

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: JEL-V
Staff Report: 3/19/98
Hearing Date: 4/7-10/98

STAFF REPORT: CONSENT CALENDAR**APPLICATION NO.: 4-98-009****APPLICANT: Michael Auten****AGENT: Christo Karsikis****PROJECT LOCATION: 20507 Big Rock Drive, Malibu (Los Angeles County)**

PROJECT DESCRIPTION: Construct 2,523 sq. ft., 17'6" high, one story single family residence with detached 470 sq. ft. garage and new septic system to replace a 2,018 sq. ft. one story residence destroyed by the firestorm. No grading is proposed..

Lot area:	27,885 sq. ft. (.64 acre)
Building coverage:	2,993 sq. ft.
Pavement coverage:	1,600 sq. ft.
Landscape coverage:	5,000 sq. ft.
Parking spaces:	Two covered
Ht abv fin grade:	17' 6"

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department, Minor Modification Permit to reduce rear and sideyard setbacks, 12/19/97 and Approval in Concept, 1/7/98; Geology and Geotechnical Engineering, Approved "in-concept", 10/30/97; Environmental Health, In-Concept Approval, 11/21/97.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Certified Land Use Plan; Geology Report, E. D., Michael, 8/18/97; Geotechnical Evaluation, Evans, Colbaugh & Associates, 9/11/97; CDPs: 4-97-219 (Mondesir), 4-97-25 (Auten).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the project with special conditions relating to conformance to geologic recommendations, assumption of risk, waiver of liability.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, 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 Recommendations

Prior to the issuance of a coastal development permit the applicant shall submit, for review and approval by the Executive Director, evidence of the geology and geotechnical consultants' review and approval of all project plans. All recommendations contained in the Geology Report, E. D., Michael, 8/18/97; and the Geotechnical Evaluation, Evans, Colbaugh & Assoc., 9/11/97, shall be incorporated into all final design and construction including foundations, slabs, and drainage. All plans must be reviewed and approved by the 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. Assumption of Risk

Prior to issuance of a coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from steep slopes, landsliding and erosion on site and the applicant assumes the liability from such hazards, and (b) the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and/or its officers, agents and employees relative to the Commission's approval of the project for any damage from such hazards.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. 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, 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 Location

The applicant proposes to construct a 2,523 sq. ft., 17'6" foot high, one-story, single family residence with a 470 sq. ft. attached garage, and septic tank. The proposed project will replace the former 2,018 sq. ft., 17 foot high, one-story residence with attached garage destroyed by fire. No grading is proposed. Remnants of the burned out residence include a concrete slab building pad and chimney. The applicant has indicated that all remnant foundation and chimney debris will be disposed of in an appropriate location outside of the coastal zone.

Pursuant to P.R.C. Section 30610(g)(1) no Coastal Permit is required for the replacement of a structure destroyed by disaster, if the structure(s) does not exceed either floor area, height, or bulk of the destroyed structure by 10%. In this case, the proposed floor area of 2,523 sq. ft. exceeds the previous total floor area of 2,018 sq. ft. by 25% and therefore, a Coastal Permit is required.

The site is located in the Big Rock area of Malibu, on a rectangular "flag" lot with an area of approximately two thirds of an acre. Access to the site from Big Rock Drive is provided over a shared driveway with the property to the west. The subject site is located in a residential subdivision, first developed in the 1950s, and surrounded by a new single family residence to the north, a vacant "burn out" parcel to the west, a newly constructed residence to the east, and Big Rock Drive to the south. The relatively steep slope across the Big Rock Drive to the south has precluded any immediate development between Big Rock Drive and Seaboard Road.

The proposed site is located approximately two tenths of a mile north, and at the 507 foot elevation above, Pacific Coast Highway from which the site is not visible. The proposed project will not be visible from any trails, parks or public viewpoints. Given the proposed residential design is located in a developed subdivision, not visible from any trail, public viewpoint, or Pacific Coast Highway, there will be no visual impact.

Descending slopes within the property are located along the southeast, with a maximum height of 50 feet. The average gradients of these slopes are roughly 1.5:1, i.e. 32 degrees from horizontal. At the base of the slope is a masonry wall about 5 feet high and about 15 feet long. An ascending slope of about 8-12 feet high is located roughly parallel to the northwestern property boundary, with an average gradient of about 2:1, i.e. about 26 degrees from horizontal. The base of this slope is within a few feet of the house foundations along the northwest side.

