policies of the Coastal Act.

On August 21, 2003, the Commission approved a request by the Zinnemanns for a one-year extension on the permit (4-00-277-E1). On September 13, 2004, the Commission approved the Zinnemanns’ request for a second one-year extension on the permit (4-00-277-E2). In response to the Notice of Extension Request for Permit Extension for 4-00-277-E2, Constanze Heynold submitted a letter stating that the Zinnemanns did not hold an easement to the private road fronting her property and questioning the Zinnemanns’ ability to obtain a building permit without legal access to their property. In their approval of the extension on September 13, 2004, the Commission found that there were no changed circumstances that affected consistency of the development proposed in CDP 4-00-277 with the Coastal Act.

In late September 2004, the Zinnemanns sold the property at 6170 Ramirez Canyon Road to Yeh Man Li, LLC and Man Li Yeh. Yeh Man Li, LLC and Man Li Yeh submitted a request for a one year extension of permit 4-00-277 on April 14, 2005. The Executive Director determined that there were no changed circumstances affecting the proposed development’s consistency with the Coastal Act. In response to the Notice of Extension Request for Coastal Development Permit dated May 3, 2005 and sent to all adjacent

property owners, Commission staff received a letter of objection to the extension from Constanze Heynold on May 11, 2005 (**Exhibit 1**). On May 25, 2005, Commission staff received a letter in support of Ms. Heynold's objection from Debra Huff Evans (**Exhibit 2**). Commission staff received a second letter from Constanze Heynold on June 6, 2005 (**Exhibit 3**), and a third letter on September 14, 2005 (**Exhibit 4**). The latter three letters were received after the end of the ten-working-day comment period for the proposed extension request.

B. BACKGROUND

Prior to the approval of CDP 4-00-277, the Commission approved CDP 5-89-957 for the subdivision of a 7.55-acre parcel into four lots with 4,000 cu. yds. of grading (2,000 cu. yds. cut and 2,000 cu. yds. fill) for the grading of an access road and three building pads (**Exhibit 6**). The three building pads were approved for Parcels 1, 2, and 3 of the subdivision. Parcel 4 was already developed with a single-family residence. The project also included the construction of a bridge across a stream and the widening of Ramirez Canyon Road and Delaplane Road. This permit was approved with six special conditions relating to cumulative impact mitigation, trail dedication, landscaping and erosion control, revised grading plans, geologic recommendations, and sewage disposal. This permit was issued in 1990 and the subdivision was recorded. The subject site is Parcel 1 of that subdivision.

C. ANALYSIS OF OBJECTIONS TO EXTENSION REQUEST

Commission staff received a letter from Constanze Heynold, a neighbor of the applicant, objecting to the extension of CDP 4-00-277. The letter is dated May 9, 2005, and was received on May 11, 2005 within the ten-working-day comment period for the proposed permit extension. After the comment period had expired, Commission staff received three additional objection letters: a letter from another neighbor, Debra Huff Evans, dated May 12, 2005 but received on May 25, 2005, and two letters from Ms. Heynold, dated June 3, 2005 and September 13, 2005. The letter from Ms. Evans consisted of a statement of support for Ms. Heynold's objections. The objection letters are included as Exhibits 1 through 4 of this report. The following analysis is confined to those objections raised in the letter received during the ten-working-day comment period.

Based on her letter of May 9, 2005, Ms. Heynold objects to the permit extension for the following reasons: (1) The applicants have no legal access to their lot; (2) The future driveway for the parcel encroaches into the protected zones of two oak trees; (3) cracks in the ground over 25 feet long and one to two feet wide are visible on the property, which contains a fault trace; (4) The property holds provides habitat for wildlife; and (5) The approved house will block her ocean views. These issues are analyzed below.

Legal Access to Property

Ms. Heynold asserts that the applicants have no legal access to their lot, but instead have been using a private driveway owned by her and two neighbors. Ms. Heynold argues that the road strip for 6170 Ramirez Canyon Road “was never used or built by their owners,” and that a part of it is fenced in by a neighbor, Rick Appel, for a garden.

In response, staff notes that the subject lot is a flag lot with a 20 foot wide, 607 foot long section that extends from Ramirez Canyon Road to the main portion of the lot (**Exhibit 9**). In addition, the applicants own an easement parallel to and immediately south of the flag portion of the lot that provides an additional 10 to 30 foot wide access corridor for the site (**Exhibit 10**). Although development of the access road has not been completed, such development, including construction of a bridge over Ramirez Canyon Creek, is permitted under CDP No. 5-89-957 (Jameson), which authorized a four-lot subdivision that created the subject lot and three neighboring parcels (**Exhibit 6**). Thus the applicants have both the legal right to use a thirty to fifty foot wide access corridor, and authorization to construct the necessary improvements to access their property. In addition, the applicants have obtained an agreement from Rick Appel, who enjoys temporary and revocable permission to use a portion of the subject lot and easement for his garden, to abandon and remove any obstructions within the flagpole and easement area within thirty days. Thus the existence of the garden does not represent an absence of or barrier to legal access to the subject lot.

