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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
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Staff: MB-V *h*  
Staff Report: 10/15/97  
Hearing Date: 11/4-7/97

STAFF REPORT: CONSENT CALENDAR RECORD PACKET COPY

APPLICATION NO.: 4-97-187

APPLICANT: Rosalyn and Michael Bossetti

PROJECT LOCATION: 6075 Via Cabrillo, City of Malibu, Los Angeles County.

PROJECT DESCRIPTION: Construct 5,684 sq. ft., 24 foot high, one and one half story single family residence with attached garage and guest rooms, septic system, and 947 cu. yds. of grading (500 cu. yds. cut and 447 cu. yds. fill).

Lot Area	109,815 sq. ft.
Building Coverage	4,944 sq. ft.
Pavement Coverage	10,000 sq. ft.
Landscape Coverage	10,000 sq. ft.
Parking Spaces	4 covered, 4 open
Plan Designation	Residential 1 du/acre
Project Density	.5 dua
Ht abv nat. grade	20 ft

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department dated 9/18/97; In Concept Approval for Septic System, Department of Environmental Health, City of Malibu, dated 3/26/97; Geologic Review Sheet, City of Malibu, "approved", dated 6/6/97; County of Los Angeles Fire Department, Grading/Access Permit only dated 6/24/97.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Permits 4-96-064 (Thatcher) and 4-96-143 (Whelan & Bonkemeyer); Donald B. Kowalewsky, Engineering Geology and Geotechnical Engineering Investigation, May 12, 1997; ECOFACT, Dana Bleitz, Report of Archaeological Reconnaissance Survey of Parcel APN 4469-16-26 ... on Via Cabrillo ..., January 10, 1996.

SUMMARY OF STAFF RECOMMENDATION: The project site is located within a developed subdivision north of Pacific Coast Highway near Malibu High School. The site has been cleared and disked in the past and lacks habitat value or view impact. Staff recommends approval of the proposed project with four (4) Special Conditions addressing plans conforming to the consulting geologist's recommendations, landscape and erosion control plans, wild fire waiver of liability, and deed restriction on future development.

## I. STAFF RECOMMENDATION

### Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

## 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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 RECOMMENDATION

Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the geology consultant's review and approval of all project plans. All recommendations contained in the Donald B. Kowalewsky, Engineering Geology and Geotechnical Engineering Investigation, May 12, 1997 including issues related to foundations, grading, and drainage shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

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 which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

## 2. LANDSCAPE AND EROSION CONTROL PLANS

Prior to issuance of permit, the applicant shall submit a landscape plan and an erosion control plan prepared by a licensed landscape architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- a) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- b) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the approved landscape plan within thirty (30) days of final occupancy of the residence. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.
- c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

## 3. WILD FIRE WAIVER OF LIABILITY

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

## 4. FUTURE DEVELOPMENT

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the

development described in the Coastal Development Permit No. 4-97-187; and that any future structures, additions or improvements to the property, including but not limited to planting or clearing of vegetation, grading, the construction of walkways, walls, fences, gates, other barriers or outbuildings, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

#### IV. Findings and Declarations.

##### A. Project Location and Description

The project site is located within a developed area north of Pacific Coast Highway near Malibu High School. The site has been cleared and disked in the past and lacks habitat value or view impact. (Exhibits I) The project site consists of previously disked open areas containing non-native grasses and eucalyptus trees.

The subject property is located on a private street that was established by an old land division (certificate of exception No. 12541). The Regional Planning Department of Los Angeles County has verified that the division predates the Coastal Act (Emmett Taylor, personal communication).

The site descends into a natural swale with no present habitat value or native vegetation. Drainage of the building site will be directed away from the swale and toward the private road (Cabrillo Drive). The swale drains into a disturbed blue line stream that flows from behind the ridgeline north of residential development, originating at the approximate 1200 ft. contour, along the west side of Malibu High School, then into a willow clump downhill of the project and east of the terminus of Cabillo and Morning View, and then under the roadway to the ocean.

The applicants propose to construct a 5,684 sq. ft., 24 foot high, one and one half story single family residence with attached garage and guest rooms, septic system, and 947 cu. yds. of grading (500 cu. yds. cut and 447 cu. yds. fill). The guest rooms are over the garage, and their design is such that they are integrated with the rest of the unit. As such, they do not constitute a potential detached second unit, raising cumulative impact and intensity of development issues under the Coastal Act.