B. Background

Prior to issuing the approval in concept on January 7, 1998, the City of Malibu approved, on December 19, 1997, a minor modification to reduce the rear yard setback from 24 feet to 20 feet and to reduce the sideyard setback from 17 feet to 14 feet, in order to accommodate reconstruction on the existing building pad. The proposed structure is to be constructed over the existing building footprint. If the project had been required to conform to current City of Malibu front and side yard setbacks, while maintaining an 18 foot height limit, grading to increase the size of the building pad would most likely have been required.

Additional grading of the site would result in significant landform alteration of the steep slopes and increase the risk of erosion. Given the steep slopes on-site, the approved front and sideyard setback modification, granted by the City of Malibu, will minimize the need for any landform alteration and potential threat of erosion, and therefore poses no Coastal Act issue.

B. Geologic Stability 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, 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.

1. Geology

The applicant has submitted a geology report, dated August 18, 1997, prepared by E. D. Michael for the subject site, and a geotechnical evaluation, dated September 11, 1997, prepared by Evans, Colbaugh & Assoc. The primary geologic concern for the proposed project is its location within the Big Rock Mesa (BRM) landslide. According to E. D. Michael, consulting engineering geologist, the subject site is located in the southern end of a fairly well defined structural terrace in the BRM landslide area.

The property has been subject to four prehistoric landslide movements in addition to the one historic movement of the BRM landslide in the 1980's. However, given the BRM landslide included all of the masses of these earlier slides, the BRM landslide mass is the only stability issue of practical importance.

Following movement of the slide in the 80's, Los Angeles County conducted an geologic investigation and found the relative factor of safety for soil stability to be between 1.2 and 1.3. Subsequently, Los Angeles County constructed a dewatering system to stabilize movement. According to Michael, generally, a marked cessation of movement was observed through the main part of the BRM landslide after about July, 1994 due to dewatering.

A number of trace seismic faults traverse the BRM area, including the north fault which passes in an easterly direction about 600 feet north of the site. However, the consulting engineering geologist considers these faults to be inactive. The main trace of the Malibu Coast fault is offshore approximately 3,000 feet south of the property. The geology report concludes that neither the landslide nor the faults are a concern if dewatering is continued and water levels are monitored:

"Except for the effects of a strong earthquake, which are essentially unpredictable, it is my opinion that so long as the dewatering system for the mesa is maintained and ground water levels are kept low, the subject property should experience about the same degree of movement as it has during the previous 19 years. On this basis, further movement should be of the same mode and order of magnitude as experienced previously, i.e. without significant effect in the subject property. It must be assumed that the subject property is especially vulnerable to the effects of any regional rise in ground water levels. It is important to continue monitoring ground-water levels and movements in the BRM area."

The consulting geotechnical engineer reaches a similar conclusion regarding the arrested movement of the BRM landslide, and the necessity of the City of Malibu to maintain the dewatering system and monitor the groundwater levels. Mr. Evans concludes:

"There is a risk of future damage to structures on the landslide generated by renewed movement or periodic load redistribution of stress. Based on the present levels of knowledge, it is generally agreed that, all other things being equal, future damage should not be more severe than that generated by the last episode of movement."

Nevertheless, given the location of the proposed project within the active Big Rock Mesa Landslide area, the Commission can only approve the project if the applicant assumes the liability from the associated risks of developing this site. This responsibility is carried out through the recordation of a deed restriction, as noted in special condition two (2). The assumption of risk deed restriction, when recorded against the property will show that the applicant is aware of and appreciates the

nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development.

The relative stability of the existing rear and side yard slopes of the subject parcel, to the east and south, were analyzed by the geotechnical engineer. These slopes were found to have a relative factor of safety, against toe failure above Big Rock Drive, on the order of 1.4. A factor of safety of 1.5 or above is the commonly acceptable level of surficial safety for residential development.

Based on the evaluation of previous research, limited subsurface exploration of the site and observations, both the geologic and geotechnical engineers have provided recommendations to address the specific geotechnical conditions related to the design of the building foundation, and building pad drainage

Based on the findings and recommendations of the consulting geologist and geotechnical engineer, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the 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 geologist and geotechnical engineer as conforming to their recommendations, as noted in condition number one (1) for the final project plans for the proposed project.

2. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

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 can only approve the project if the applicant assumes the liability from these 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).

The Commission finds that only as conditioned above is the proposed project 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 in the local area. 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, minimizing alteration of natural streams.

The proposed two bedroom development includes installing a new 1,500 gallon septic tank and seepage pit to provide for sewage disposal. The applicant has submitted a conceptual approval for the sewage disposal system from the City of Malibu, Department of Environmental Health, based on a two to three bedroom single family residence. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform 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 Section 30231 of the Coastal Act.

