

CALIFORNIA COASTAL COMMISSION

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

Filed: 1/7/1997
49th Day: 2/25/97
180th Day: 7/6/97
Staff: S. Hudson *SMT*
Staff Report: 1/17/96
Hearing Date: February 4-7, 1996
Commission Action:



STAFF REPORT: CONSENT CALENDAR

W 3b

APPLICATION NO.: 4-96-197

APPLICANT: Joel Beren

AGENT: Cheryl Maysels

PROJECT LOCATION: 30087 Cuthbert Road, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a 6526 sq. ft., 34 ft. high from existing grade single family residence, detached 660 sq. ft. two-car garage, 528 sq. ft. studio unit above garage, a separate 400 sq. ft. subterranean garage, pool and spa, driveway, retaining walls, fences, septic system, and 3316 cu. yds. of additional grading on site (1215 cu. yds. cut and 2101 cu. yds. fill).

Lot area: 0.95 acres
Building coverage: 7,044 sq. ft.
Pavement coverage: 3,550 sq. ft.
Landscape coverage: 30,788 sq. ft.
Parking spaces: 5
Ht abv ext grade: 34 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept, Environmental Health In-Concept Approval, County of Los Angeles Fire Department Approval in Concept

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 5-90-1137, Maysels; Geotechnical Engineering Report Update dated 4/10/95, prepared by West Coast Geotechnical.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with Special Conditions regarding landscaping and erosion control, future improvements, and wildfire waiver of liability. The proposed project includes 3316 cu. yds. of additional grading. Approximately 1200 cu. yds. of grading has already been carried out on site as approved by Coastal Development Permit 5-90-1137. Staff recommends that the commission require the applicant to provide a landscaping plan in order to minimize site erosion and add to the stability of the site and that the applicant acknowledge the risk of wild fire in order to assure consistency

summary continued

summary continued

with Section 30253 of the Coastal Act. The proposed guest house raises issues with regard to cumulative impacts. As it is proposed to be less than 750 sq. ft. in size, the guest house will be consistent with Section 30250 of the Coastal Act. Staff recommends that the Commission require the applicant to record a future improvements deed restriction on the property in order to ensure that any future additions to the guesthouse will be reviewed by the Commission.

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 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. Landscape and Erosion Control Plan

Prior to issuance of permit, the applicant shall submit a landscape plan prepared by a licensed landscape architect and an erosion control plan prepared by a licensed engineer 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. 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.

b) 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 disposal location.

2. 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.

3. Future Improvements

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 any future structures, additions or

improvements related to the guest house or second unit, approved under coastal development permit number 4-96-197, 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 conveyed.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a new 6526 sq. ft., 34 ft. high from existing grade single family residence, detached 660 sq. ft. two-car garage, 528 sq. ft. studio unit above garage, a separate 400 sq. ft. subterranean garage, pool and spa, driveway, retaining walls, fences septic system, and 3316 cu. yds. of additional grading (1215 cu. yds. cut and 2101 cu. yds. fill).

The subject site is a 0.95-acre hillside lot located on the north side of Cuthbert Road, approximately mid-way between its intersection with Harvester Road and Horizon Drive, in the Riviera District of the City of Malibu. The area surrounding the subject parcel has been previously developed with single family residences. Topographically, the lot ascends from Cuthbert Road in a northerly direction, from an elevation of approximately 105, at the edge of the pavement on Cuthbert Road, to a maximum elevation of approximately 185 at the northerly property line. The average gradient across the property is approximately 3:1 (H:V). No identified streams or environmentally sensitive habitat areas cross the site.

The subject parcel was created when the Commission previously approved Coastal Development Permit 5-90-1137 (Maysels) for the subdivision of a 2.15 acre parcel into two residential lots with 1,200 cu. yds. of grading on the subject site (900 cu. yds cut and 300 cu. yds. fill) for the construction of the driveway and building pads. This permit was subject to four special conditions regarding cumulative impacts mitigation, geology, grading and landscaping, and archaeology. The archaeology report conducted by C.A Singer and Associates indicated that there was no evidence of prehistoric human occupation of the site. At present, approximately 1200 cu. yds. of grading has been carried out for the partial construction of the driveway. In addition, retaining walls have been installed along the lower section of the driveway, as well as, the eastern border of the property.