The project site is not visible from any scenic roadways or parks or recreation areas. The applicant has minimized landform alteration and the structure is similar to or of less visual impact than other buildings in the area.

##### B. Geologic and Fire Hazards

Section 30253 of the Coastal Act states, in 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, geologic 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.

The proposed development is located in the Malibu area which is generally considered to be subject to an unusually high number of natural hazards. Geologic hazards common to the Malibu area include landslides, 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.

The Commission reviews the proposed project's risks to life and property in areas where there are geologic, flood and fire hazards. Regarding the geologic and flood hazards, the applicant submitted a report -- Donald B. Kowalewsky, Engineering Geology and Geotechnical Engineering Investigation, May 12, 1997 -- which concluded that the property was suitable for the proposed development provided that the recommendations of the report were followed. The report specifically noted that:

... The existing building is currently safe from geologic hazards including landslide, settlement, or slippage, and will remain so provided all recommendations in this report are properly incorporated into building plans and implemented. Proposed work will not adversely affect geologic stability of adjacent properties.

Based on the findings and recommendations of the consulting engineering geologist and geotechnical engineer, the Commission finds that the development is consistent with PRC Section 30253 so long as all recommendations regarding the proposed development are incorporated into project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting engineering geologist and geotechnical engineer as conforming to their recommendations, as noted in condition number one (1) for the final project design, grading and drainage plans for the proposed residence.

The recommendations of the consulting geologists also emphasize the importance of proper drainage and erosion control measures to ensure the stability of development on the site. To ensure all disturbed slopes and soils are stabilized with landscaping after construction, a landscape plan that includes native drought resistant, and fire retardant plants compatible with the surrounding vegetation is necessary through special condition number two (2).

Additionally, 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 will only approve the project if the applicant assumes liability from the associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by condition number three (3).

Thus, the Commission finds that only as conditioned to incorporate all recommendations by the applicant's consulting geologist, require landscape and erosion control plans, provide for the wild fire waiver of liability will the proposed project be consistent with Section 30253 of the Coastal Act.

C. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards. The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30250(a) of the Coastal Act states in part that:

New residential, ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed development includes constructing a septic system for the new residence to provide for adequate sewage disposal. The applicant's geology reports indicate that the percolation rate is adequate to absorb effluent for the project. The applicant has submitted a conceptual approval for the sewage disposal system from the Department of Environmental Health Services, City of Malibu. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the City of Malibu Plumbing Code. The Commission has found in past permit actions that compliance with the City's health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Sections 30231 and 30250 of the Coastal Act.

D. Archaeological Resources

Section 30244 of the Coastal Act states that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The greater province of the Santa Monica Mountains is the focus of one of the most important concentrations of archaeological sites in Southern California. Although most of the area has not been systematically surveyed to compile an inventory, the sites already recorded are sufficient in both number and diversity to predict the ultimate significance of these unique resources. Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history.

The Coastal Act requires the protection of such resources to reduce potential adverse impacts through the use of reasonable mitigation measures.

Archaeological resources can be degraded if a project is not properly monitored and managed during earth moving activities conducted during construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be lost. As so many archaeological sites have been destroyed or damaged as a result of development activity or natural processes, the remaining sites, even though they may be less rich in materials, have become increasingly valuable. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

An Archaeological Assessment of the project site was prepared by Dana Bleitz, a professional archaeologist -- ECOFACT, Dana Bleitz, Report of Archaeological Reconnaissance Survey of Parcel APN 4469-16-26 ... on Via Cabrillo ..., January 10, 1996. Bleitz found that there was a prehistoric site which extended across the northern edge of the parcel. The site is not in the area of the proposed residence and related improvements as shown on the project plans, which also show a setback line of 25 ft. designated as "archaeological site boundary". Bleitz recommends that this site:

"... be avoided by fire-control grading, disking for vegetation control, and brush-clearing operations be conducted by hand to minimized [sic] and/or avoid both surface and subsurface disturbances to the site. If possible, this site-portion should be capped by landscaping with imported soil and non-intrusive vegetation. If construction or grading, vegetation management, or recreational activities are scheduled on this site, it is recommended that a Phase 2 (archaeological testing) investigation be conducted."

