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STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

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

Filed: 12/17/96
49th Day: 2/4/97
180th Day: 6/15/97
Staff: Betz-V
Staff Report: 1/16/97
Hearing Date: February 4-7, 1997



STAFF REPORT: CONSENT CALENDAR

W 3a

APPLICATION NO.: 4-96-183

APPLICANT: Randall J. Rosa Agent: Jamie Harnish

PROJECT LOCATION: 28405 Via Acero, City of Malibu, Los Angeles County

DESCRIPTION: Construct 3803 sq. ft., 28 foot high, three story single family residence with attached 430 sq. ft. garage, retaining walls, flower planters, path, terraces, porches and balconies, drainage system, and septic system. Paving of adjacent road easement. 2970 cu. yds. of grading (1485 cu. yds. of cut and 1485 cu. yds. of fill).

| | |
|--------------------|----------------|
| Lot Area | 87,035 sq. ft. |
| Building Coverage | 2,426 sq. ft. |
| Pavement Coverage | 9,751 sq. ft. |
| Landscape Coverage | 33,028 sq. ft. |
| Parking Spaces | 2 enclosed |
| Project Density | .5 dua |
| Ht abv nat grade | 28 feet |

LOCAL APPROVALS: Planning Department, City of Malibu: Approval in Concept dated October 5, 1996; Site Plan Review No. 94-056 and Minor Modification No. 94-009 dated August 12, 1996; Geology and Geotechnical Engineering Review Sheet dated July 29, 1996.

SUBSTANTIVE FILE DOCUMENTS: American Geotechnical, Geotechnical Engineering Report, November 23, 1987; Geoplan, Inc., Report of Seismic Investigation and Update, September 19, 1994; Keith W. Ehlert, Proposal for Geologic and Soils Engineering Consulting, September 5, 1995; SWN Soiltech Consultants, Inc., Report of Soil Engineering Investigation, December 20, 1995 and Addendum, March 20, 1996; Keith W. Ehlert, Geotechnical Investigation for Proposed On-site Sewage Disposal System, July 8, 1996; Chester King, Archaeological Reconnaissance at 28405 Via Acero, Malibu, California, January 17, 1996; Administrative Permit 5-90-32 (Thorne).

SUMMARY OF STAFF RECOMMENDATION:

The proposed development is on an undeveloped vacant lot which will be the highest development on Via Acero on the secondary ridgeline one-half mile west and uphill of Ramirez Creek. Staff recommends approval of the proposed project with special conditions regarding landscaping and erosion control, geology, and a wild fire waiver of liability.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that 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 this permit is reported to the Commission. 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 in the application for permit, subject to any special conditions 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 project during its development, 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

All recommendations contained in the SWN Soiltech Consultants, Inc., Report of Soil Engineering Investigation, December 20, 1995 and Addendum, March 20, 1996 shall be incorporated into all final design and construction including grading, foundation and drainage. All plans must be reviewed and approved by the consultant. Prior to issuance of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

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. Landscaping and Erosion Control Plan

Prior to issuance of permit, the applicant shall submit detailed landscaping and erosion control plans prepared 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 at the completion of grading. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors 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 disturbed areas 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 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 applicants 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, operation, 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.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 3803 sq. ft., 28 foot high, three story single family residence with attached 430 sq. ft. garage, retaining walls, flower planters, path, terraces, porches and balconies, drainage system, and septic system. The proposal includes paving of the private road easement which bisects the lot. The road will be paved as far uphill as the driveway into the property, including a crown and finished shoulders to facilitate drainage. The remainder of Via Acero to the north will remain unpaved.

2970 cu. yds. of grading (1485 cu. yds. of cut and 1485 cu. yds. of fill) will be needed for grading for the house, driveway and improvements to Via Acero, including a fire truck turnaround area provided at the base of the driveway adjacent to Via Acero. The fire turnaround area will use the stub end of the paved street and there will be a cut into the bank on the opposite side of the street from the turnaround.

The proposed development is on an undeveloped vacant lot which will be the highest development on the secondary ridgeline above Ramirez Creek. A large residence is located immediately downhill of the site.

The lot is flag or club-shaped with a large undeveloped area extending approximately 250 ft. south of Via Acero on the other side of this easement from the building site. The lot area is 87,035 sq. ft. The site is slightly below two acres in size.