The applicant is now proposing an additional 3316 cu. yds. of grading, in addition to the 1200 cu. yds. that has already been carried out for the driveway, for a total of 4516 cu. yds of grading (1264 cu. yds. cut and 1584 cu. yds. fill) for structures and (851 cu.yds. cut and 817 cu. yds fill) for construction of the driveway.

B. Grading and 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, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains 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.

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 two (2).

The applicant proposes the construction of a single family residence and guest house with a height above existing grade of 34' and 3316 cu. yds. of grading in addition to the 1200 cu. yds. of grading previously approved under Coastal Development Permit 5-90-1137. Review of the final grading plans by the geological consultant for the project is ordinarily required in order to assure consistency with Section 30253 of the Coastal Act. As the applicant has already submitted final grading plans that have been previously reviewed and approved by the geology consultant, a special condition requiring such action is not necessary. All recommendations contained in the Update Engineering Geologic Report, dated April 10, 1995, prepared by West Coast Geotechnical have been incorporated into all final design and construction including grading, drainage, foundations, retaining walls and swimming pools. The applicant's consultants determined that the proposed project site is suitable from a soils and engineering standpoint for construction of the proposed additions. The applicant's geotechnical investigation states that:

It is the opinion of West Coast Geotechnical that the proposed development will be safe against hazard from landslide, excessive settlement or slippage, and that the proposed development will not have an adverse affect on the stability of the subject site or immediate vicinity, provided our recommendations are made part of the development plans and implemented during construction.

Based on the recommendations of the consulting geologists, and as all recommendations have been incorporated into all final plans, as reviewed and approved by the consulting geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act.

The Commission also finds that the minimization of site erosion will add to the stability of the site in regards to the proposed increase in grading. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Coastal Development Permit 5-90-1137 was issued for the subdivision of this site with the special condition that a landscaping plan be submitted and approved by the Executive Director. Although this plan was submitted, grading allowed by permit 5-90-1137 has only recently begun and no landscaping has yet been carried out. The significant amount of additional grading and placement of structures now proposed by the applicant are not accurately reflected by the previous landscaping plan. The Commission finds that only through the submittal of a new updated landscaping plan, as drafted in condition number one (1), will new development be consistent with Coastal Development Permit 5-90-1137 previously issued for this site and Section 30253 of the Coastal Act. Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

C. 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 subordinated to the character of its setting.

The applicant proposes the construction of a single family residence and guest house on a hillside lot with a height above existing grade of 34' and 3316 cu. yds. of grading in addition to the 1200 cu. yds. of grading previously approved under Coastal Development Permit 5-90-1137. Although the amount of grading for this project is considerable, it is compatible with the character of the area and grading allowed for neighboring lots. To minimize grading, the applicant proposes to construct the single family residence on a series of stepped pads in order to more closely follow the natural topography of the site.

Although the site is not visible from Pacific Coast Highway, or other primary public view areas, hillside lots with graded slopes and disturbed areas denuded of vegetation do have negative impacts on visual resources. In the past, the Commission has approved similar projects with the requirement that the applicant revegetate all graded or disturbed areas on site with native vegetation in order to minimize visual impacts, as well as, to minimize erosion and runoff. As such, the Commission finds it necessary to require the applicant to revegetate all graded or disturbed areas on the proposed project site with native plants, as drafted in condition number one (1). This will ensure that erosion and runoff, as well as, visual impacts are minimized. The Commission finds that the proposed development, as conditioned, is consistent with Section 30251 of the Coastal Act.

D. Second Residential Unit

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

(a) 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.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on the site where a primary residence exists intensifies the use of a parcel raising potential impacts on public services, such as water, sewage, electricity and roads. New development also raises issues regarding the location and amount of new development maintaining and enhancing public access to the coast.

Based on these policies, the Commission has limited the development of second dwelling units (the guest house) on residential parcels in the Malibu and Santa Monica Mountain areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in the 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 (750 sq. ft.) 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 (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people, 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, electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different functions which in large part consist of: 1) a

second unit with kitchen facilities including a granny unit, caretaker's unit, and farm labor unit; and 2) a guesthouse, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

As proposed, the 528 sq. ft. guest house conforms to the Commission's past actions allowing a maximum of 750 sq. ft. for a second dwelling unit in the Malibu area. To ensure that any additions or improvements that could further intensify the use of this guest house or second unit will be reviewed by the Commission, condition number three (3) is required. Therefore, the Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

E. 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.

The proposed development includes constructing a septic system for the new residence and guest house to provide for adequate sewage disposal. The applicant's geology and soils report indicates that the percolation rate exceeds the maximum Plumbing Code requirements 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 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.

