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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
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Filed: 2/21/97
49th Day: 4/11/97
180th Day: 8/20/97
Staff: J. Johnson
Staff Report: 3/19/97
Hearing Date: 4/8-11/97
Commission Action:
7864A



STAFF REPORT: CONSENT CALENDAR

Th 4a

APPLICATION NO.: 4-96-175

APPLICANT: Scott McAboy and Amy Sydorick AGENT: Terry Valente

PROJECT LOCATION: 27372 Old Chimney Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a new 1,139 sq. ft. single family, one story, residence, and attached two space carport. Septic tank and driveway are existing; the driveway is proposed to be paved. Construct a retaining wall 30 feet long, six (6) feet high. Remove "as built" residential trailer and tin shed from site to a qualified dumpsite outside coastal zone. Construct "as built", 120 sq. ft. wood shed. Grade about 130 cubic yards of material.

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| Lot Area | 10.12 acres |
| Building Coverage | 1,580 sq. ft. |
| Pavement Coverage | 12,000 sq. ft. |
| Landscape Coverage | 2,000 sq. ft. |
| Parking Spaces | 2 spaces |
| Plan Designation | Rural Land I |
| Zoning | 1 du/10 acres |
| Project Density | 1 du/10 acres |
| Ht abv fin grade | 18 feet |

LOCAL APPROVALS RECEIVED: Approval in Concept, Planning Department, County of Los Angeles, dated 9/5/96; Sewage Disposal Approval, Department of Health Services, Los Angeles County, dated 12/19/96; Approval in Concept, Fire Department, County of Los Angeles, dated 11/21/96.

SUBSTANTIVE FILE DOCUMENTS: Engineering Geologic Memorandum and Update, Proposed Residential Development, 27372 Old Chimney Road, Malibu, by Geoplan, Inc., dated September 30, 1996; Preliminary Geotechnical Investigation of Proposed Residential Development at 27372 Old Chimney Road, Malibu, California, by Strata-Tech, Inc., dated October 3, 1996; Coastal Permit No. 77-1938, Mann; Coastal Permit No. 4-96-006, Williams; Coastal Permit No. 5-90-411, Kass.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed project with five (5) Special Conditions addressing: plans conforming to the consulting geologists' recommendations; a wild fire waiver of liability; landscape and fuel modification plan; trailer and shed removal, and condition compliance, to bring the project into compliance with the Coastal Act.

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 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

Prior to the issuance of the permit the applicant shall submit, for the review

and approval by the Executive Director, evidence of the consulting geologist's review and approval of all project plans. All recommendations contained in the report: 1) "Preliminary Geotechnical Investigation of Proposed Residential Development at 27372 Old Chimney Road, Malibu, California", by Strata-Tech, Inc., dated October 3, 1996 and 2) "Engineering Geologic Memorandum and Update Proposed Residential Development, 27372 Old Chimney Road, Malibu", by Geoplan, Inc. dated September 30, 1997, including issues related to grading, foundations, footings, retaining wall, concrete slabs, utility backfills, slopes, drainage, sewage disposal system, and seismic engineering, shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic and geotechnical engineering consultants.

The final plans approved by the consultants 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 consultants shall require an amendment to the permit or a new coastal permit.

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. LANDSCAPE AND FUEL MODIFICATION PLAN

Prior to issuance of the coastal development permit, the applicant shall submit a landscaping and fuel modification plan prepared by a licensed landscape architect and approved by the Los Angeles County Forestry Department for review and approval by the Executive Director. This plan 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 in the plan and existing such species shall be removed from the site (primarily eucalyptus and pepper trees).
- b) All cut and fill slopes and disturbed soils 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 onsite unless removed to an appropriate approved disposal location.
- (d) Vegetation within 100 feet of the proposed proposed residence and existing storage shed may be removed to mineral earth. Selective thinning, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. However, in no case should vegetation thinning occur in areas greater than a 200' radius of the main structure or as required by the Los Angeles County Fire Department. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the County of Los Angeles Forestry Department.

4. TRAILER AND SHED REMOVAL

With the acceptance of this permit, the applicant agrees that the residential trailer and tin shed shall be removed from the site to an approved location within six (6) months of the Commission's action. Additional time to comply with this condition may be granted by the Executive Director for good cause.