Local project review included a Phase I archaeological survey which indicated that no significant adverse impacts would occur as a result of the project. Review by the City biologist resulted in a City requirement for a landscaping plan similar to that recommended in condition (2) above.

An administrative coastal development permit was approved for the same site on May 10, 1980 (5-90-32, Thorne) for a 2,690 sq. ft. single family residence with septic system and 800 cu. yds. of grading. The permit was subject to special conditions relative to a grading and landscaping plan, conformance to geologic recommendations, and assumption of risk. The permit was extended one time and has since expired.

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 Santa Monica Mountains/Malibu area which is generally considered to be subject to an unusually high number of natural hazards. Geologic hazards common to this 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 several documents -- American Geotechnical, Geotechnical Engineering Report, November 23, 1987; Geoplan, Inc., Report of Seismic Investigation and Update, September 19, 1994; Keith W. Ehlert, Proposal for Geologic and Soils Engineering Consulting, September 5, 1995; SWN Soiltech Consultants, Inc., Report of Soil Engineering Investigation, December 20, 1995 and Addendum, March 20, 1996; and Keith W. Ehlert, Geotechnical Investigation for Proposed On-site Sewage Disposal System, July 8, 1996.

The report by the geotechnical engineer found in SWN Soiltech Consultants, Inc., Report of Soil Engineering Investigation, December 20, 1995 (page 3) states that:

The geologic investigation by Keith W. Ehlert has found favorable geologic conditions at the subject site. ... The potential for gross and large-scale surficial failure is considered to be low if the slopes at the subject site are improved and maintained in accordance with our recommendations.

... the proposed residence will not be affected by hazards from landslide, settlement, or slippage, and that the proposed development will have no adverse effect on the geologic stability of properties outside the subject site, provided it is constructed and maintained in accordance with recommendations presented in this report.

Landslides have been a problem in the project vicinity, as evident in past permit review and in the recent closure of Kanan Dume Road due to landslide. In response to City concerns in their Geology and Geotechnical Review Sheet, the Addendum by the geotechnical consultants notes that the geologic investigation "... has found no evidence of the landslide extending into the subject site."

The the project involves 2970 cu. yds. of grading (1485 cu. yds. of cut and 1485 cu. yds. of fill). This grading is necessary to site the house partially below grade and design it to minimize the visual impact, as well as to construct necessary access and fire turnaround for the site, including improving the roadway on Via Acero, and avoid surficial failure as recommended by the geology and geotechnical consultants.

A blue line stream is located downhill of the project site at a distance of approximately one-half mile. The project plans address the concerns of the geologist and geotechnical engineer through drainage and erosion control measures to ensure the stability of development on the site. The project design, reviewed and stamped by a professional engineer, includes drainage control features both on the site and as part of the street improvements including retaining walls, geofabrics, swales, catch basins, drains, and splash guards. These improvements convey drainage to the improved street in a manner consistent with past Commission decisions, including the previous permit on the site (5-90-32, Thorne).

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.

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

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.

The septic system includes a 1200 gallon tank with a seepage pit. A percolation test was performed on the subject site. The test indicated the site can accommodate the proposed septic system in compliance with uniform plumbing code requirements. The Commission has found in past permit actions that compliance with the uniform plumbing code will minimize the potential for waste water discharge which could adversely impact coastal streams and waters. The geologic impact of the proposed septic system was also addressed by the consulting engineering geologist. The geologist states:

It is our opinion that the use of a private sewage disposal system is possible without inducing a geologic hazard to the existing site or adjacent properties.

Therefore, based on the above information, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

D. Visual Impacts

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The project site, as noted, is located on a secondary ridge overlooking Ramirez Canyon. Newer development in the project area consists of large bulky residences of several stories. Development is close to Santa Monica Mountains National Recreation Area land, located to the west and north, but by virtue of the topography the site is either not visible from such land, or only visible from a small corner of such land to the immediate north. A major feeder trail to the south at a distance of about one-half mile is also not visible because of topography. Views of the site from Kanan Dume road are also blocked by topography.

While development of a large residence of 28 feet in height from natural grade is intense, such development is similar to that found in the area. The applicant has cut the building foundation into the hillside and "stepped" the partial third story. While this design technique results in some additional grading or excavation in the hillside it minimizes the visual impact of the residence by reducing the height of the structure from natural grade. The applicant is proposing to 2,970 cubic yards of grading in order to "notch" the building pad into the hillside. Such alteration of natural landforms is allowed in a manner consistent with recent Commission decisions, such as 4-06-174 (Shafer) and 4-96-133 (Landry).