F. 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).

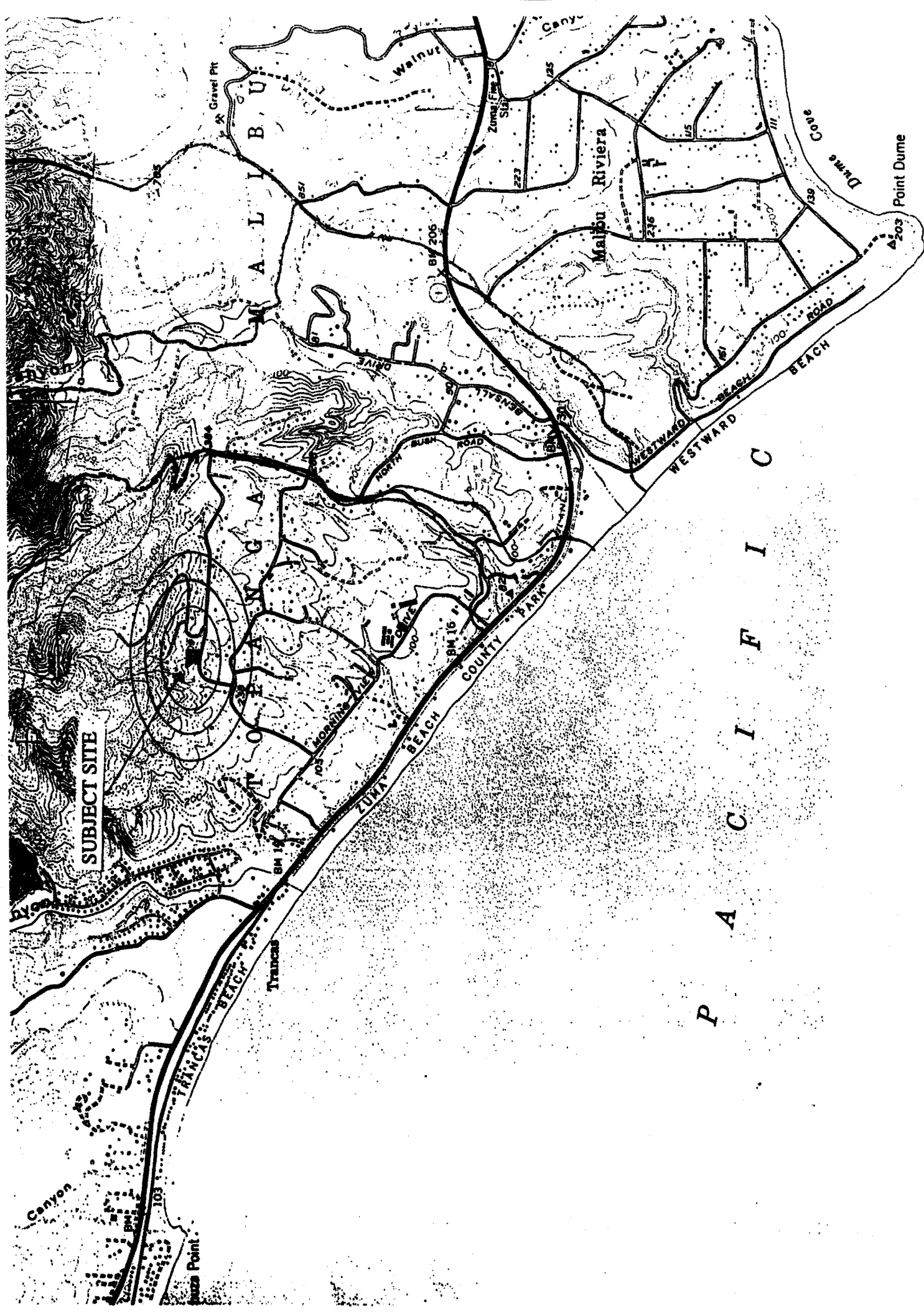
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. 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).

G. 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 landscape and erosion control plans, plans conforming to the consulting geologist's recommendations, a wild fire waiver of liability, and a future development restriction. As conditioned, there are no feasible alternatives or mitigation measures available, beyond those required, which would lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is found consistent with the requirements of CEQA and the policies of the Coastal Act.