5. CONDITION COMPLIANCE

All requirements specified in the above conditions that the applicant is required to satisfy as a prerequisite to the issuance of this permit must be fulfilled within 90 days of Commission action. Failure to comply with such additional time as may be granted by the Executive Director for good cause, will nullify this permit approval.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Location

The project site is located about halfway between Latigo Canyon Road and Kanan Dume Road, west of the Malibu Vista area. (See Exhibits 1 and 2) The ten acre project site is bounded by Old Chimney Road on the north. West of the subject site and along Kanan Dume Road are lands owned by the Santa Monica Mountains National Recreation Area. The subject site is surrounded by residentially developed and vacant properties; this area is rural with very low density residential uses.

The applicants propose to construct a one story single family residence and attached two space carport on a flat graded pad. (Exhibit 3) The pad now includes an "as built" trailer which was installed by a previous owner in 1977 without a coastal permit. The applicants, who have recently acquired this property, propose to remove this trailer and a tin shed on the property to an

appropriate disposal site outside the coastal zone. (Exhibits 3 and 5) The applicants also request approval of an "as built" wood shed located south of the residence site at the end of an existing graded dirt driveway. (Exhibits 3 and 4) A septic system and driveway exist on the property. The applicants propose to pave the driveway and turnaround area. A retaining wall, about 30 feet in length and six (6) feet high is proposed west of the carport along the driveway. About 130 cubic yards of grading is proposed to construct the residence, carport and retaining wall.

Regarding permit history, in November 1977, the Regional Commission approved coastal permit number P-77-1938 for David and Bernadene Mann to construct a three story, single family dwelling with a three car garage on the same building pad. Within a week of the Commission's approval, it was reported that the former owners placed a mobilehome on the same site as the approved residence. In January 1978, Commission staff sent a letter requesting a reply regarding the apparent unpermitted mobile home. In February 1978, Mr. Mann was advised of the application requirements for an amendment to the approved coastal permit. No further record of this unpermitted development was made until the new property owners submitted an application for this proposed development.

The project site is not located in an environmentally sensitive habitat or resource area designated by the Malibu/Santa Monica Mountains Local Coastal Plan and therefore is not subject to review by the Los Angeles County Environmental Review Board. The Escondido Significant Oak Woodland and Savannah is located over the ridge to the north, about one quarter mile, and along the bottom of Escondido Canyon to the east, about one quarter mile. There are three oak trees on the site to be retained and numerous non-native trees, including eucalyptus and pepper trees.

The Los Angeles County Land Use Plan designates the lot as Rural Land I, one dwelling unit per ten acres. The density at one dwelling unit per ten acres is consistent with the allowable density in the Los Angeles County certified Land Use Plan.

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.

In addition, the certified Los Angeles County Land Use Plan includes the following policies regarding hazards, which are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains.

P147 Continue to evaluate all new development for impact on, and from, geologic hazard.

P156 Continue to evaluate all new development for impact on, and from, fire hazard.

The proposed development is located in the Santa Monica Mountains 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 property consists of an irregular shaped parcel of about 10 acres in size located between Latigo Canyon Road and Kanan Dume Road. The property is bounded to the north by Old Chimney Road and extends downslope on the southern side of Old Chimney Road. Topographically, the site is located on the west flank of Escondido Canyon about one-half mile west of Escondido Canyon Road. The site includes two flat building pads which have been graded prior to 1977. The upper pad at the 1218 foot elevation is where the existing trailer and proposed residence will be located. The lower pad, located at the 1177 foot elevation, is where the existing "as built" storage structure is located.

The Commission reviews the proposed project's risks to life and property in areas where there are geologic, erosion and fire hazards. Regarding the geologic and erosion hazards, the applicant submitted two geologic reports to address this issue: 1) Engineering Geologic Memorandum and Update, Proposed Residential Development, 27372 Old Chimney Road, Malibu, by Geoplan, Inc., dated September 30, 1996; and 2) Preliminary Geotechnical Investigation of Proposed Residential Development at 27372 Old Chimney Road, Malibu, California, by Strata-Tech, Inc., dated October 3, 1996.

These reports note that the project site consists of thin, well-bedded, dark brown to black calcareous siltstone and clay shale of the middle Topanga Formation that underlie the site and environs. Although surficial deposits mask bedrock on slopes flanking the building site; rock was exposed in the exploratory trenches. While landslide debris is common in this area, none has been exposed at or near the building site. There are no known active faults within the subject property.

This report indicates that this building site where the structures are proposed to be constructed are free from hazard of landslide, settlement or slippage and that the proposed structure is feasible. The report concludes by stating:

Providing geologic conditions remain unchanged, there is reasonable inference that the proposed redevelopment will not be affected by landslide, settlement or slippage and that implementation of the proposed development will not affect neighboring property adversely. ... proposed renovation/redevelopment of 27372 Old Chimney Road is feasible and that it may be designed and implemented in compliance with the Uniform Building Code and the recommendations of the project consultants.