Because of the above-stated site circumstances, the proposed project is visually compatible with surrounding residential development, and will not adversely impact views from nearby park land and trails. Therefore, the Commission finds that the development as proposed is consistent with Section 30251 of the Coastal Act.

E. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

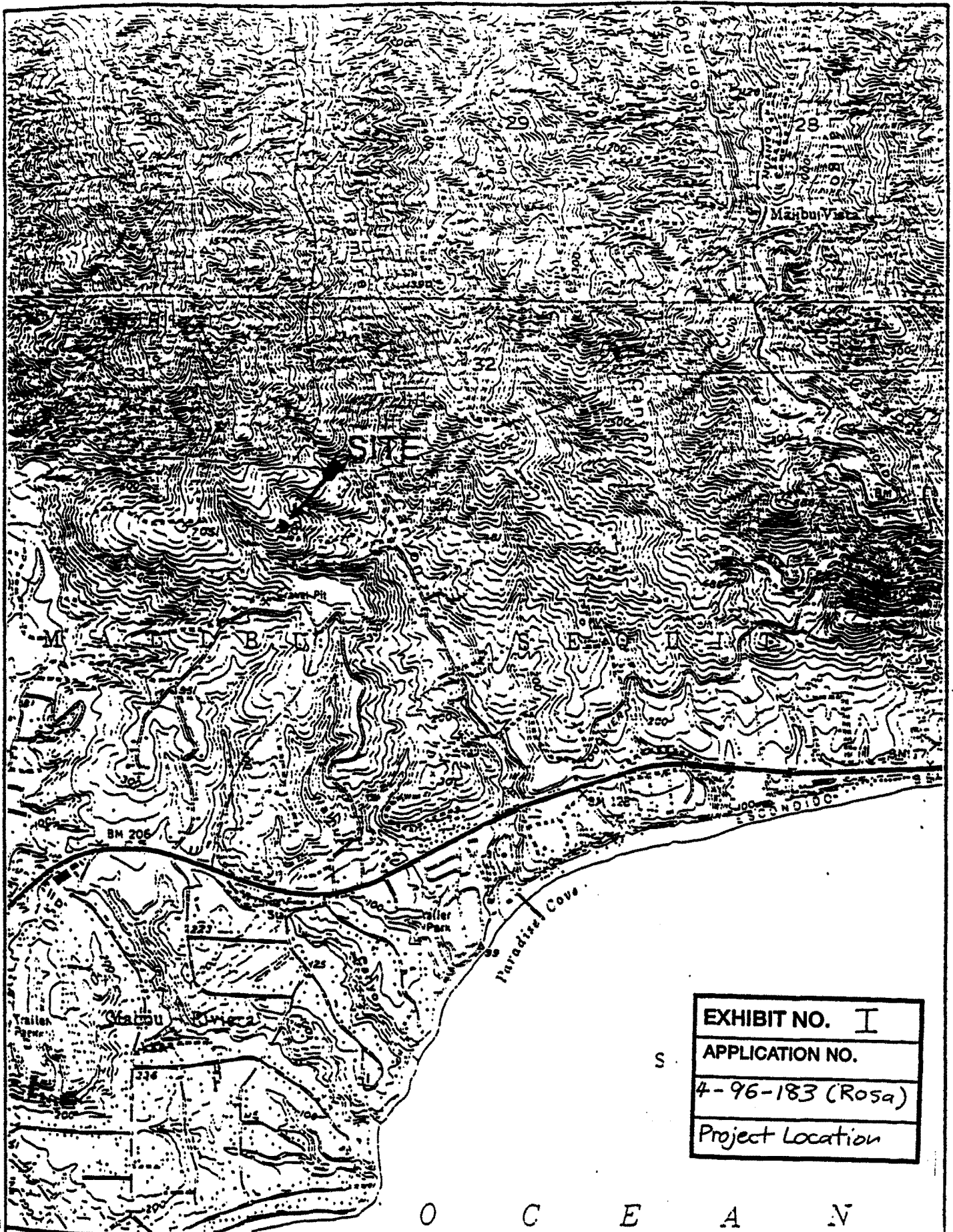
Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal 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 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's ability to prepare a Local Coastal Program for the Santa Monica Mountains which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

Section 14096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(1) 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 impact which the activity may have on the environment.

