

CALIFORNIA COASTAL COMMISSION

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

Filed: 9/29/95
49th Day: 11/17/95
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Staff: JCI/V
Staff Report 10/26/95
Hearing Date: 11/14-17/95
Commission Action:

STAFF REPORT: CONSENT CALENDAR

TU 166

APPLICATION NO.: 4-95-142

APPLICANT: Dr. Colleen Sintek

AGENT: Harry Gesner

PROJECT LOCATION: 20928 Pacific Coast Highway, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Remodel existing two story, single family residence, replace existing pool and spa, and relocate septic system. About 261 cubic yards of graded material will be exported to a disposal site outside the coastal zone.

Lot area:	10,058 sq. ft.
Building Coverage:	2,065 sq. ft.
Pavement Coverage:	1,847 sq. ft.
Landscape Coverage:	864 sq. ft.
Parking Spaces:	2 existing
Zoning:	Residential 9B
Project Density:	4.8 du/acre
Height abv fin grade:	24 feet

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept; and City of Malibu Environmental Health Department, Approval in Concept.

SUBSTANTIVE FILE DOCUMENTS: 5-83-691 (Carpentier), 5-90-555 (Campbell).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with three Special Conditions addressing issues related to: the plans conforming to the recommendations of the consulting geologist; applicant's assumption of risk; and construction responsibilities and debris removal.

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, is 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 approved by 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 Report Recommendations**

Prior to the issuance of the coastal permit, the applicant shall submit for the review and approval of the Executive Director, evidence of the consultant's review and approval of all project plans. All recommendations included in the Geologic and Soils Engineering Investigation, dated October 19, 1994, Additional Comments and Recommendations, dated April 7, 1995, August 16, 1995, and September 13, 1995, prepared by Alpine Geotechnical, shall be incorporated into all final design and construction plans including the structure's foundation, the retaining wall at the highway, the pool, and drainage system. All final plans must be reviewed and approved by the

geologist consultant. The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to this coastal permit or a new coastal permit.

2. Applicant's Assumption of Risk

Prior to the issuance of the 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 storm waves, wave runup, erosion, and or flooding and the applicant assume the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission, and agrees to indemnify and hold harmless the Commission, its officers, agents and employees relative to the Commission's approval of the project for any damage due to natural 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 interest being conveyed, and free of any other encumbrances that may affect said interest.

3. Construction Responsibilities and Debris Removal

The applicant shall, by accepting this permit, agree and ensure that the project contractor: (a) not store any construction materials or waste where it may be subject to wave erosion and dispersion; (b) not allow any machinery on the sandy beach or in the intertidal zone at any time; and (c) remove promptly from the beach any and all debris that results from the construction activities.

IV. Findings and Declarations

The Commission finds and declares:

A. Project Description and Location

The applicant proposes to remodel the interior of an existing 2723 square foot, 24 foot high (above existing grade), two-story, single family residence with a two car garage. The existing swimming pool and spa will be replaced and the septic system will be relocated landward of an existing seawall. The applicant has started some of this work without the benefit of a coastal development permit.

The property is a 10,058 square foot lot located on the sandy beach along Pacific Coast Highway between Las Flores and Tuna Canyons. Exhibits 1 and 2 locate the project site. The property, located between the highway and the high tide line, is developed as a two story, single family residence supported on wooden piles, as is typical for this area. Exhibits 3 and 4 include the site plan and elevations. Two seawalls are located between the residence and the ocean and are identified on Exhibit 5. The seaward of the two walls was constructed in 1983 (Coastal permit number 5-83-691) as a common seawall to this and many neighboring parcels. The landward of the two seawalls appears older; its date of construction is unknown. The existing and proposed pool is located landward of the landward seawall, while the septic system is proposed to be relocated landward of the seaward (or newer) seawall (i.e., the septic system will be located between the two seawalls). The remodel includes the construction of a secondary retaining wall

in front of the existing treated wood wall located below the highway at the northern portion of the property.

The Malibu Land Use Plan has designated the site as Residential 9B, 4.8 dwelling units per acre.