Chester King, City of Malibu archaeologist, has expressed the concern (personal communication) that future work of any kind in the setback area, including specifically planting of vegetation, could disturb this site. No evidence of archaeological resources were found for the remainder of the site, which has been significantly modified by past disking.

The Commission finds that it is not necessary, based on the above, to require on-site archaeologists and Native American consultants to monitor grading and site preparation operations for development as proposed. However, it is necessary to ensure that the north end of the subject property is not disturbed in the future in a manner that would threaten archaeological resources, for the reasons indicated above. The Commission finds that it is necessary to require a deed restriction on future development as specified in condition 4. Future development, which otherwise might be exempt from coastal development permit requirements, would require an additional permit for which appropriate conditions would be developed -- an evaluation of potential archaeological resources disturbance and appropriate mitigation measures through the permit process, such as further surveys, halting all grading operations, creating a data recovery strategy and/or protection plan, hiring of archaeological and/or Native American consultants, etc.

The Commission finds that the proposed project, as conditioned, is consistent with Section 30244 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

(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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200).

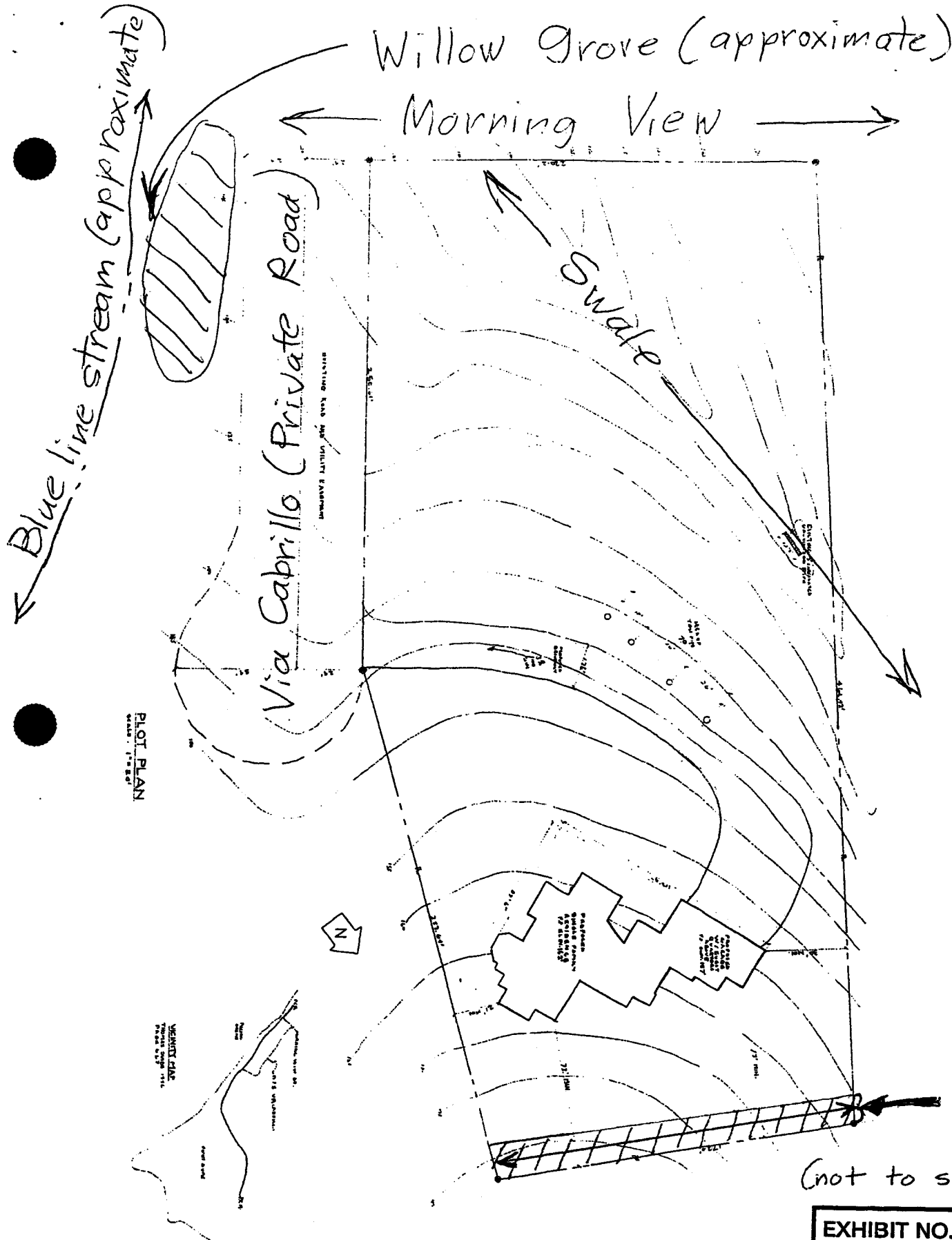
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project. 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 City of Malibu's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

