

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
SANTA ANA, CA 92701  
641-0142

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7867A

STAFF REPORT: CONSENT CALENDAR

Th 4b

APPLICATION NO.: 4-96-201

APPLICANT: John Festa

PROJECT LOCATION: 33210 Decker School Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a one story, 2,000 sq. ft., single family residence and a detached 400 sq. ft. two space garage on an existing graded pad. Complete site grading of about 50 cubic yards of material. Water well, tank, septic system, all piping, pad and driveway are existing; these improvements were installed in 1990 - 1992 for a previously approved 4,494 sq. ft. residence and garage with 584 cubic yards of grading (CDP # 5-91-501).

Lot Area	1.66 acres
Building Coverage	2,400 sq. ft.
Pavement Coverage	2,000 sq. ft.
Landscape Coverage	2,000 sq. ft.
Parking Spaces	2 spaces
Plan Designation	Rural Land II
Zoning	1 du/ 5 acres
Project Density	1 du/ 1 acres
Ht abv fin grade	16 feet

LOCAL APPROVALS RECEIVED: Approval in Concept, Planning Department, County of Los Angeles, dated 11/6/96; Sewage Disposal Approval, Department of Building and Safety, Los Angeles County, dated 6/15/93; Approval in Concept, Fire Department, County of Los Angeles, dated 1/14/97.

SUBSTANTIVE FILE DOCUMENTS: Update Engineering Geologic Report and Acceptance of Engineering Geologic Responsibility, Proposed Construction of a Single Family Residence, 33210 Decker School Road, County of Los Angeles, California, by Pacific Geology Consultants, Inc., dated June 27, 1996; Report of Professional Engineering Geological Investigation, Proposed Single Family Dwelling and Guest House Construction, 33210 Decker School Road, Malibu Area, Los Angeles County, Calif., by Harley Tucker Consulting Engineering Geologists, dated October 31, 1989; Coastal Permit No. 5-91-501 Piltz; Coastal Permit No. 4-94-141, Goodwin; Coastal Permit No. 4-92-179, Prichett.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed project with eight (8) Special Conditions addressing: plans conforming to the consulting geologists' recommendations; a wild fire waiver of liability;

landscape and fuel modification plan; drainage and erosion control plan, onsite debris removal, revised open space conservation easement, revised future improvements restriction, and design restrictions, to bring the proposed project into compliance with the Coastal Act.

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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 these reports: 1) Update Engineering Geologic Report and Acceptance of Engineering Geologic Responsibility, Proposed Construction of a Single Family Residence, 33210 Decker School Road, County of Los Angeles, California, by Pacific Geology Consultants, Inc., dated June 27, 1996; and 2) Report of Professional Engineering Geological Investigation, Proposed Single Family Dwelling and Guest House Construction, 33210 Decker School Road, Malibu Area, Los Angeles County, Calif., by Harley Tucker Consulting Engineering Geologists, dated October 31, 1989, including issues related to foundation support, graded cuts, and site drainage, shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic and geotechnical engineering consultant.

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 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. Plantings within the open space deed restricted area described in condition six (6) shall include and be limited to riparian species. Plantings shall include

vertical elements to screen and soften the visual impact of the residence, garage, and water tank as seen from Decker Road to the east and south and Decker School Road to the north.

- 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 residence and garage 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.

#### 4. DRAINAGE AND EROSION CONTROL PLAN

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, driveway, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding on the site, erosion on site and sedimentation onsite and offsite. Site drainage shall not be accomplished by sheetflow runoff. The erosion control plan shall include revegetation with drought-tolerant, native species more specifically described in the landscape plan required by Special Condition three (3). Should the project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

#### 5. ONSITE DEBRIS REMOVAL

The construction debris located in the vicinity of the oak trees on the northern portion of the parcel shall be removed from the site within three (3) months of Commission action on this coastal permit.