SMH-VNT



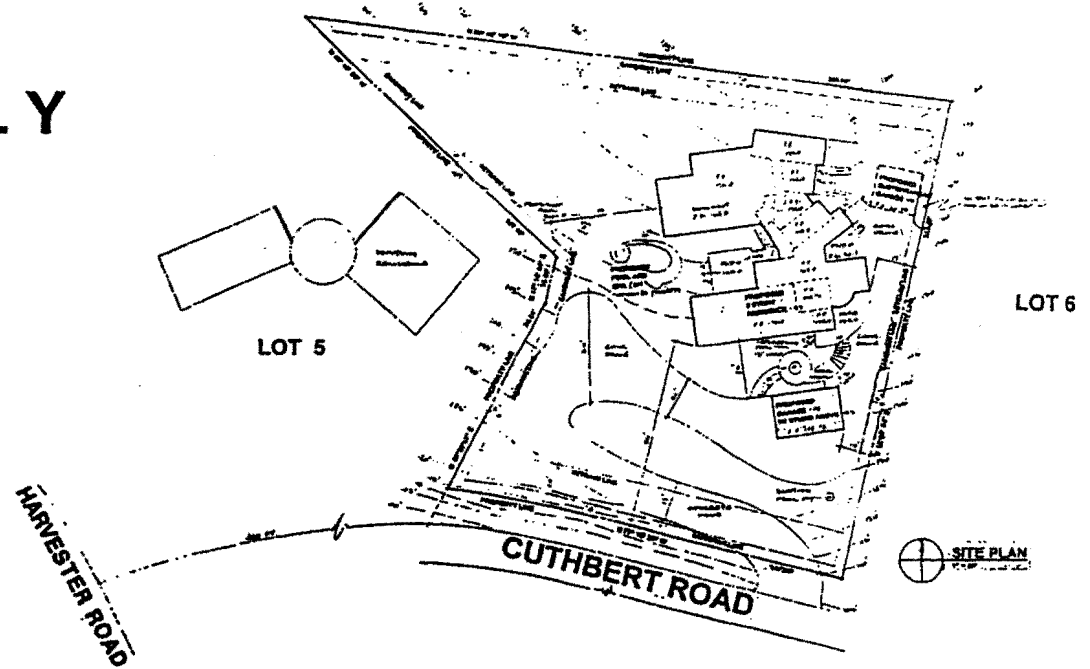
P A C I F I C

Exhibit No. 1: (4-96-197) Location Map

NEW SINGLE FAMILY RESIDENCE

FOR
JOEL & OLIVIA BEREN

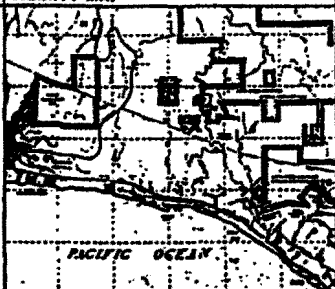
30087 CUTHBERT ROAD
MALIBU, CALIFORNIA 90265



ABBREVIATIONS

<p> 1. All work shall be in accordance with the approved plans and specifications. </p> <p> 2. All work shall be done in accordance with the approved plans and specifications. </p> <p> 3. All work shall be done in accordance with the approved plans and specifications. </p> <p> 4. All work shall be done in accordance with the approved plans and specifications. </p> <p> 5. All work shall be done in accordance with the approved plans and specifications. </p>

VICINITY MAP



SUMMARY DATA

<p> 1. Lot Area: 10,000 sq. ft. </p> <p> 2. Building Area: 2,000 sq. ft. </p> <p> 3. Pool Area: 1,000 sq. ft. </p> <p> 4. Driveway Area: 500 sq. ft. </p> <p> 5. Garage Area: 500 sq. ft. </p>
--

INDEX OF SHEETS

<p> SHEET NO. 1: SITE PLAN </p> <p> SHEET NO. 2: FOUNDATION PLAN </p> <p> SHEET NO. 3: ELECTRICAL PLAN </p> <p> SHEET NO. 4: MECHANICAL PLAN </p> <p> SHEET NO. 5: PLUMBING PLAN </p>