The proposed development would cause no adverse environmental impacts which would not be adequately mitigated by the project conditions required herein. Therefore, the proposed project, as conditioned, is found to be consistent with CEQA and the policies of the Coastal Act.



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| EXHIBIT NO. I |
| APPLICATION NO. |
| 4-96-183 (Rosa) |
| Project Location |

O C E A N

LOCATION MAP

Figure 1

AMERICAN EARTH TECHNOLOGIES

F.N.2024

NOV. 1987

28405 VIA ACERA
MALIBU, CA 90265

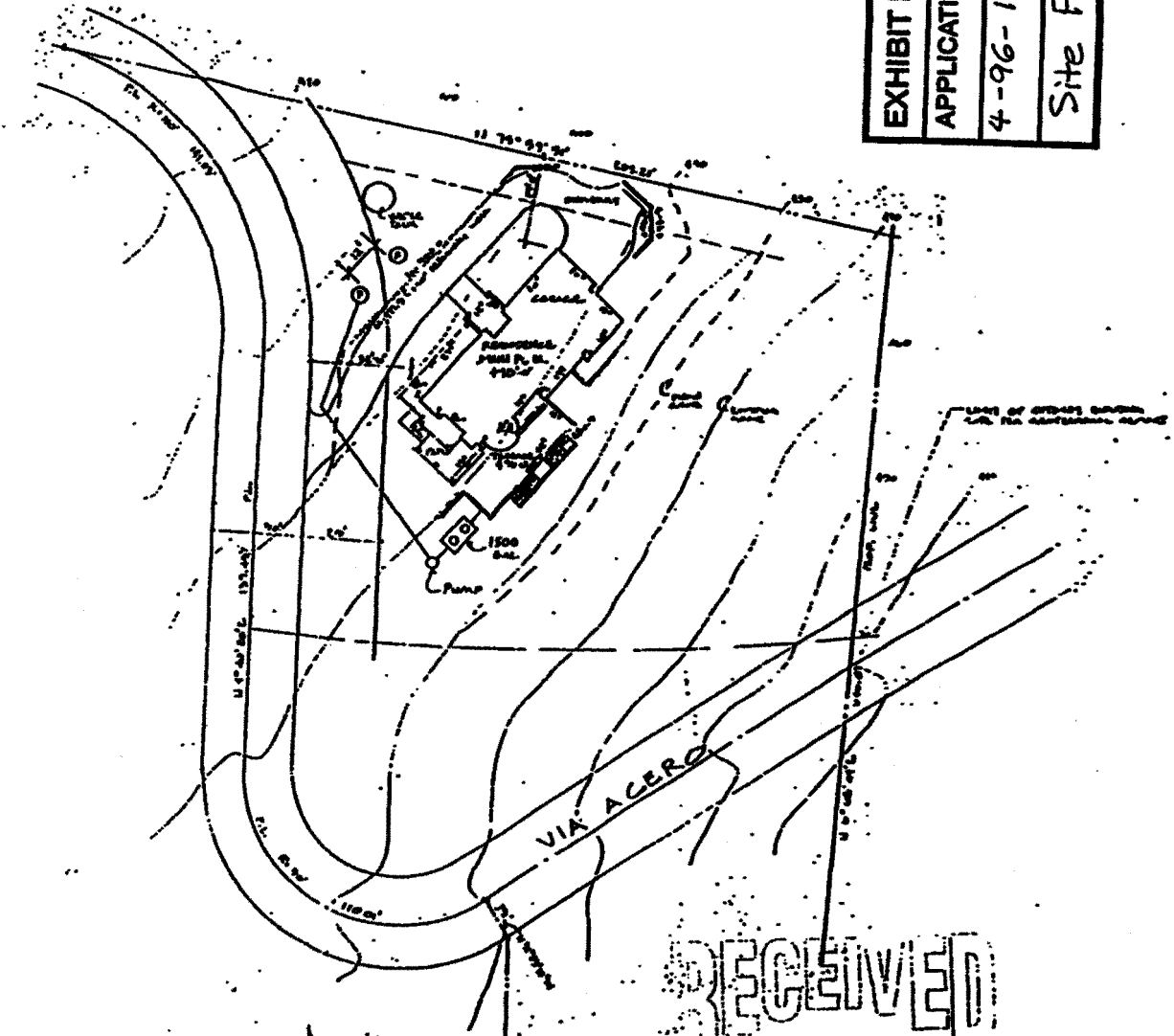
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|--------------|-------------------------------|
| S.F.D.: | 2 Bedroom (N) |
| SEPTIC TANK: | 1500 Gallon (N) |
| PRESENT: | 1 - 5' X 21' BI w/17' Cap (N) |
| FUTURE: | 100Z |
| PERC RATE: | 7967 gpd/seepage pit |