B. Hazards

The Coastal Act includes a policy to protect existing and proposed development from 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, nor destruction of the site nor 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 on the seaward side of Pacific Coast Highway on Las Flores Beach between Las Flores Canyon and Tuna Canyon Roads, an area which is generally considered to be subject to a high amount of natural hazards due to storm waves, wave runup, erosion, and flooding. The applicant submitted a report titled "Geologic and Soils Engineering Investigation" dated October 19, 1994, with "Additional Comments and Recommendations", dated November 22, 1994, March 17, 1995 and April 7, 1995, respectively. This report with additional comments and recommendations, reviews the proposed remodel, new pool and relocated septic system. The property is underlaid with beach deposits generally consisting of medium to coarse grained sands. The report indicates that:

It is the opinion of the undersigned that the proposed development will be safe against hazards from landslides, settlement or slippage, and that the proposed retaining wall will not have an adverse effect on the geologic stability of the property outside the building site provided our recommendations are followed during construction.

The proposed pool is to be located landward of two existing seawalls. The Geologic Report indicates that:

The two seawalls will not only apparently protect the site from the wave action, but the seawalls will also prevent beach sand erosion from around the pool shell. ...it is our finding that construction of the proposed pool is feasible from a geologic and soils engineering standpoint, provided our advice and recommendations are made a part of the plans and are implemented during construction.

The septic system is proposed to be relocated between the two seawalls and landward of the seaward seawall. (Exhibit 5) The applicant's geologist reviewed a previous geologic investigation titled "Preliminary Geologic and Soils Engineering Exploration, Proposed Bulkhead, Twelve Residences, 20914 through 21006 Pacific Coast Highway, Malibu", dated September 14, 1983 by Kovacs-Byer and Associates. The intent of this investigation was to provide geologic and geotechnical recommendations for the most seaward seawall common to a dozen residences. The applicant's geologist has inspected this seawall and determined that it

appears to be in good repair. The top of the seawall is at an elevation of about 14 feet above sea level based at mean lower low water (MLL). The applicant's geologist states that:

This seawall was reportedly designed, approved and permitted to provide adequate protection of the property, residence and yard area behind the seawall. It appears that this seawall has done so. Given the intent of the wall design, the seawall will protect the private sewage disposal system from storm wave damage and will allow for continuous operation, except for normal maintenance of the system. Future performance of the wall, although beyond the scope of this report, is likely to be consistent with past performance.

Thus, the report concludes that the remodel of the residence is free from geological hazards such as landslides and slippage. The report also concludes that the construction of the pool will be protected from wave action, and the septic system will be protected from storm wave damage to allow for continuous operation, provided the geologist's recommendations are complied with during construction. The geologist's recommendations are incorporated in condition number one (1) to ensure that the project plans conform to these recommendations by addressing the design of the retaining wall along the highway, the structure's foundation and the construction of the pool.

The applicant may decide that the economic benefits of development outweigh the risk of harm that may occur from the identified hazards. Neither the Commission nor any other public agency that permits development should be held liable for the applicant's decision to develop. Therefore, the proposed project located on a beachfront lot subject to tidal influence, is in an area subject to an extraordinary potential for damage or destruction from storm waves, wave runup, erosion and flooding. The Commission can only approve the project if the applicant assumes the liability from the associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the natural hazards that exist on this beachfront site that may affect the stability of the proposed development. Condition number two (2) requires the applicant to assume these risks of development from storm waves, wave runup, erosion and flooding hazards by waiving all Commission liability.

As noted above, the project involves demolition and construction on a beachfront lot subject to tidal influence. Construction equipment, materials, and demolition debris could pose a significant hazard if used or stored where subject to wave contact or situated in a manner that a hazard is created for beach users. Therefore, the Commission finds it necessary to impose condition number three (3) requiring construction responsibilities and debris removal. This condition will ensure that the construction of the proposed project will minimize risks to life and property in this public beach area which is subject to wave hazards.