Exhibit No. 2: (4-96-197) Site Plan

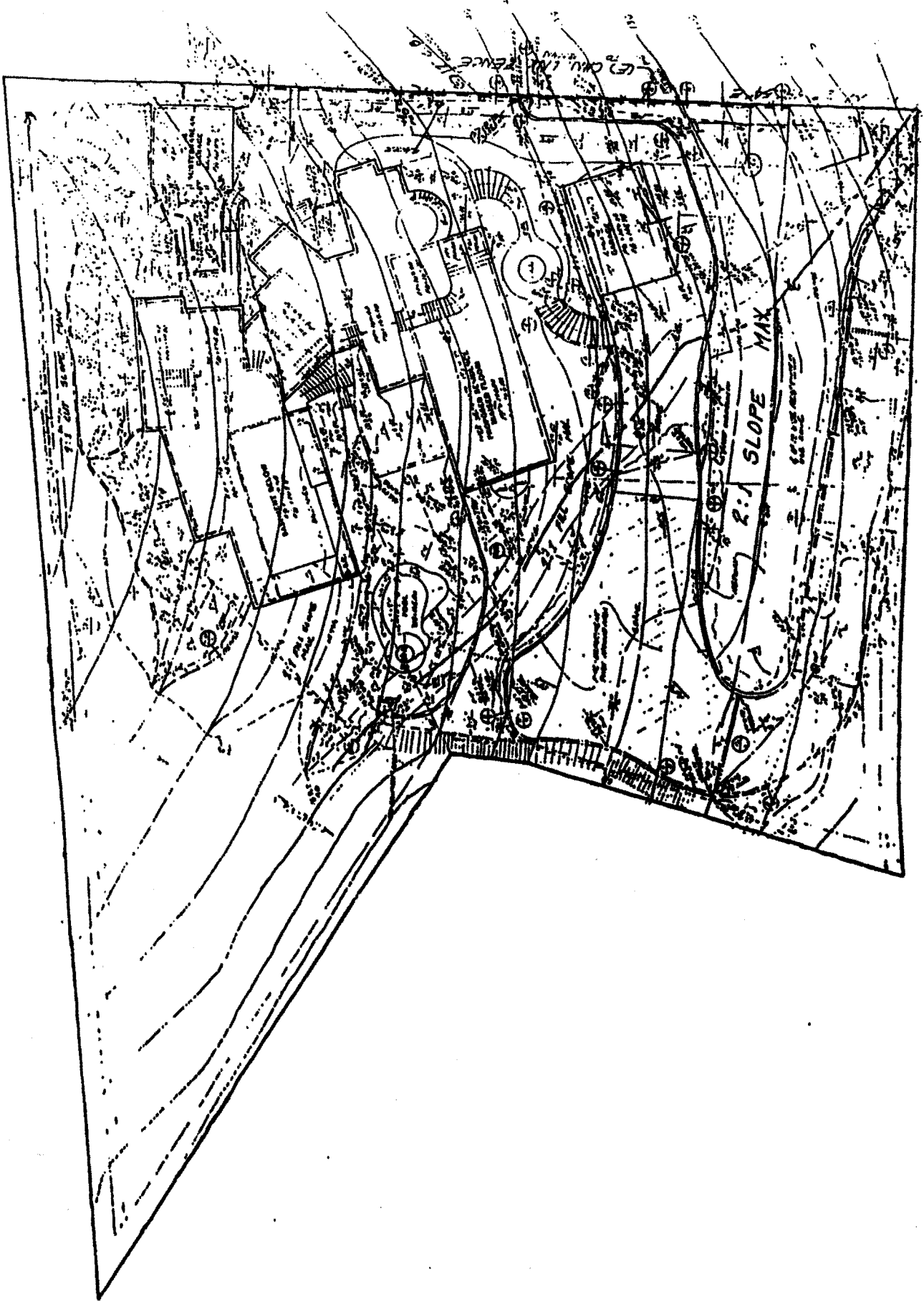