NOTES:

1. This approval is for a new 2 bedroom single family dwelling. A new private sewage disposal system shall be installed, as shown.
2. This approval only relates to the minimum requirements of the City of Malibu Uniform Plumbing Code and does not include an evaluation of any geological, or other potential problems, which may require an alternative method of wastewater disposal.
3. This approval is valid for one year or until City of Malibu Uniform Plumbing Code and/or Administrative Policy changes render it noncomplying.

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|---|-----------------|
| CITY OF MALIBU ENVIRONMENTAL HEALTH | |
| IN-CONCEPT APPROVAL | |
| SIGNATURE | <i>L. Young</i> |
| JUL 23 1996 | |
| FINAL APPROVAL IS REQUIRED PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMITS. | |

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| EXHIBIT NO. II |
| APPLICATION NO. |
| 4-96-183 (R057) |
| Site Plan |



PARTIAL SITE PLAN
1" = 40'

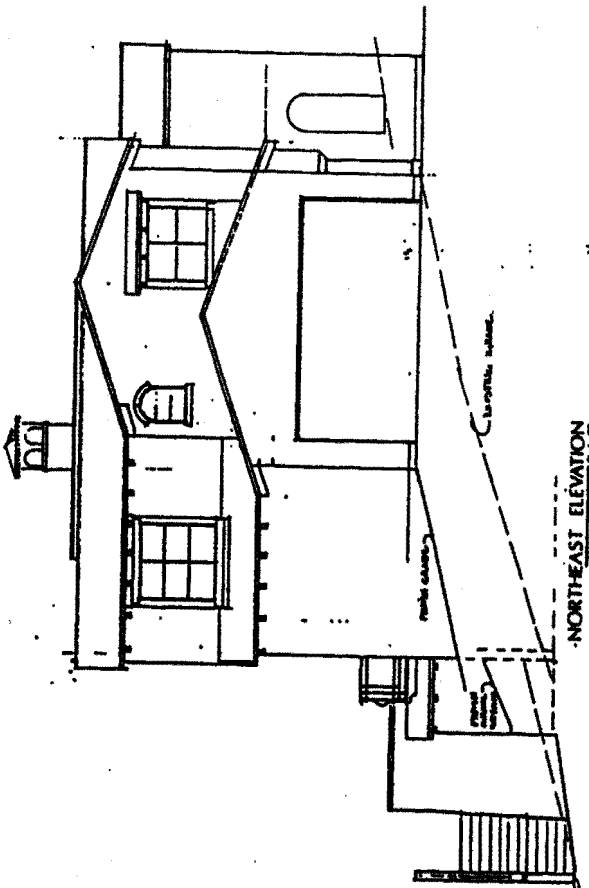
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OCT 25 1996

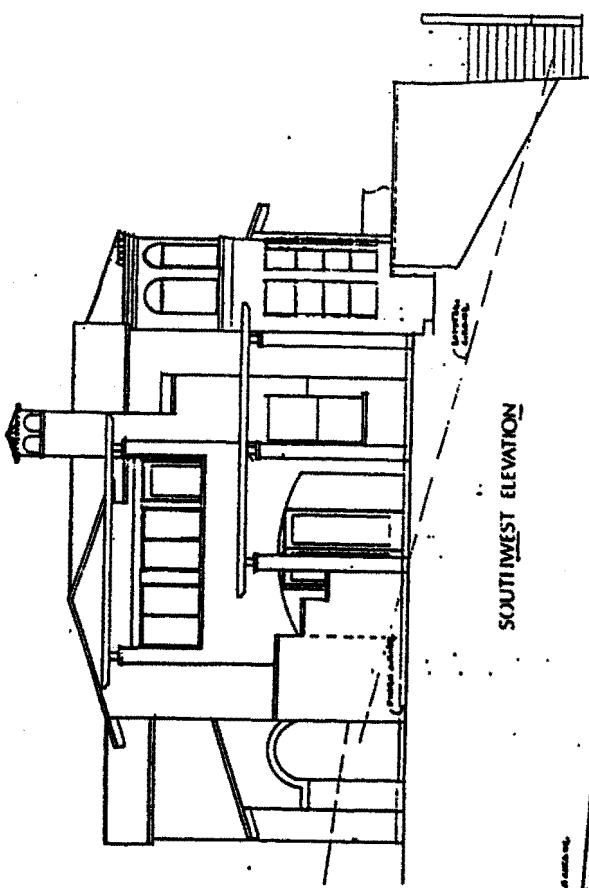
CITY OF MALIBU
PLANNING COMMISSION
1000 CENTRA COAST DRIVE