6. REVISED OPEN SPACE CONSERVATION EASEMENT

Prior to issuance, the applicant as landowner shall revise or amend the recorded map (known as Exhibit B in Coastal Permit 5-91-501; revision is shown in Exhibit 5 of this report) and record an amendment to the existing easement recorded as a deed restriction, in a form and content acceptable to the Executive Director, which provides that the portion of the applicant's property generally depicted on Exhibit five (5) will be precluded from future development for open space and habitat protection. The restriction shall restrict the applicant or his successor in interest from grading, landscaping, other than required by this permit, vegetation removal except clearing of vegetation for fire protection consistent with Special Condition 3 (d) above, or placement of structures within the easement area, except for necessary utility lines. Additionally, the restriction shall preclude the placement of any fencing within or along the perimeter of the open space area. 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 being conveyed.

7. REVISED FUTURE IMPROVEMENTS RESTRICTION

Prior to the issuance of a coastal development permit, the applicant shall execute and record a revision or an amendment to the existing document recorded as a deed restriction, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 4-96-201; and that any future structures, additions or improvements to the property, including but not limited to clearing of vegetation and grading, the construction of fences, gates, other barriers or outbuildings, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. Removal of vegetation consistent with condition three (3) (d) above for fire protection is permitted. 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 being conveyed.

8. DESIGN RESTRICTIONS

Prior to issuance of the Coastal Development Permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of the subject residence, garage and roofs to colors compatible with the surrounding environment. This restriction does not apply to the water tank. White tones shall not be acceptable. All windows shall be of non-glare glass. The document shall run with the land for the life of the structures approved in this permit, 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 being conveyed.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Location

The project site is located within the western portion of the Santa Monica Mountains inland about 2 and 1/2 miles from Nicholas Canyon County Beach and about 2/3 of a mile east of the inland boundary of Leo Carrillo State Beach. Specifically, the project site is located about halfway from Decker Road to the east and Leo Carrillo State Beach and Decker Camp to the west. The site is bounded by Decker School Road on the north and a private driveway on the east leading south to about a half dozen residences. (See Exhibits 1 and 2) Surrounding the subject site, numerous private parcels exist, most of which are developed with very low density residential uses. To the north of the site, about 1,000 feet, are lands owned by the Santa Monica Mountains National Recreation Area.

The applicant proposes to construct a one story, 2,000 sq. ft., single family residence and separate two space, 400 sq. ft., garage on an existing flat graded pad. (Exhibits 3 and 4) A water well, tank, septic system, all connecting piping, building pad and driveway are existing on the site. These improvements were installed between 1990 - 1992 for a 4,494 sq. ft. residence and garage permitted by coastal development permit number 5-91-501. Additionally, the approved permit allowed 584 cubic yards of grading which appears to have been completed on site. The applicant now proposes to complete the grading to construct a smaller residence by completing the building site grading of about 50 cubic yards of material. The applicant proposes to pave the driveway and construct a retaining wall, about 80 feet in length and six (6) feet high on the west side of the pad adjoining the hillside.

Regarding permit history, in December 1991, the Commission approved coastal permit number 5-91-501 for Mr. and Mrs. Piltz to construct a two story, 4,494 sq. ft., single family residence and garage on the same building pad. In 1993, the prior applicant's applied for a permit amendment to install a temporary mobile home on the site; the application was withdrawn by the applicants.

The Malibu/Santa Monica Mountains Land Use Plan designates the site as Rural Land II, allowing one dwelling unit per five acres. Although this lot is smaller than the designated land use, this lot is a legal non-conforming lot and is identified on the Commission's 1978 Malibu/Santa Monica Mountains build out maps as an existing lot. The site includes a blue line stream designated on the United States Geological Survey topographic maps. The stream flows from the northwest to the southeast over the northern portion of the property. The stream flows into a culvert under a small corner of the driveway and the private access road that leads south from Decker School Road. The private access road forms the eastern boundary of the property.

The project site is not located in an environmentally sensitive habitat or resource area mapped and designated by the Malibu/Santa Monica Mountains Local Coastal Plan and therefore was not subject to review by the Los Angeles County Environmental Review Board. However, there is ESHA on the subject property as discussed below.

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 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) "Update Engineering Geologic Report and Acceptance of Engineering Geologic Responsibility, Proposed Construction of a Single Family Residence, 33210 Decker School Road, County of Los Angeles, California", by Pacific Geology Consultants, Inc., dated June 27, 1996; and 2) "Report of Professional Engineering Geological Investigation, Proposed Single Family Dwelling and Guest House Construction, 33210 Decker School Road, Malibu Area, Los Angeles County, Calif.", by Harley Tucker Consulting Engineering Geologists, dated October 31, 1989.