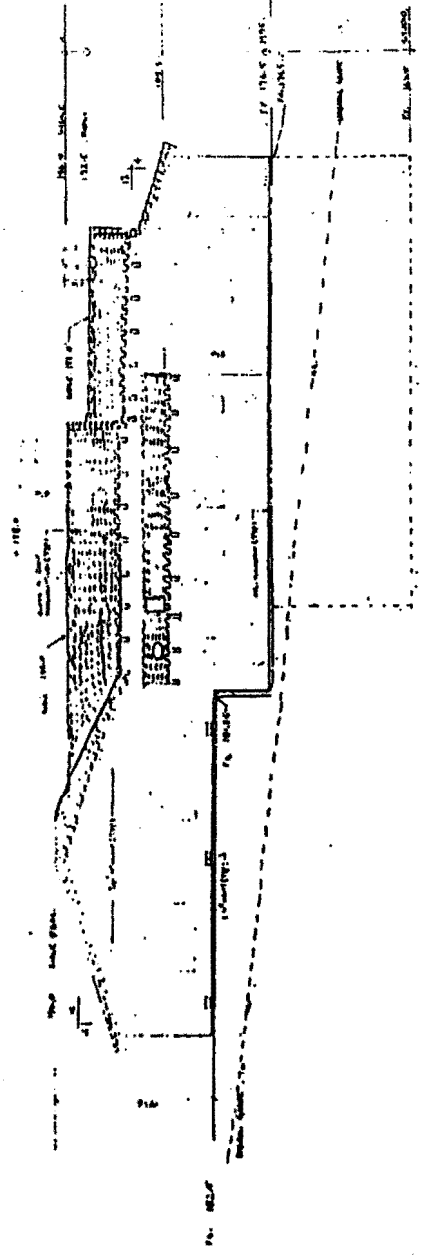
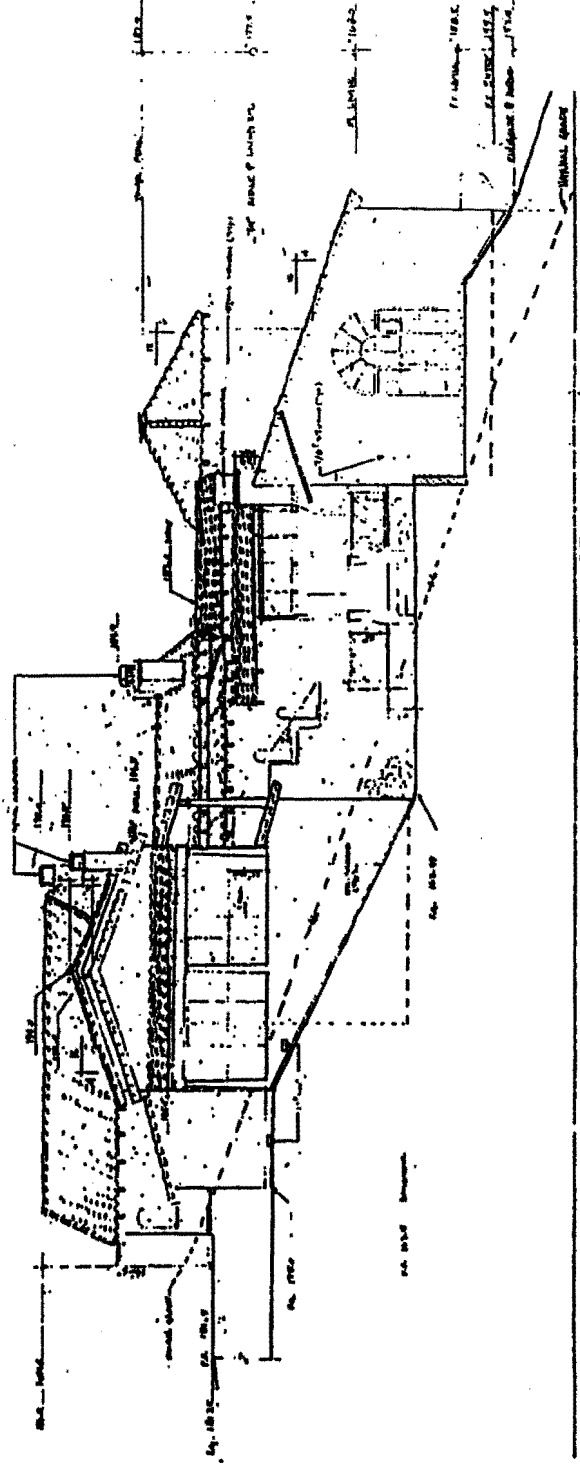