D. 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

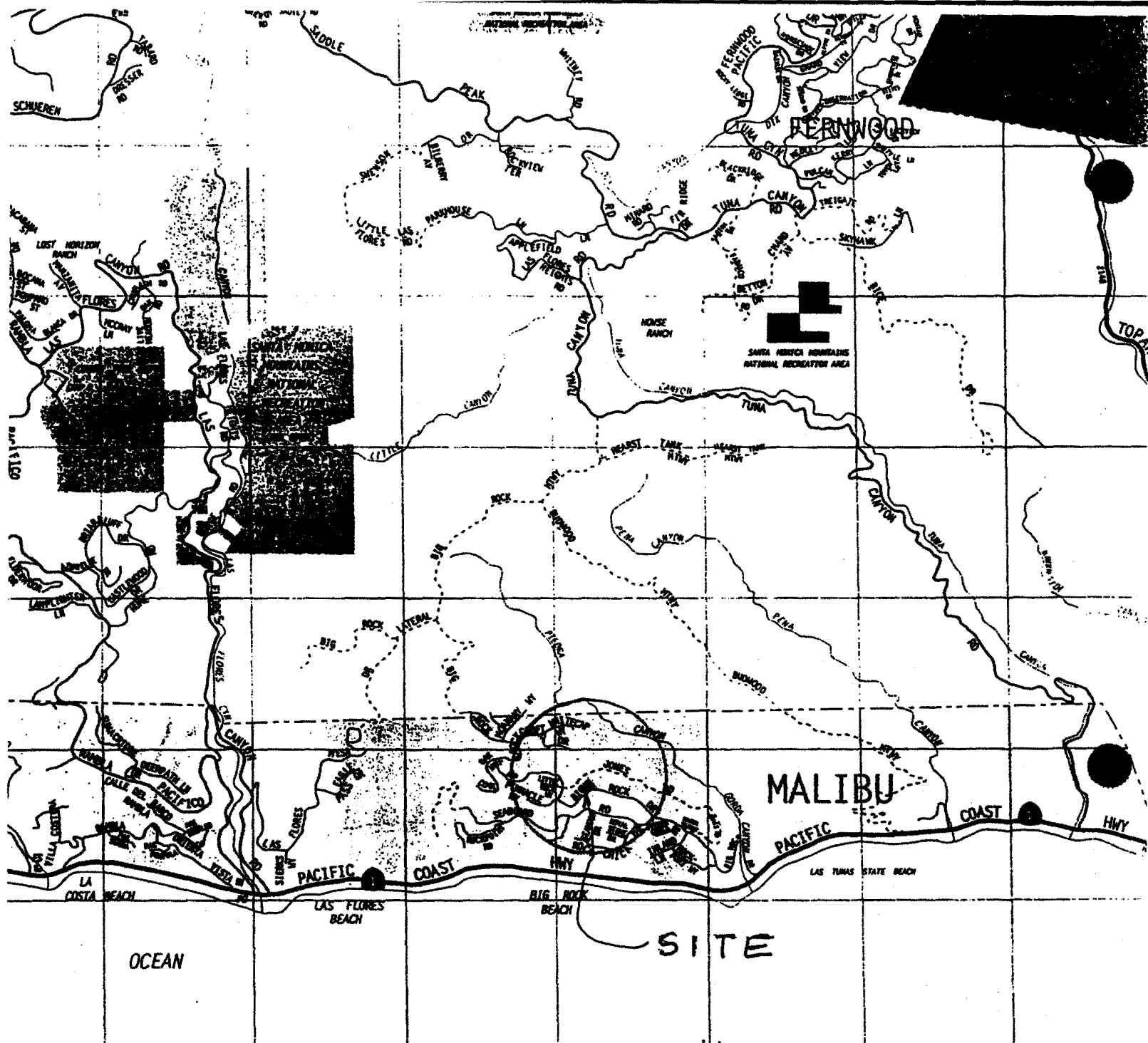
the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

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 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's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (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 which would substantially lessen any significant adverse impact which the activity would have on the environment.

There proposed development would not cause significant, adverse environmental impacts which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.



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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST

EXHIBIT NO. 1

APPLICATION NO.

4-98-009 (AUTEN)

VICINITY MAP

EXHIBIT NO. 2
APPLICATION NO.
4-98-009 (AUTEN)
SITE NO.

DATE: 10-10-68
PAGE: 1
BY: [Signature]
TITLE: [Signature]
SUBJECT: [Signature]
REMARKS: [Signature]

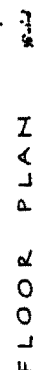


EXHIBIT NO. 3
APPLICATION NO. [REDACTED]
4-98-009 (AUTEN)
FLOOR PLAN