The property consists of a rectangular shaped parcel of about 1.66 acres in size located on an easterly trending ridge at elevations ranging from about 1,180 to 1,250 feet above sea level. The northern portion of the property is bisected by a southeasterly trending drainage course. The 1989 Harley Tucker geology report states that the site topography had been modified by past grading activities for an access road on the eastern property boundary (for homes south of the proposed project) and to create a pad area.

The site is located about four miles north of the Malibu Coast Fault, however, there are no known earthquake faults on the subject site. The Harley Tucker Geology report states that the site is grossly stable and that the bedrock is primarily composed of basalt. The report concludes that:

Providing the recommendations contained in this report, in addition to those of the geotechnical engineer, are followed, the site is safe from landslide hazard, settlement or slippage. Furthermore, the proposed construction will not adversely affect off-site properties.

The Update Engineering Geologic Report by Pacific Geology Consultants dated June 27, 1996 states that:

It is the understanding of this office that initial subsurface investigative studies were conducted by Harley Tucker, Engineering Geologist, and SWN Soiltech Consultants, Geotechnical Engineers, in October-November 1989. The geologic and soils reports were approved by the County of Los Angeles in May 1992. Past grading activity was inspected and approved by Harley Tucker, Engineering Geologist, and MEC Geotechnical Engineers, Inc. in December-January 1993. Excavation of the retaining wall footing along the west pad margin was conducted in July 1993. Construction activity on the site was terminated a short time after as concrete was not poured and the wall was not built.

Pacific Geology Consultants, Inc. is in general agreement with the findings and recommendations provided by Harley Tucker and will accept responsibility as Project Engineering Geologist for the proposed residence construction.

The recommendations in these geology reports address issues including: foundation support, graded cuts, and site drainage. 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 consultant, 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. 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 Sensitive Environmental Resources section below to further reduce the wildfire hazards on the property.

The Commission finds that only as conditioned to incorporate all recommendations by the applicant's consulting geologist, and the wildfire waiver of liability will the project be consistent with Section 30253 of the Coastal Act.

### C. Sensitive Environmental Resources

Sections 30230 and 30231 of the Coastal Act are designed to protect and enhance, or restore where feasible, the biological productivity and quality of coastal waters, including streams which lead into the marine environment.

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The Malibu/Santa Monica Mountains Land Use Plan policies addressing protection of ESHA's are among the strictest and most comprehensive in addressing new development. In its findings regarding the LUP, the Commission has consistently emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The LUP includes numerous policies addressing this issue which have been applied as guidance by the Commission in the review of development proposals in the Santa Monica Mountains.

P63 Uses shall be permitted in ESHA's DSR, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table 1 and all other policies of this LUP.

P68 Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resource dependent use.

P69 Development in areas adjacent to environmentally sensitive habitat areas (ESHAs) shall be subject to the review of the Environmental Review Board, shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

- P72 Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Areas, open space or conservation easements shall be required in order to protect resources with ESHA.
- P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.

The following LUP policies address stream protection and erosion control:

- P76 In accordance with Section 30236 of the Coastal Act, channelizations, dams or other substantial alterations of stream courses shown as blue line streams on the latest available USGS map should incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.
- P79 To maintain natural vegetation buffer areas that protect all sensitive riparian habitats as required by Section 30231 of the Coastal Act, all development other than driveways and walkways should be set back at least 50 feet from the outer limit of designated environmentally sensitive riparian vegetation.
- P80 The following setback requirements shall be applied to new septic systems: (a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leachfields, and (b) at least 100 feet from the outer edge of the existing riparian or oak canopy for seepage pits. A larger setback shall be required if necessary to prevent lateral seepage from the disposal beds into stream waters ...
- P81 To control runoff into coastal waters, wetlands and riparian areas, as required by Section 30231 of the Coastal Act, the maximum rate of storm water runoff into such areas from new development should not exceed the peak level that existed prior to development.
- P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low growing ground covers to reduce heat output may be used. Within ESHA's and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.
- P86 A drainage control system, including on-site retention or detention, where appropriate, shall be incorporated into the site design of new developments to minimize the effects of runoff and erosion. Runoff control systems shall be designed to prevent any increase in site runoff over pre-existing peak flows. Impacts on downstream sensitive riparian habitats must be mitigated.