The Commission finds that only as conditioned to incorporate all recommendations by the applicant's consulting geologist, including a waiver of liability for the Commission, and requiring the removal of construction debris, will the proposed project be consistent with Section 30253 of the Coastal Act.

C. Visual Resources and Structural Stringline

The Coastal Act includes a policy to protect shoreline public views from encroaching development. 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.

As a means of controlling seaward encroachment of residential structures on a beach to protect public views, to minimize wave hazards, and to ensure maximum public access, as required by the Coastal Act, the Commission has developed the "stringline" policy to control the seaward extent of buildout in past permit actions. As applied to beachfront development, the stringline policy limits extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks. The Commission has consistently applied separate stringlines for decks, structures and seawalls.

The Commission has previously found in past Commission permit decisions that development including remodels and additions onto the beach that involve a seaward encroachment (as defined by Section 30212(b)), can adversely impact public access and views along the ocean. The Commission has found the stringline policy to be an effective means of controlling seaward encroachment to insure the protection of public views and scenic quality of the shoreline as required by Section 30251 of the Coastal Act. In past actions involving seaward encroachment, the Commission has generally looked at each situation individually in deciding whether the stringline policy is applicable. This area of Las Flores Beach is developed with many older residences. These residences extend out seaward relatively evenly, with another with few exceptions. In this particular case, the existing and proposed remodeled residence, deck, pool and two seawalls will remain the same distance seaward. Although the proposed residence is further seaward than the immediately adjacent residences on either side, the applicant's residence and deck are set back from the stringline created by other residences that extend further seaward along this section of beach. The applicant's residence and deck extend at most seventeen (17) and thirteen and one half (13 1/2) feet further seaward from one of the residences immediately adjacent to the east, and at most twenty-one (21) and twenty-three (23) feet less for the next or second adjacent residence to the east, respectively. The neighboring residences are illustrated in Exhibit 5. As noted above, the seaward seawall is located at the same distance seaward as the applicant's and eleven adjoining residences along this beach.

The proposed remodel project, located on the beach, will not extend any further seaward than the existing residence. The relocated septic system will be located landward of the seaward seawall. The proposed pool will be located in the same location as the existing pool, which is landward of both seawalls. Thus, the Commission finds that the project as conditioned is consistent with Sections 30212(b) and 30251 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 the installation of an on-site septic system to provide sewage disposal. The applicant has submitted an 'In Concept Approval' of the proposed septic system from the City of Malibu Environmental Health Department that indicates that it 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 plumbing 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.

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 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).