The applicants also submitted a geotechnical report titled: "Preliminary Geotechnical Investigation of Proposed Residential Development". This report concluded:

It is concluded that the proposed building site will be unaffected by landslide, slippage, or settlement, provided construction is conducted in accordance with the recommendations of the project consultants and the constraints of the applicable sections of the Building Code. No adverse affect upon adjoining properties will result.

The recommendations in these geology reports address issues including: grading, foundations, footings, retaining wall, concrete slabs, utility backfills, slopes, drainage, sewage disposal system, and seismic engineering. Special condition number one (1) requires that these recommendations be incorporated in the final project plans and that the plans be reviewed and approved by the geologic and geotechnical engineering consultants, prior to the issuance of the permit.

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. According to the Los Angeles County of Public Works Department, the OES-FEMA map dated 9-21-94 indicates that the area of the site has burned in the past 10 to 30 years. According to the agent, the site may have burned in the 1978 fire. The site has not burned since then. 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 special condition number two (2). In addition, a fuel modification plan is discussed in the visual section below to further reduce the wildfire hazards on the property.

The subject site includes an existing dirt driveway to the proposed residential building site and a turnaround area. Leading downslope from this building site is another driveway to the wood shed. According to information in the prior coastal permit P-77-1938 file, the driveways have existed since 1977. The proposed paving of the upper driveway and turnaround leading from Old Chimney Road to the residence site will add about 12,000 sq. ft. of paving in addition to the 1,580 sq. ft. of building coverage to the site. The addition of 13,580 sq. ft. of impervious surface has the potential to create erosional impacts onsite and sediment impacts both onsite and offsite. The applicant's plans include a drainage plan prepared by a licensed engineer that indicates how water runoff will be conveyed from the driveway and structure to onsite drainages in a non-erosive manner.

The Commission finds that only as conditioned to incorporate all recommendations by the applicant's consulting geologist, and the wild fire waiver of liability, will the proposed project be 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 subordinate to the character of its setting.

The applicants propose to construct a one story single family residence and attached two space carport on a flat graded pad. The pad now includes an "as built" trailer which was installed by a previous owner in 1977 without a coastal permit. The applicants, who have recently acquired this property, propose to remove this trailer and a tin shed on the property to an appropriate site outside the coastal zone. The applicants also request approval of an "as built" wood shed located south of the residence site at the end of an existing graded dirt driveway.

The County of Los Angeles Malibu Land Use Plan protects visual resources in the Santa Monica Mountains. In the review of this project, the Commission reviews the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. The Commission examines the building site and the proposed structure. Specifically, Latigo Canyon Road is a designated scenic road and the lower portion of Latigo Canyon is designated as a scenic element in the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan.

The new residence raises two issues regarding the siting and design: one, whether or not public views from public roadways will be adversely impacted, or two, whether or not public views from public trails will be impacted. The existing wood shed is located at the base of a canyon on the site and therefore will have limited visibility from beyond the property. The subject building site is located on a pad below the ridge along Old Chimney Road. According to topographic maps, the site appears to be visible to a limited degree from a short section of Latigo Canyon Road to the east of the site.

Regarding public trails, there is a proposed trail within one third of a mile west of the property, the Ramirez Canyon Connector Trail. This trail now exists as the Murphy Motorway that leads north from Winding Way. The subject residence will not be visible from the portion of the trail immediately to the west because an intervening ridge obscures the residence. The residence may be visible from a portion of the trail to the south as it winds up along the west ridge of the adjoining tributary canyon west of Escondido Canyon. However, the one story residence may only be visible to a limited degree from this trail.

The residence site is now screened by non-native species including eucalyptus and pepper trees. The applicants have not submitted a landscape plan. A landscape plan needs to be submitted that includes native species that are drought resistant, fire retardant and compatible with the surrounding vegetation. The plan should also include the removal of non-native invasive species on the site. Condition number three (3) requires a landscape plan with native species which will replace these trees in locations which will further screen the residence from potential public view along Latigo Canyon Road and the nearby proposed trail.

The landscaping plan also requires that all graded and disturbed areas be planted with native, drought resistant plants. Furthermore, the landscape plan will be designed to minimize and control erosion, as well as, screen and soften the visual impact of the structures. This plan will also include a

fuel modification plan approved by the Los Angeles County Forestry Department to reduce the potential hazards from wildfires. Condition number three (3) provides for such review and approval to ensure that fire retardant plants compatible with the surrounding vegetation are planted and the site will be selectively cleared of native brush pursuant to the Fire Department requirements for clearing the area around the proposed project. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 and 30253 (above) of the Coastal Act.