- P89 In ESHA's and Significant Watersheds and in other areas of high potential erosion hazard, require approval of final site development plans, including drainage and erosion control plans for new development prior to authorization of any grading activities.
- P93 Where grading is permitted during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- P94 Cut and fill slopes should be stabilized with planting at the completion of final grading. In Environmentally Sensitive Habitat Areas and Significant Watersheds, planting shall be of native plant species using accepted planting procedures, consistent with fire safety procedures ...
- P95 Where construction will extend into the rainy season, temporary vegetation, seeding, mulching, or other suitable stabilization methods should be used to protect soils subject to erosion. The appropriate methods should be approved by the County Engineer.

In addition, as noted above in Policy 63, the applicable development standards of Table 1 are as follows:

Permitted Uses: Residential uses which are set back a minimum of 100' which are consistent with appropriate erosion control/stream protection standards and which are consistent with LCP policies.

Land alteration and vegetation removal, including brushing, shall be prohibited within undisturbed riparian woodlands, oak woodlands and savannahs and any areas designated as ESHAs by this LCP, except that controlled burns and trails or roads constructed for providing access to recreational areas may be permitted consistent with other policies of the LCP.

Streambeds in designated ESHAs shall not be altered except where consistent with Section 30236 of the Coastal Act. Road crossings shall be minimized, and, where crossings are considered necessary, should be accomplished by the installation of a bridge. Tree removal to accommodate the bridge should be minimized.

A minimum setback of 100' from the outer limit of the pre-existing riparian tree canopy shall be required for any structure associated with a permitted use.

Structures shall be located in proximity to existing roadways, services and other development to minimize the impacts on the habitat. Approval of the development shall be subject to review by the Environmental Review Board.

Past permit actions taken by the Commission generally reflect the goals and guidance provided in the certified LUP policies towards development in or near ESHA's. Where the Commission has found that single-family development would

not cumulatively or individually create adverse impacts on habitat or other coastal resources, or that adequate mitigation could be provided, it has been permitted.

The proposed project is located on Decker School Road at its intersection with a private driveway leading south. A blue-line stream crosses the northern portion of the lot draining to the southeast. The stream is a tributary to Los Alisos Creek, a designated ESHA located about 1,000 feet to the southeast of the subject site. Decker Road follows a portion of Los Alisos Creek and drainage.

Although, the portion of this tributary stream crossing the subject site is not designated as ESHA on the Sensitive Environmental Resources map included in the Malibu/Santa Monica Mountains Land Use Plan, existing riparian habitat within a portion of the stream and the oak trees on the site are ESHA. The stream on the site of the subject property is degraded and has been cleared in the past. However, riparian vegetation does exist along the creek on the northwest portion of the property and two significant oak trees are located between the creek and Decker School Road on the far north side of the property. Therefore, the subject site includes a limited amount of ESHA, riparian and oak vegetation, along the northwest portion and the northern bank of the creek.

In analyzing the proposed project for conformance with the resource protection policies of the Coastal Act, Land Use Plan, and Table 1 policies, one can address the project with regard to each policy in turn. For instance, Policy P69 requires that development in areas adjacent to ESHA be subject to the review of the Environmental Review Board. However, the Los Angeles County Department of Regional Planning staff determined that the property was not located in an ESHA or within 200 feet of an ESHA as designated in the Malibu LCP. It was determined that the proposal was exempt from the County Environmental Review Board.

LUP policy P72 requires that where development is proposed adjacent to ESHA, open space or conservation easements shall be required in order to protect resources within the ESHA. The Commission required an open space conservation easement as a condition of approval to the prior project approved in coastal permit number 5-91-501. The applicant now asks to use an existing driveway to gain access to the building site rather than construct a longer driveway with a bridge crossing the creek. A small portion of the corner of the existing driveway crosses the creek. The creek drains into a culvert where the private driveway crosses the creek along the eastern boundary of the applicant's property. The driveway leads to the southwest up a small hill to the building site. It appears that the culvert beneath the private driveway was extended to connect into the culvert beneath the private driveway. This area appears to have been cleared for many years.