Exhibit No. 3: (4-96-197) Grading Plan

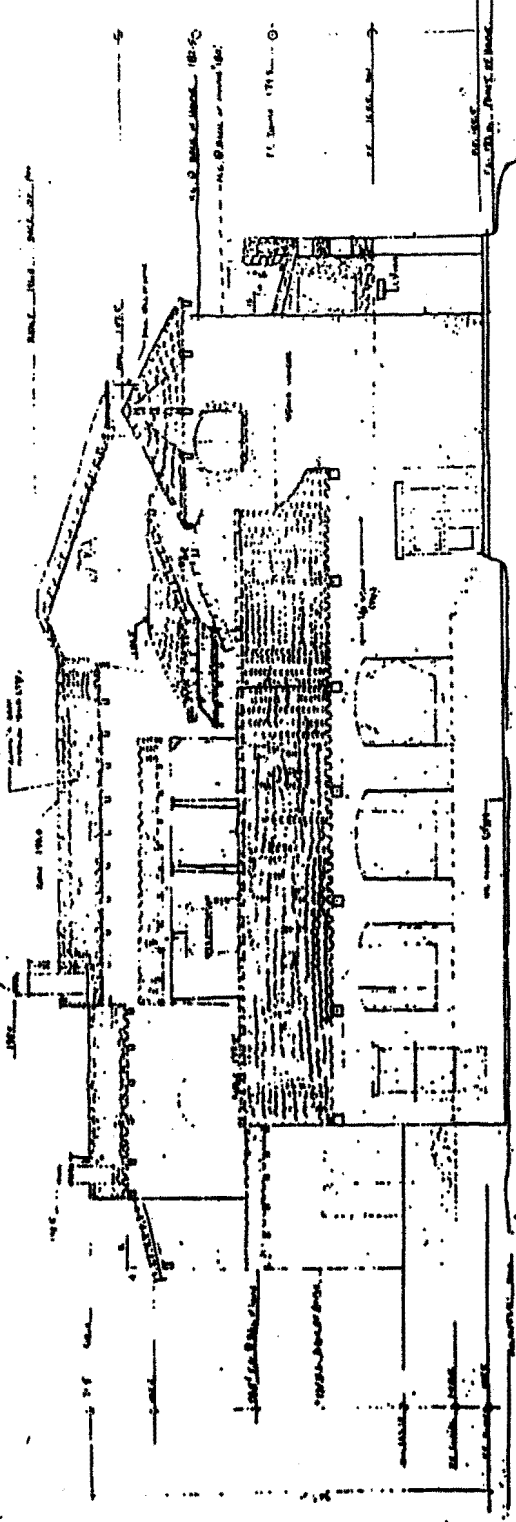


NORTH ELEVATION

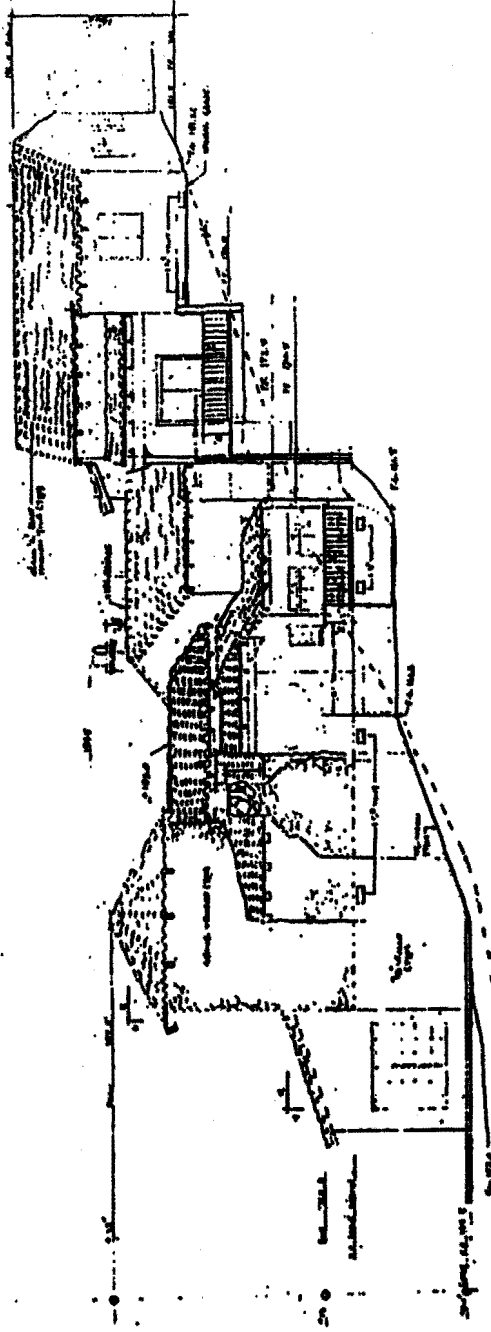


WEST ELEVATION

Exhibit No. 4: (4-96-197) North and West Elevations of Single Family Residence



SOUTH ELEVATION

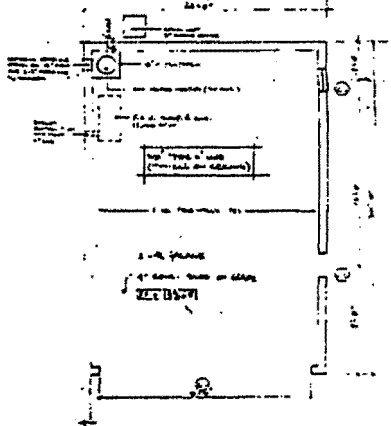
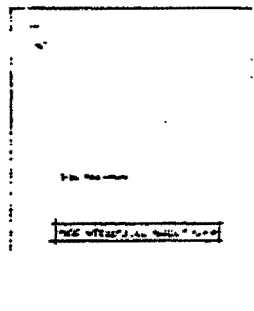
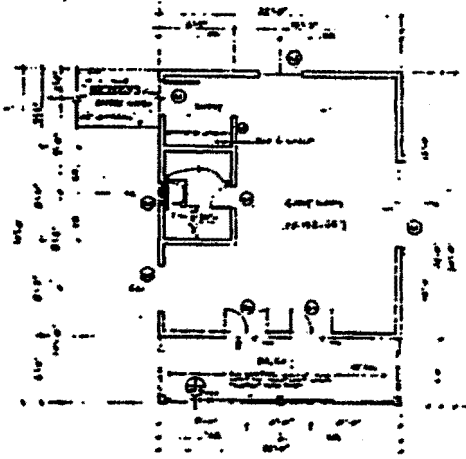