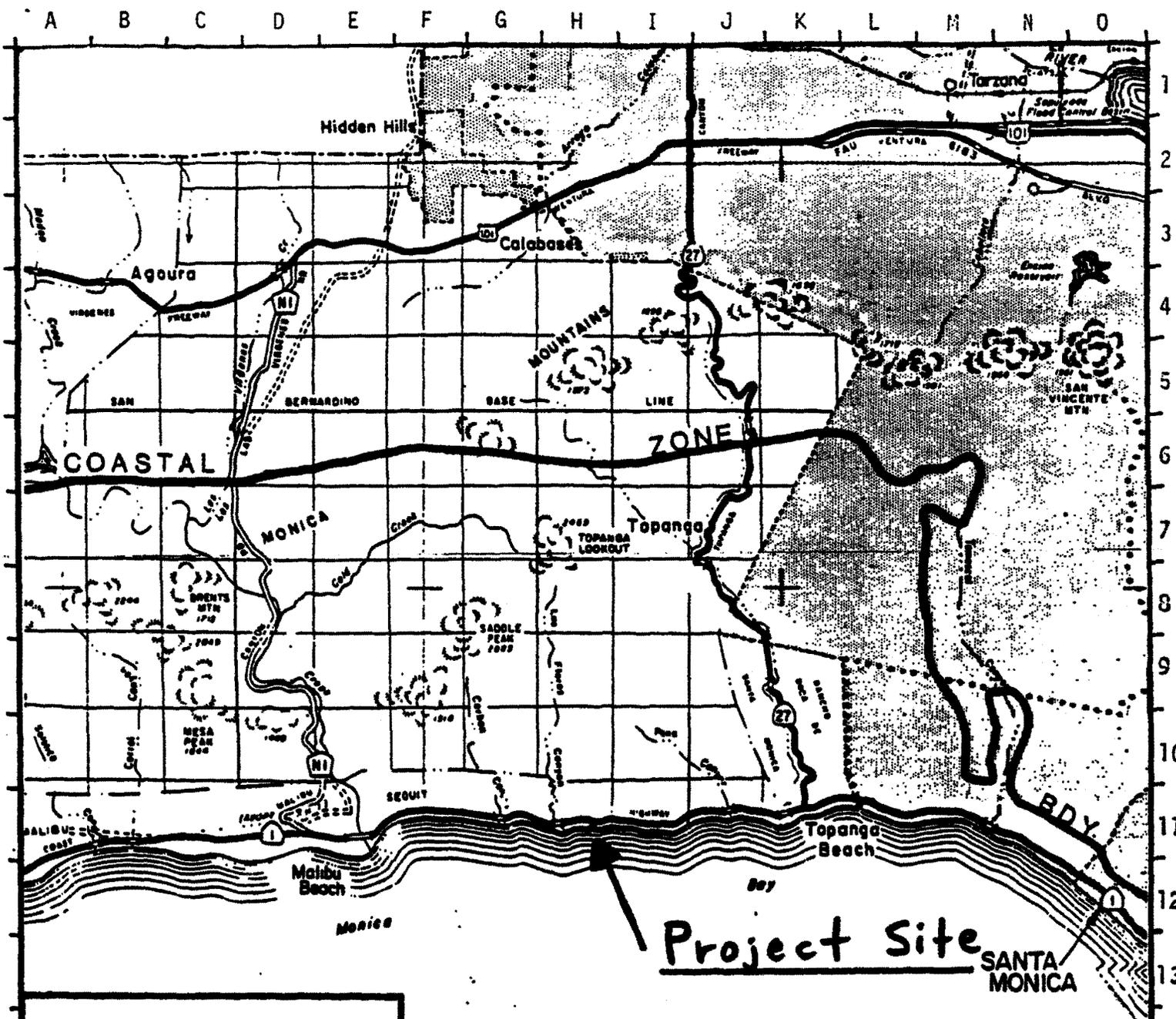
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

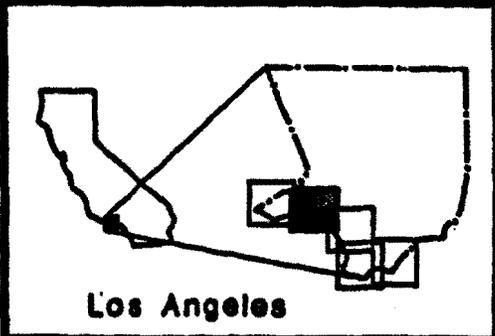
The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any 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 include: adequate measures to conform to the consulting geologist's recommendations; a waiver of liability for the Commission; and a construction responsibility and debris removal requirement. As conditioned, there are no feasible alternatives or mitigation measures available, beyond those required, which would substantially 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.