The proposed driveway route will cross a small area of the creek, about 200 sq. ft., and a portion of the open space deed restricted area that is now protected. The prior project crossed a larger area of the creek, about 1,000 sq. ft., and was excluded from the protected open space deed restricted area. Although the existing driveway crosses the creek through a short length of culvert, about 10 feet, rather than the bridge as proposed in the prior approved project, the area the driveway crosses the creek is minimal by comparison. As a result, the new driveway route will create less impacts on the creek. Therefore, the open space easement needs to be revised to

accommodate the existing driveway, which crosses a small portion of the open space protected area. The easement also needs to be revised to protect the area where the prior driveway and bridge was to be located as conditioned by the prior permit. The revision in the open space deed restricted area is depicted in Exhibit five (5). This recorded Exhibit (recorded as Exhibit B) will need to be modified by the applicant to incorporate this change and reflect the project proposed in this application. Thus, condition number six (6) is necessary to revise this deed restriction accordingly to allow for this new proposed project to proceed.

Further, Policy P76 states that substantial alterations of stream courses shown as blue line streams on USGS maps should incorporate the best mitigation measures available. Policy 79 states that all development other than driveways and walkways should be set back at least 50 feet from the outer limit of the ESHA riparian vegetation. The proposed project will not significantly alter the stream course and the proposed development is located about 80 feet from the existing riparian vegetation in the creek. However, there is some construction debris, wood, metal and plastics, etc., stored beneath the two existing oak trees. This debris falls under the definition of development in the Coastal Act. Condition number five (5) requires the applicant to remove this construction debris in the vicinity of these ESHA protected oaks on the northern portion of the property within a reasonable period of time, three (3) months of Commission action on this coastal permit. The project, as conditioned, meets this policy. Further, Policy P80 requires that septic systems be located 100 feet from a stream. The project meets this policy as the septic system is located about 200 feet from the creek.

In addition, Policy P81 requires that storm runoff from new development should not exceed the peak level that existed prior to development. The addition of 4,400 sq. ft. of impervious surface (2,400 sq. ft. for the structures and 2,000 sq. ft. for the driveway) has the potential to create erosional impacts onsite and sediment impacts both onsite and offsite. Condition number four (4) requires that a drainage and erosion control plan be prepared by a licensed engineer to assure that all runoff from impervious surfaces are collected and discharged in a non-erosive manner which avoids ponding on the site, erosion on the site and sedimentation onsite and offsite.

Policy P84 states that in disturbed areas and in ESHA's, landscape shall include native plants consistent with fire safety requirements by balancing the long-term stability while minimizing the fuel load. There are many examples in coastal areas where apparently degraded stream corridors have been taken over by exotic and invasive plant species which have been planted by property owners. These plants spread downstream and have taken over large sections of riparian vegetation in creeks downstream. Overtime, future landowners point to the degraded areas stating that because the vegetation is non-native, creek setbacks and protection of riparian corridors are not necessary any longer. The creek corridor on the subject site includes some riparian vegetation as noted above. However the majority of the creek within the open space protected area is planted with non-native grasses. This area will be replanted with native riparian species consistent with the fuel modification requirements of the Los Angeles County Forestry Department. At the building site and other areas on the subject property where graded and disturbed areas exist, these graded and disturbed areas will be stabilized with landscaping after construction to minimize erosion and reduce fire hazard as required by condition number three (3). Therefore, the landscape and fuel modification plan will serve to ensure that the proposed development will not

adversely impact the ESHA within the watershed of Los Alisos Creek, the ESHA on the subject site, and will restore a portion of the creek corridor on the site.

The Commission required a future improvements restriction as a condition of approval to the prior project approved in coastal permit number 5-91-501. This deed restriction was recorded by the prior owner to address the larger residence approved in that application. In the subject application, the applicant is proposing a smaller residence and detached garage accessed by a driveway along a different route. The prior development approved and recorded in the deed restriction will not be constructed as a result of the approval of this new application. This future development restriction was recorded as a condition of the prior permit to protect the creek and the open space protected area, while allowing the Commission to review any future development proposed, including the clearing of vegetation or grading.