The Commission found, in approving the permits for the subject lot and the underlying subdivision, that, as conditioned, the project is consistent with all relevant sections of the Coastal Act. The Commission further finds that no changed circumstances exist that affect the project’s consistency with the Coastal Act.

Impacts to Oak Trees

Ms. Heynold asserts that two large oak trees are located on the land shown as the future driveway for the subject property, and that construction of the driveway to the approved residence will encroach within the protected zones of the trees. In response, staff notes that in its approval of CDP No. 5-89-957, which authorized construction of the road and bridge, as well as the creation of the subject lot and three others, the Commission addressed the encroachment of the proposed driveway within the protected zones of two oak trees. The Commission found that, as conditioned by Los Angeles County to abide by the recommendations of the oak tree report (including having an oak tree consultant on-site when any work is done within the protected zone of the trees, fencing the oaks before grading within their vicinity, and conducting all brush clearance within the driplines of the oak trees by hand), the project is consistent with the Coastal Act. As such, the Commission was aware of the potential impacts to these two oak trees and mitigation measures were incorporated into the project to minimize such impacts. Thus the Commission finds that construction of the driveway within the protected zones of the two oak trees does not constitute changed circumstances that affect the project’s consistency with the Coastal Act.

Geologic Concerns

Ms. Heynold further asserts that she observed “openings and cracks ...over 25 feet long and 1-2 feet in width and depth” in the area immediately surrounding 6180 Ramirez Canyon Road, and is concerned with the “flood and hazard zone” surrounding this property. She notes that the northeast corner of the property has a “serious unnamed earth fault.”

In approving CDP 4-00-277, the Commission considered the applicant’s geologic consultants’ investigations regarding the site and their conclusions regarding site stability. An offsite landslide that had been remediated was discussed in their reports. The geologic consultants concluded that the subject property was a suitable site for the proposed residential development and that the development would be safe against hazards from landslide, settlement, or slippage and that the project would not result in adverse impacts to adjacent properties, provided that their recommendations were incorporated into the final project. The Commission found that the project would be consistent with Section 30253 of the Coastal Act with regard to geologic hazards so long as the recommendations of the geologic consultants are incorporated into the project. The applicants provided evidence of the consultants review of the final plans.

In response to Ms. Heynold’s assertions regarding geologic stability, staff notes that permit extension request is for the property at 6170 Ramirez Canyon Road, which is adjacent to 6180 Ramirez Canyon Road. In addition, the applicants have submitted a letter from Alpine Geotechnical, dated June 6, 2005, which addresses Ms. Heynold’s concern. The letter is attached as **Exhibit 5**. The letter notes that based on a recent site inspection,

....portions of the ground surface were found to have desiccation (mud) cracks from recent drying of expansive soils. This does not represent a geologic hazard. Remnants of the fault trench (FT-1) excavated in 2001, as part of our Soils and Geologic Investigation, were observed where the fault trench backfill had consolidated. The fault trench was originally dug 2 feet wide and corresponds to the “1-2 foot wide depression discussed by Ms. Heynold. Evidence of significant ground cracks, ground movement, slope instability, faulting, and other geologic hazards were not observed.

The letter further notes that the “unnamed fault” referenced by Ms. Heynold has been addressed in previous reports. The letter concludes that

Based on the extensive subsurface geologic exploration performed on the subject property in the past and our recent site reconnaissance, the approved conclusions and recommendations provided in our earlier reports remain applicable and unchanged. Future development of the subject properties, as discussed in our previous reports, is considered acceptable from a geologic standpoint and such development of the sites will not have a negative geologic affect on the adjacent properties.

Staff concludes that these assertions do not identify any changed geologic circumstances affecting the site. The Commission thus finds that no changed geologic circumstances exist that would affect the project's consistency with the Coastal Act.

Other

Ms. Heynold also argues that the project site contains a "unique butterfly mating site" and provides habitat for a variety of wildlife. Staff notes that protection of Monarch butterfly habitat and riparian habitat were addressed by the Commission in approving CDP No. 4-00-277 through such measures as preserving the eucalyptus tree grove existing on the site, reviewing the final fuel modification plan, and requiring that any fireplaces, stoves, or firepits on the site must be non-woodburning. As such, the Commission was aware of the potential impacts to habitat on the site and mitigation measures were incorporated to minimize such impacts. No changed circumstances regarding wildlife habitat on the site have been documented. Ms. Heynold further asserts that the approved residence would block her view of the ocean. Staff notes that the Coastal Act does not provide for the protection of private views. Therefore, the Commission finds that Ms. Heynold's objections regarding the project's impacts on wildlife habitat and views from her residence to the ocean do not constitute changed circumstances to the subject property or project that would affect the project's consistency with the Coastal Act.

Conclusion

Staff investigations have identified no other possible changed circumstances. There have been no changes to the proposed project or the project site that would cause the Commission to find the project inconsistent with the Coastal Act. The proposed project, as conditioned in CDP 4-00-277, is consistent with the Coastal Act. Accordingly, the Commission finds that there are no changed circumstances present, which have occurred since the project's approval that affect the project's consistency with the Coastal Act. Therefore, the Commission grants a one-year extension of Coastal Development Permit No. 4-00-277.