

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Hearing Date: 1/13/06
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-05-087

APPLICANT: Walter Miller

PROJECT LOCATION: 2260 Cold Canyon Road, Calabasas (Los Angeles County)

PROJECT DESCRIPTION: Remodel and interior conversion of an existing, detached 1,200 sq. ft. three car garage with a carport, resulting in a 855 sq. ft. three car garage, a 345 sq. ft. exercise room with sauna and bathroom, and carport. The proposed project also includes after the fact approval for replacement of an existing 1,000 gallon septic system with a new 2,000 gallon septic system.

Lot area	3.7 acres
Building coverage	4,083 sq. ft.
Pavement coverage	9,576 sq. ft.
Landscape coverage	15,400 sq. ft.
Height Above Finished Grade (Garage)	17.5 ft.

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, September 12, 2005; County of Los Angeles, Environmental Health, Approval in Concept, October 22, 2003.

SUBSTANTIVE FILE DOCUMENTS: Certified 1986 Malibu-Santa Monica Mountains Land Use Plan; "Percolation Test Report for a Proposed Addition to an Existing Single Family Residence," prepared by Oro Engineering Corporation, September 3, 2003; Coastal Development Permit No. 5-85-097 (Munson); California Coastal Commission Exemption Letter No. 4-03-069-X (Miller) dated September 11, 2003.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project with **TWO (2) SPECIAL CONDITIONS** regarding (1) future development restriction and (2) deed restriction.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-05-087 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. *Future Development Restriction*

This permit is only for the development described in coastal development permit No. 4-05-087. Pursuant to Title 14 California Code of Regulations 13253(b)(6), the exemptions otherwise provided in Public Resources Code §30610(b) shall not apply to the garage structure, including the three-car garage, carport, exercise room, sauna, and bathroom. Accordingly, any future improvements or change of use to the garage structure, including the three-car garage, carport, exercise room, sauna, and bathroom, approved under Coastal Development Permit No. 4-05-087, shall require an amendment to Permit No. 4-05-087 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

2. *Deed Restriction*

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded 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.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant is proposing to remodel and convert the interior of an existing, detached 1,200 sq. ft. three-car garage with a 360 sq. ft. carport into an 855 sq. ft. three-car garage, a 345 sq. ft. exercise room with sauna and bathroom, and a 360 sq. ft. carport. The proposed project also includes after the fact approval for replacement of an existing 1,000 gallon septic system with a new 2,000 gallon septic system. No grading is proposed (**Exhibits 2, 4, and 5**).

The project site contains an existing single family residence and is located on Cold Canyon Road just south of Mulholland Highway in the Calabasas area of Los Angeles County (**Exhibits 1 - 3**). No sensitive habitat exists on the subject site in the vicinity of the proposed project. The area surrounding the project site contains similar residential development. The proposed project is not visible from Mulholland Highway, a designated Scenic Road in the 1986 certified Malibu-Santa Monica Mountains Land Use Plan and will have no significant adverse impacts on visual resources.

The proposed development includes a request for after-the-fact approval of the replacement of an existing 1,000 sq. ft. on-site private sewage disposal system with a new 2,000 sq. ft. septic system. 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 water quality resources. Therefore, the proposed project will have no adverse impacts on water quality resources.

B. 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.

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 Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units 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 and the fact that they are intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose— as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The applicant is proposing to convert a portion of an existing 1,200 sq. ft. garage into a 345 sq. ft. exercise room, sauna, and bathroom. The applicant is not proposing to construct a second residential unit, but is proposing to construct improvements to a significant detached structure that would facilitate conversion of the structure to residential use. The Commission finds that the detached garage structure with exercise room, sauna, and bathroom is not proposed as habitable square footage. However, the Commission notes that should the structure be converted into habitable square footage in the future, the total detached structure would exceed the Commission's 750 sq. ft. limitation for second units.

The Commission has many past precedents on similar project proposals that have established a 750 sq. ft. maximum of habitable square footage for development of detached units that may be considered a secondary dwelling. The Commission notes that the applicant is not proposing to utilize the detached structure as a guest unit or secondary dwelling, therefore the structure may be reviewed as an accessory building to the proposed single family residence. However, the Commission finds it necessary to ensure that the use of the structure is not converted to residential use and that no additions or improvements are made to the detached structure in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Thus, the Commission finds it necessary to impose the future development restriction, as specified in **Special Condition One (1)**, 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. In addition, **Special Condition Two (2)** 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.

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.

C. 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 to 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).

D. 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.