As discussed above, the proposed project has been mitigated to incorporate plans conforming to the consulting geologist's recommendations, landscape and erosion control, a wild fire waiver of liability and a deed restriction for protection of archaeological resources. 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.



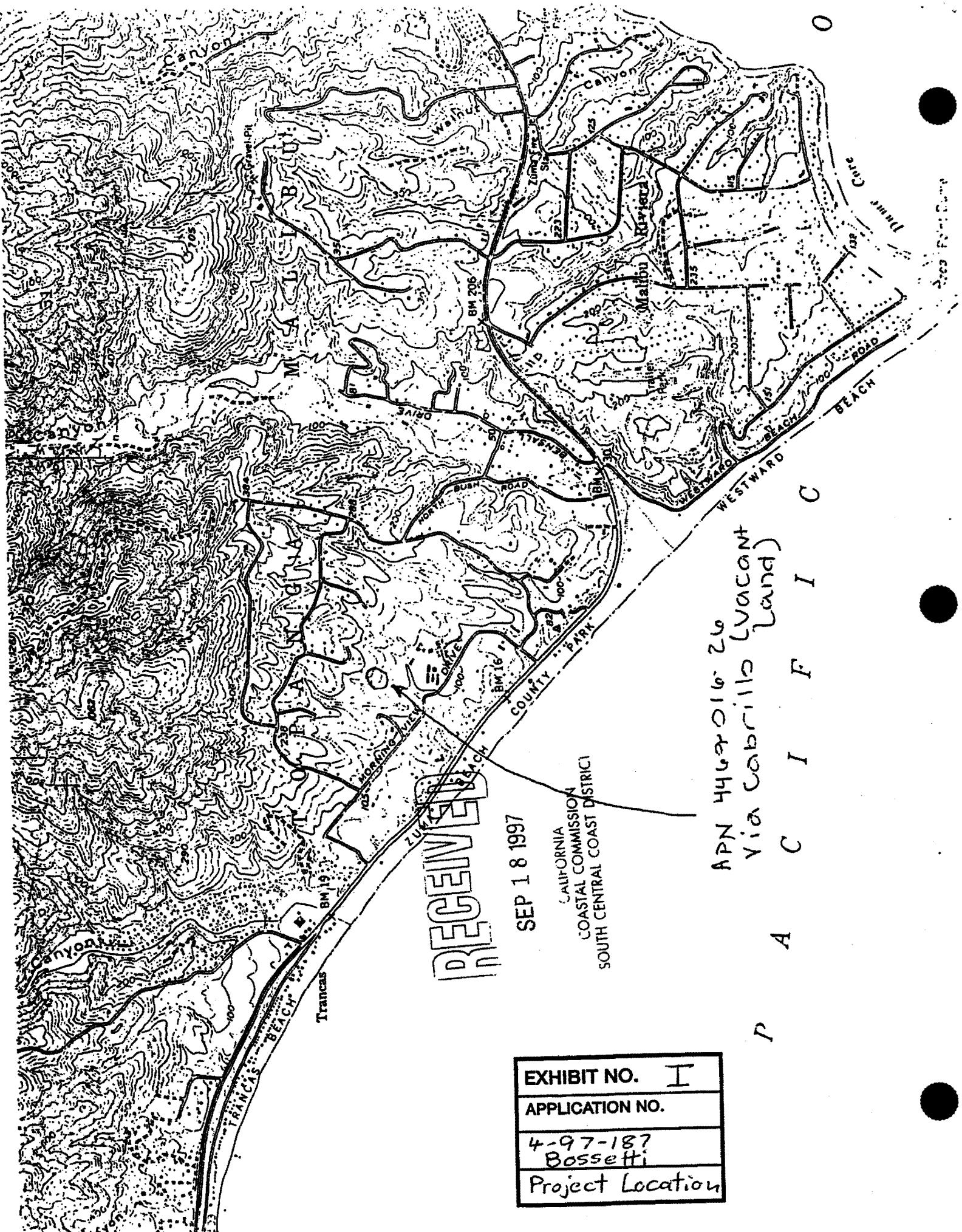


25 foot  
wide  
archaeology  
setback \*

(not to scale)

EXHIBIT NO. II
APPLICATION NO.
4-97-187 Bossetti
Site Plan

\* see project plans



RECEIVED

SEP 18 1997

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

APN 4467016-26  
Via Cabrillo (vacant  
land)

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EXHIBIT NO.	I
APPLICATION NO.	
4-97-187	
Bossetti	
Project Location	