D. Septic System

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 using the existing septic system for the proposed residence to provide for adequate sewage disposal. The applicant has submitted a conceptual approval for the sewage disposal system from the Los Angeles County Health Department. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Los Angeles County 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.

E. Violation

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

Because a portion of the proposed project includes after the fact development (an existing residential trailer, wood shed, and a tin shed) the project requires a coastal permit in order to be in conformance with the Coastal Act. The Commission finds it necessary to require the applicants to remove the residential trailer and tin shed within six (6) months of Commission action, as required by condition number four (4). In addition, the Commission finds

it necessary to require the applicants to fulfill all of the special conditions as a prerequisite to the issuance of this permit, as required by special condition number five (5) within a reasonable period of time, within ninety (90) days of Commission action. Only as conditioned is the proposed development consistent Sections 30231, 30250, 30251 and 30253 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

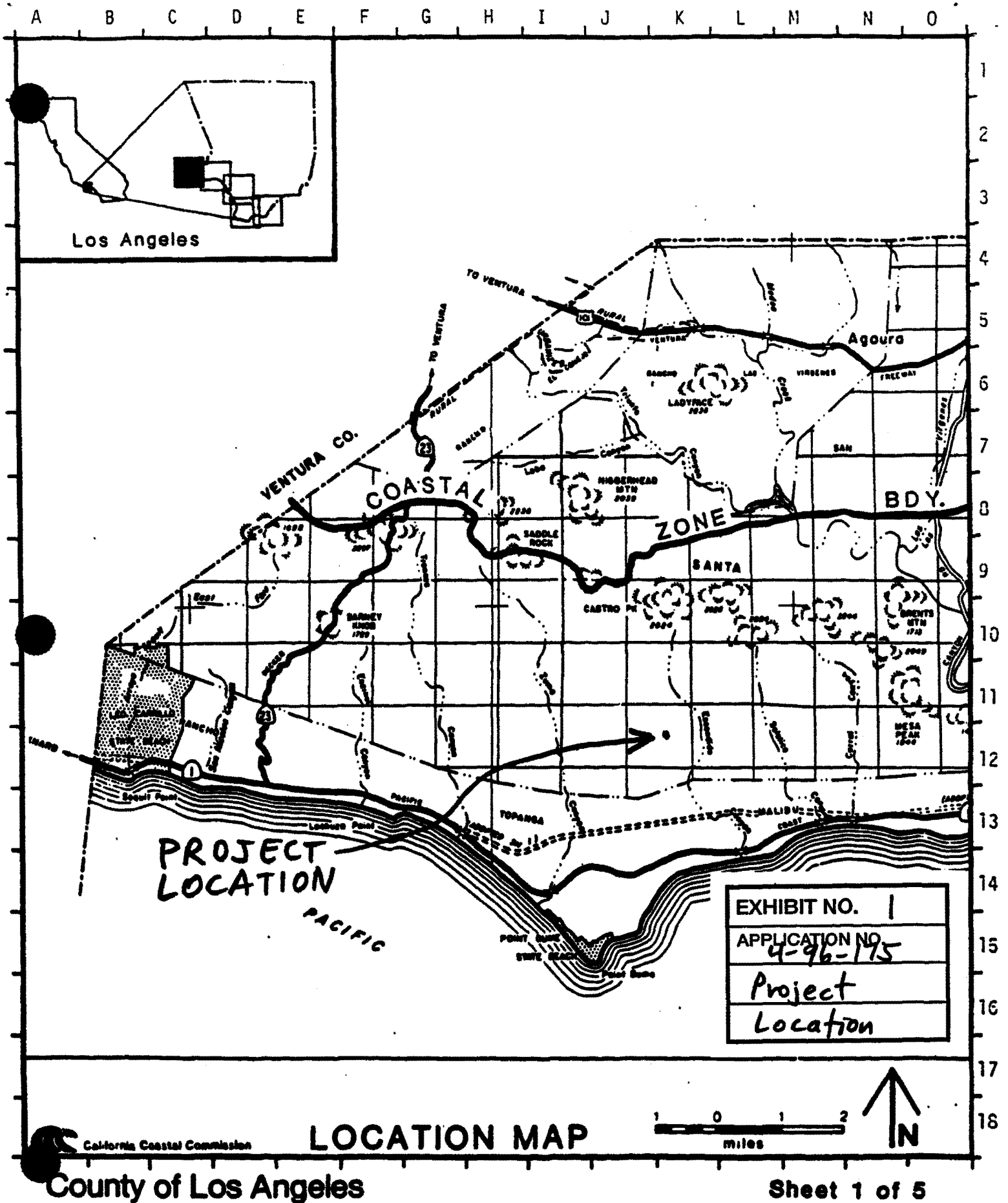
(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice 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 County of Los Angeles' 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).