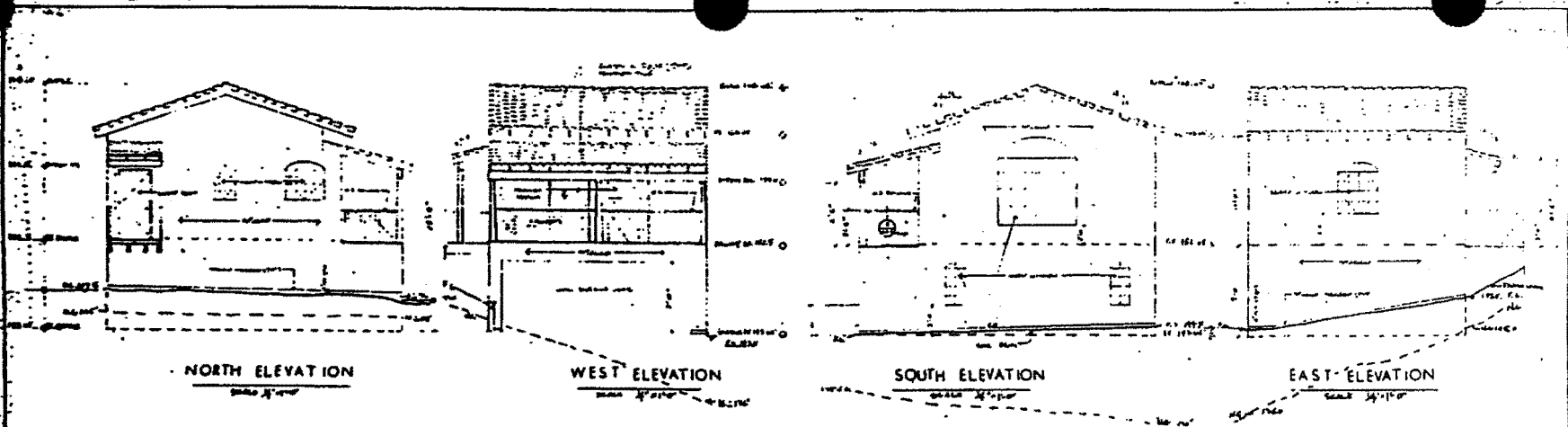


EAST ELEVATION

ELEVATIONS

A 3. J

Exhibit No. 5: (4-96-197) South and East Elevations of Single Family Residence



30087 CUTHBERT ROAD
 MALIBU, CALIF. 90286
 GUEST & GARAGE PLAN

A7.1

Exhibit No. 6: (4-96-197) Garage/Guest House Elevations

SECTION



30087 CUTHBERT RD. MALLIS
 SECTION THROUGH PROPERTY C/S
 - - - - - NATURAL GROUND (N.G.)
 SCALE: 1/40" = 1' 0"



NORTH