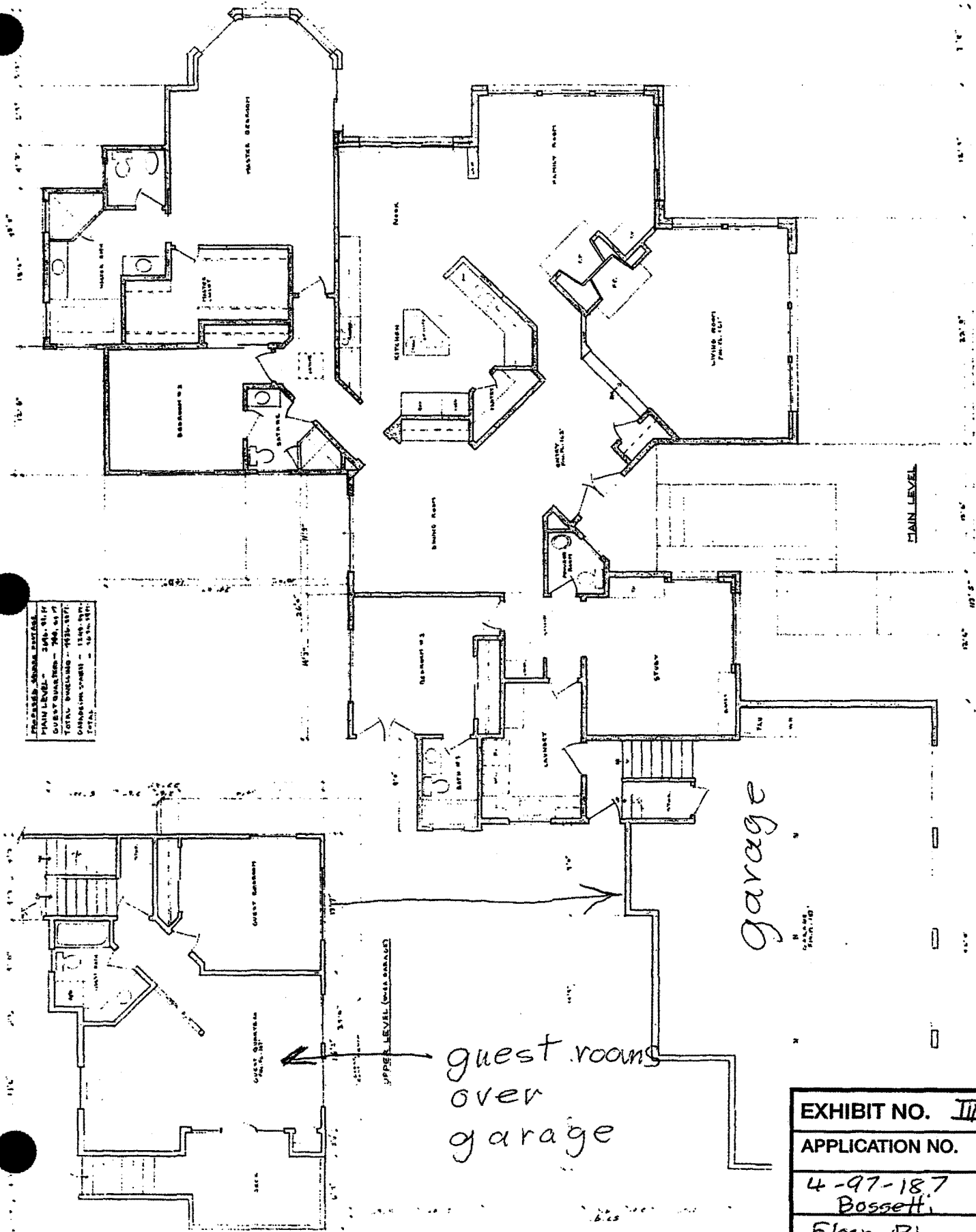
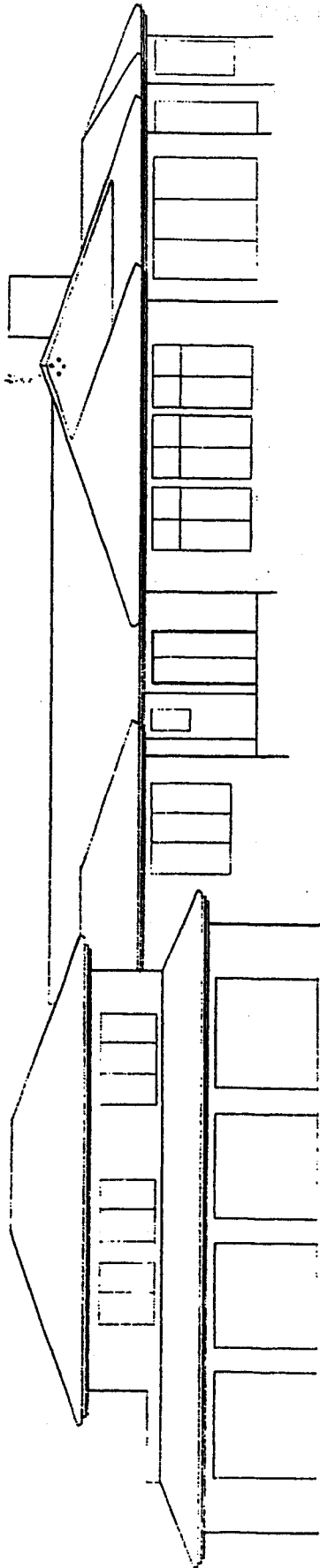
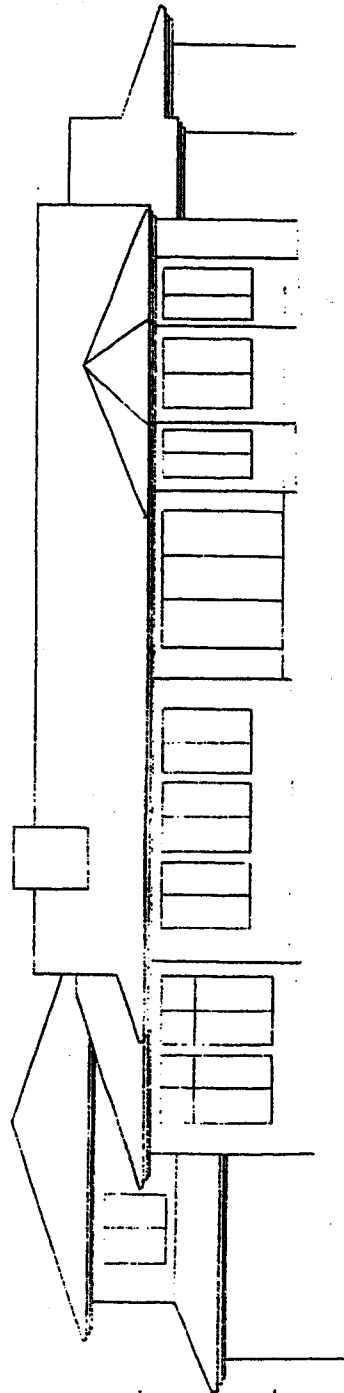


EXHIBIT NO. <u>III</u>
APPLICATION NO.
4-97-187 Bosetti
Floor Plan



WEST ELEVATION



SOUTH ELEVATION

EXHIBIT NO.	IV
APPLICATION NO.	
4-97-187	
Bossett	
Plan View	