Project Site

SANTA MONICA



Los Angeles

EXHIBIT NO. 1
APPLICATION NO. 4-95-142
Project Vicinity

California Coastal Commission

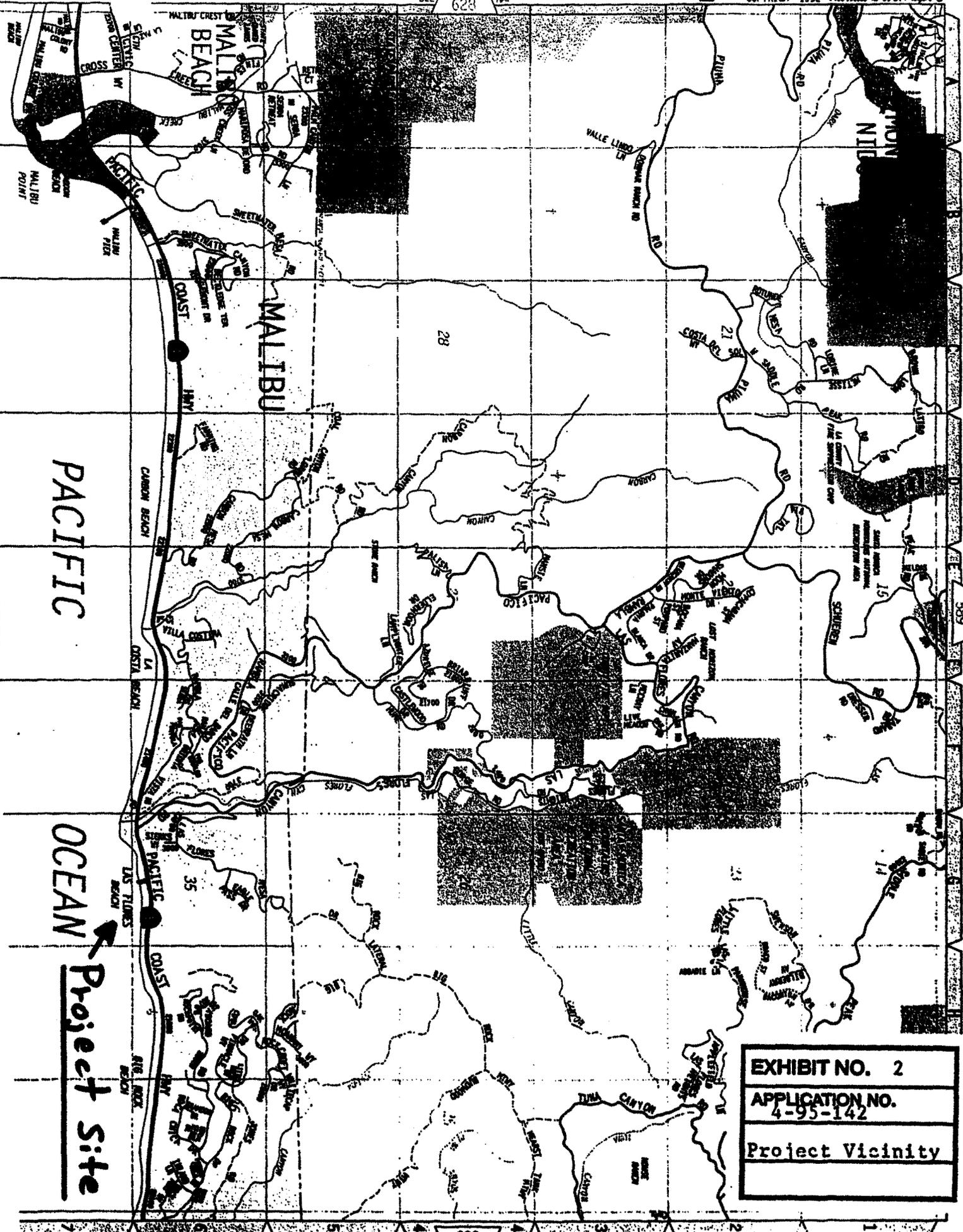
LOCATION MAP



County of Los Angeles

Sheet 2 of 5

SEE 628 MAP



PACIFIC

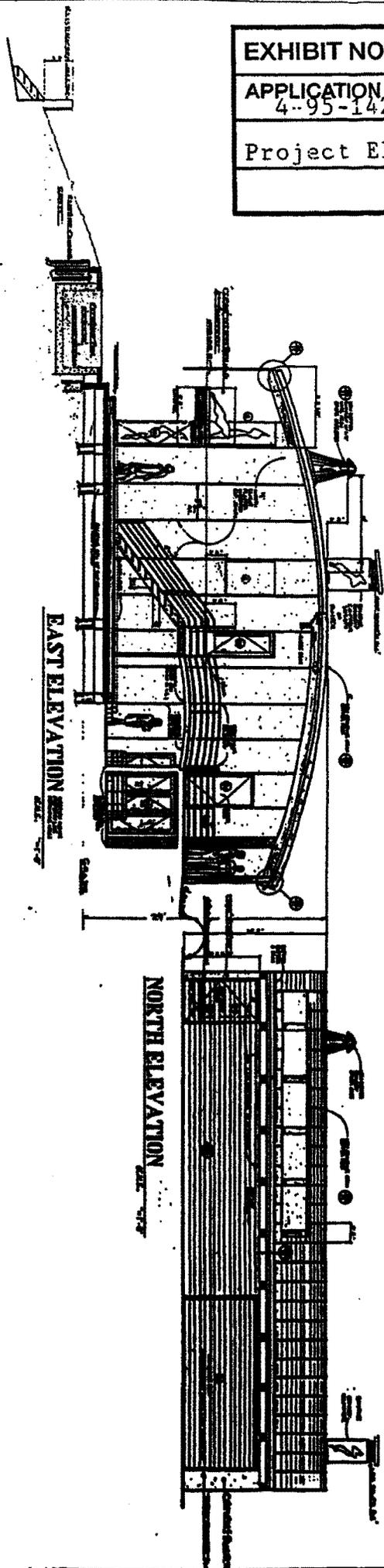
OCEAN

Project Site

EXHIBIT NO. 2
APPLICATION NO. 4-95-142