The recorded deed restriction document needs to be revised to allow the development proposed in this subject application, while continuing to require a coastal permit for any future development not approved in this application. Condition number seven (7) provides for this revision of the prior deed restriction, while allowing for the removal of vegetation for fire protection consistent with the approved fuel modification plan. In order to protect existing riparian resources, prevent the introduction of invasive species, and restore the riparian habitat in the creek, the Commission finds it necessary for the applicant to submit a revised open space conservation easement, revised future improvements restriction, and a landscape plan that includes native plant species.

Therefore, the Commission finds that the proposed project, as conditioned, to require a drainage and erosion control plan, the removal of onsite debris, the landscape and fuel modification plan, the revision of the open space conservation easement and the revision of the future improvements restriction, is consistent with Coastal Act Sections 30230, 30231, and 30240.

#### D. Visual Impacts

Section 30251 of the Coastal Act states that:

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

In addition, the Malibu/Santa Monica Mountains Land Use Plan includes the following policies which are used as guidance:

- P91 All new development shall be designed to minimize impacts and alterations of physical features such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.

P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below the road grade.

P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.

P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs and landscaping) shall:

be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.

minimize the alteration of natural landforms.

be landscaped to conceal raw-cut slopes.

be visually compatible with and subordinate to the character of its settings.

be sited so as not to significantly intrude into the skyline as seen from public viewing places.

P133 Encourage the use of architectural design for new construction which reflects the unique visual and environmental character of the Malibu Coastal Zone. At the same time, encourage -- within the design idiom -- sufficient diversity in the design character (i.e., scale, height, density, etc.) so that visual monotony does not result. Some differentiation among structures should be encouraged to promote the establishment of a limited number of visual landmarks, except in highly scenic areas where new development should be subordinate to the character of its setting.

P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.

P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

The County of Los Angeles Malibu/Santa Monica Mountains 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, the project site is located within the Encinal Canyon Viewshed, a designated scenic resource and is visible from Decker Road, a designated scenic highway, in the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan.

As noted above, the applicant proposes to construct a one story, 16 feet high, single family residence and separate two space garage on a flat graded pad. 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 subject building site is located on a pad below a small hillside along an east facing flank. The applicant proposes to grade a minimal amount to material to finish the grading started in the early 1990's, about 50 cubic yards of material. The site and proposed structures, including the existing water tank near the top of the hillside, are visible from a section of Decker Road to the east of the site.

Regarding public trails, there is an existing trail, The Three Park Trail, within about three quarters of a mile to the south of the subject site. The trail connects Pacific Coast Highway to the Nicholas Flat area. The proposed residence and the existing water tank will be visible from this trail to a limited degree.

The proposed one story residence and garage will be less visually intrusive through the use of earth tones for the structures and roofs of the buildings, and non glare glass which helps the structures blend in with the natural setting. The Commission finds it necessary to impose condition number eight (8) to restrict the color of the subject structures (except for the existing galvanized steel water tank) to those compatible with the surrounding environment and prohibit the use of white tones, while requiring the use of non-glare glass windows.

In addition, the use of native plant materials in landscaping plans will soften the visual impact of development in the Santa Monica Mountains. The use of native plant materials to revegetate areas not only reduces the adverse effects of erosion (which can degrade visual resources in addition to causing siltation, considered a non-point source pollution, in ESHA's) but also to screen and soften the visual impacts of development. Condition number three (3) requires that the residence, garage, and water tank be screened by vertical element plantings to reduce the visual impact of the project site as seen by the public from Decker Road, Decker School Road, and The Three Park Trail.

Therefore, the Commission finds that the proposed project is consistent, as conditioned by the design restriction and the landscape plan, with Section 30251 of the Coastal Act.

#### E. 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 an approval for completing the sewage disposal system for the prior residence, which was more than twice as large as the residence now proposed, from the Los Angeles County Building and Safety 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.