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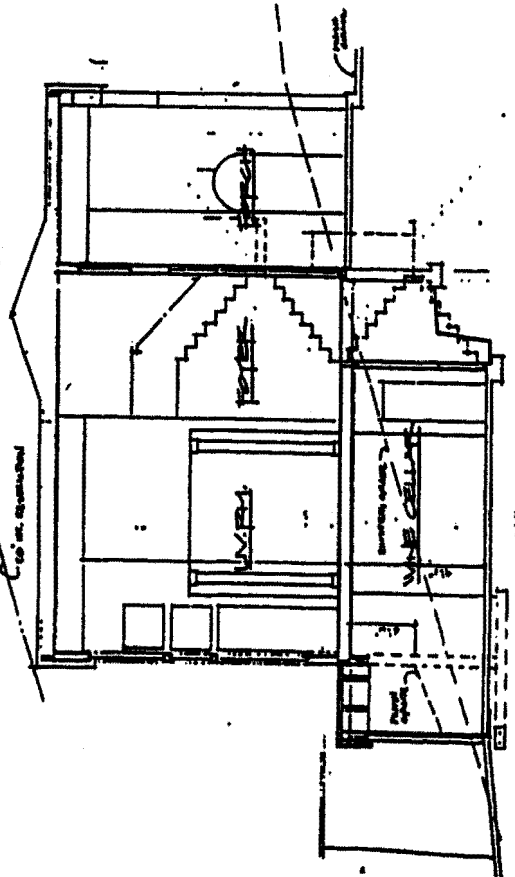
PERMITS
4-1-16



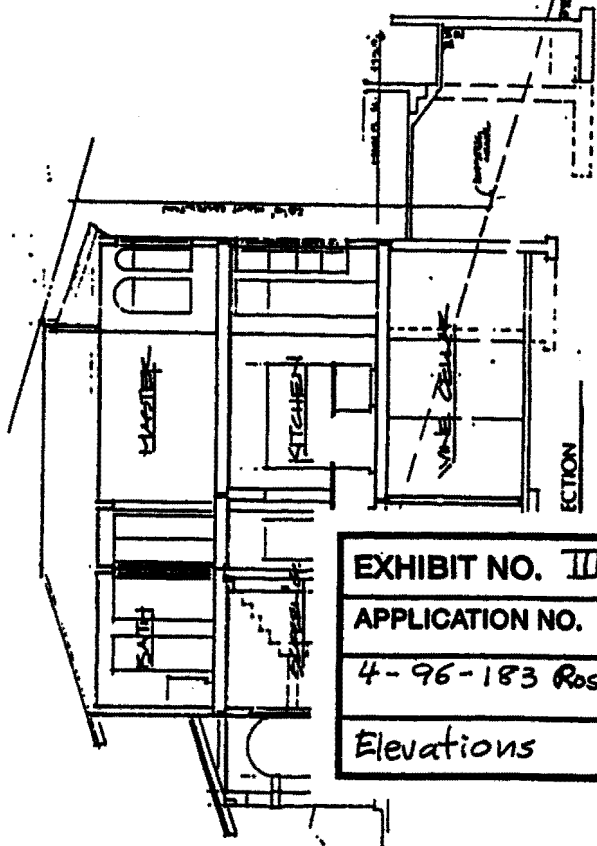
NORTH-EAST ELEVATION



SOUTH-WEST ELEVATION



SECTION



SECTION

| |
|-------------------|
| EXHIBIT NO. III b |
| APPLICATION NO. |
| 4-96-183 (Rosa) |
| Elevations |