Project Vicinity

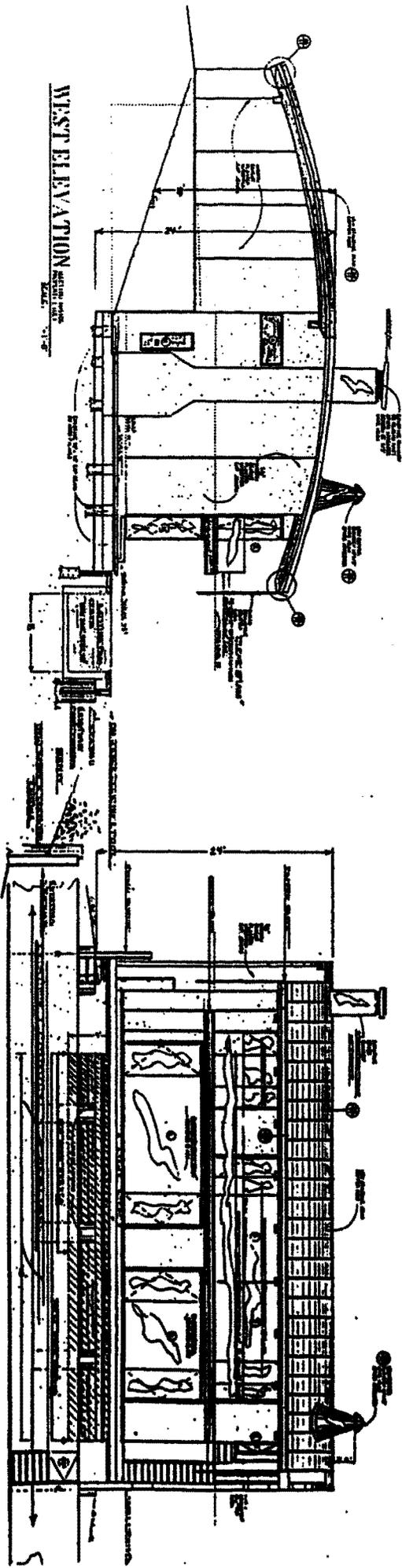
SEE 630 MAP

EXHIBIT NO.	4
APPLICATION NO.	4-95-142
Project Elevations	



EAST ELEVATION

NORTH ELEVATION



WEST ELEVATION

SOUTH ELEVATION

DATE: 10/1/84
 DRAWN BY: J. J. ...
 CHECKED BY: ...

SANDCASTLE ARCHITECTURE
 1400 ...
 ...

DR. COLLEEN SIMTER
 ...

ELEVATIONS
POOL PLANS

05