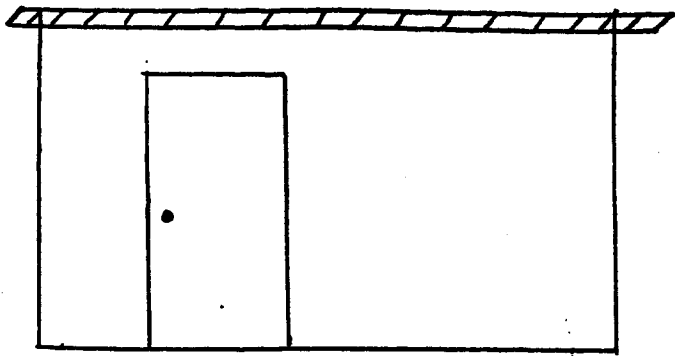
G. California Environmental Quality Act

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.

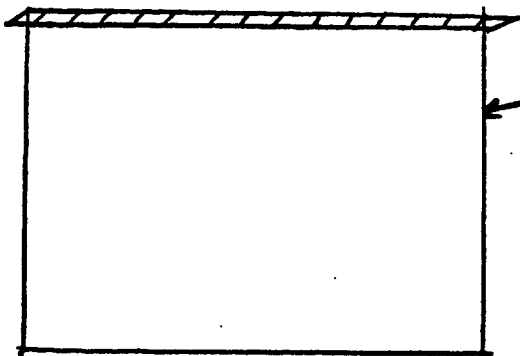
As discussed above, the proposed project has been mitigated to incorporate the recommendations of the consulting geologist, a waiver of wildfire liability, landscape and fuel modification plan, trailer and shed removal, and condition compliance. As conditioned, there are no feasible alternatives or mitigation 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.



WOOD STORAGE CUP

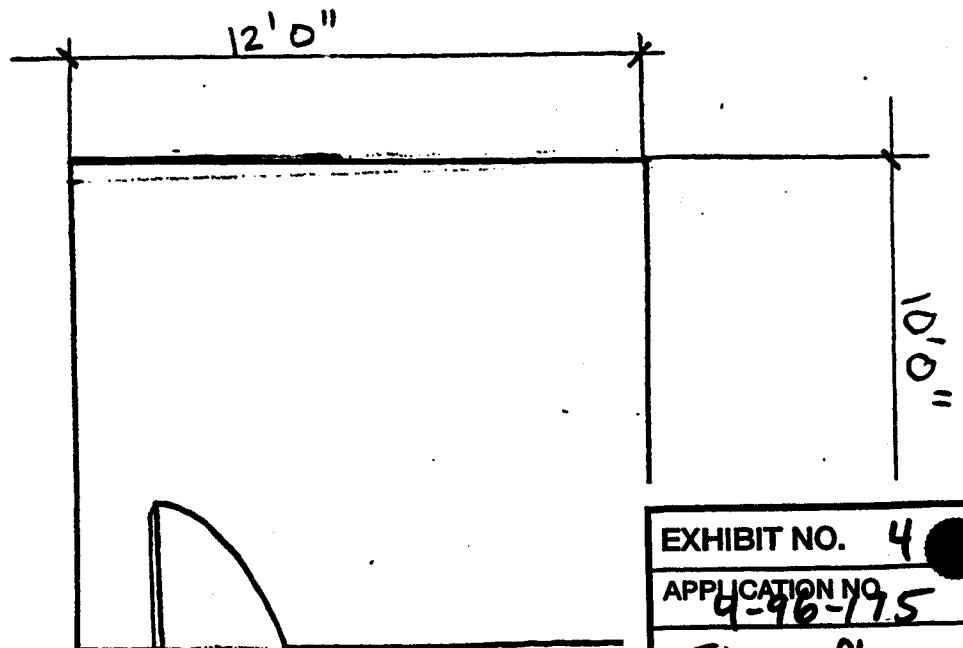


EAST ELEVATION
 $\frac{1}{4}'' = 1'0''$



← 2x4 STUDS @
16" O.C. w/
PLYWOOD SHEATHING

SOUTH ELEVATION
 $\frac{1}{4}'' = 1'0''$



FLOOR PLAN
 $\frac{1}{4}'' = 1'0''$

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|--------------------------|
| EXHIBIT NO. 4 |
| APPLICATION NO. 4-96-175 |
| Floor Plan |
| Elevations |