#### 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

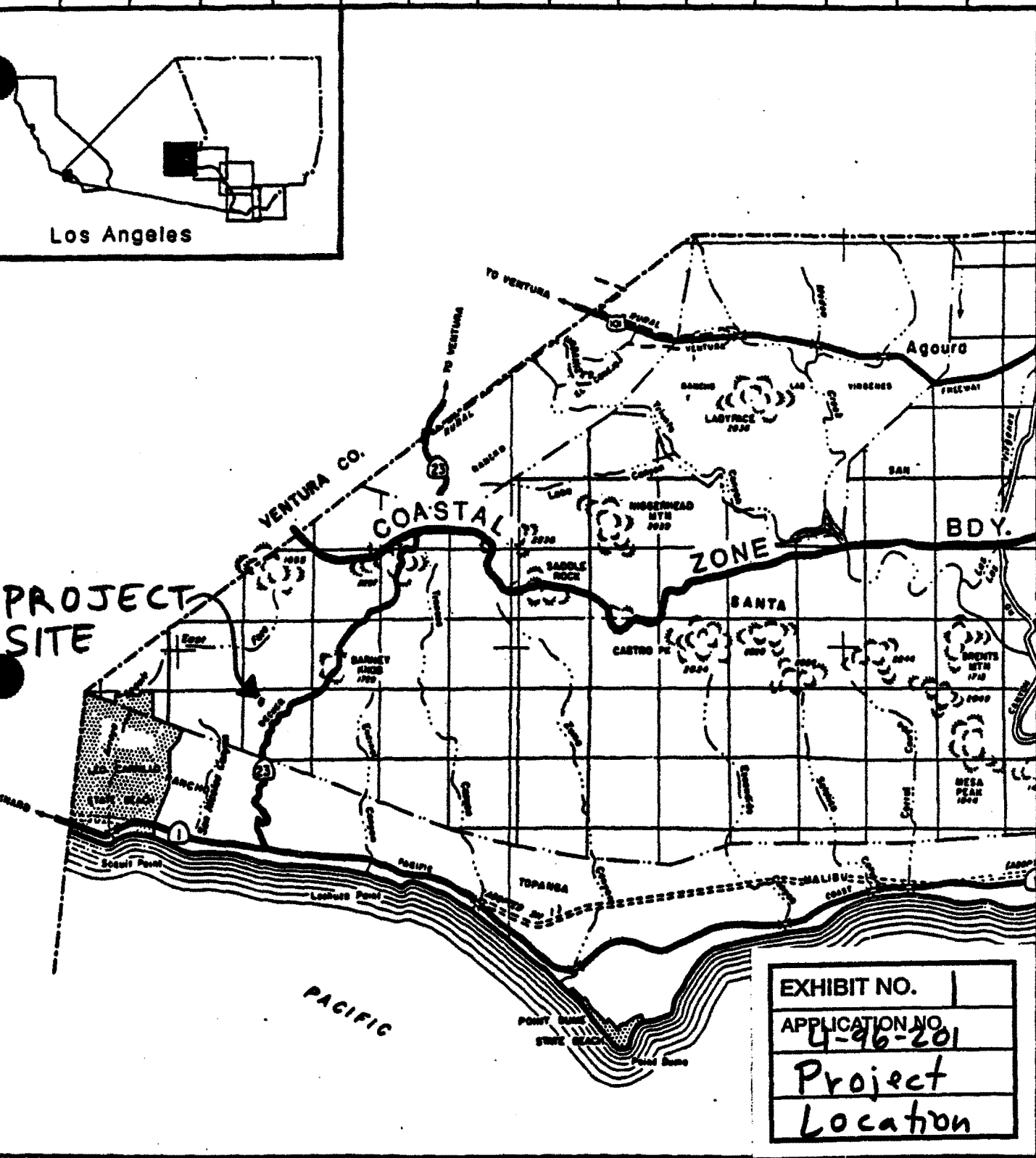
The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any 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, drainage and erosion control plan, onsite debris removal, revised open space conservation easement, revised future improvements restriction, and design restrictions. 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 consistent with the requirements of CEQA and the policies of the Coastal Act.

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LOCATION MAP

County of Los Angeles

Sheet 1 of 5

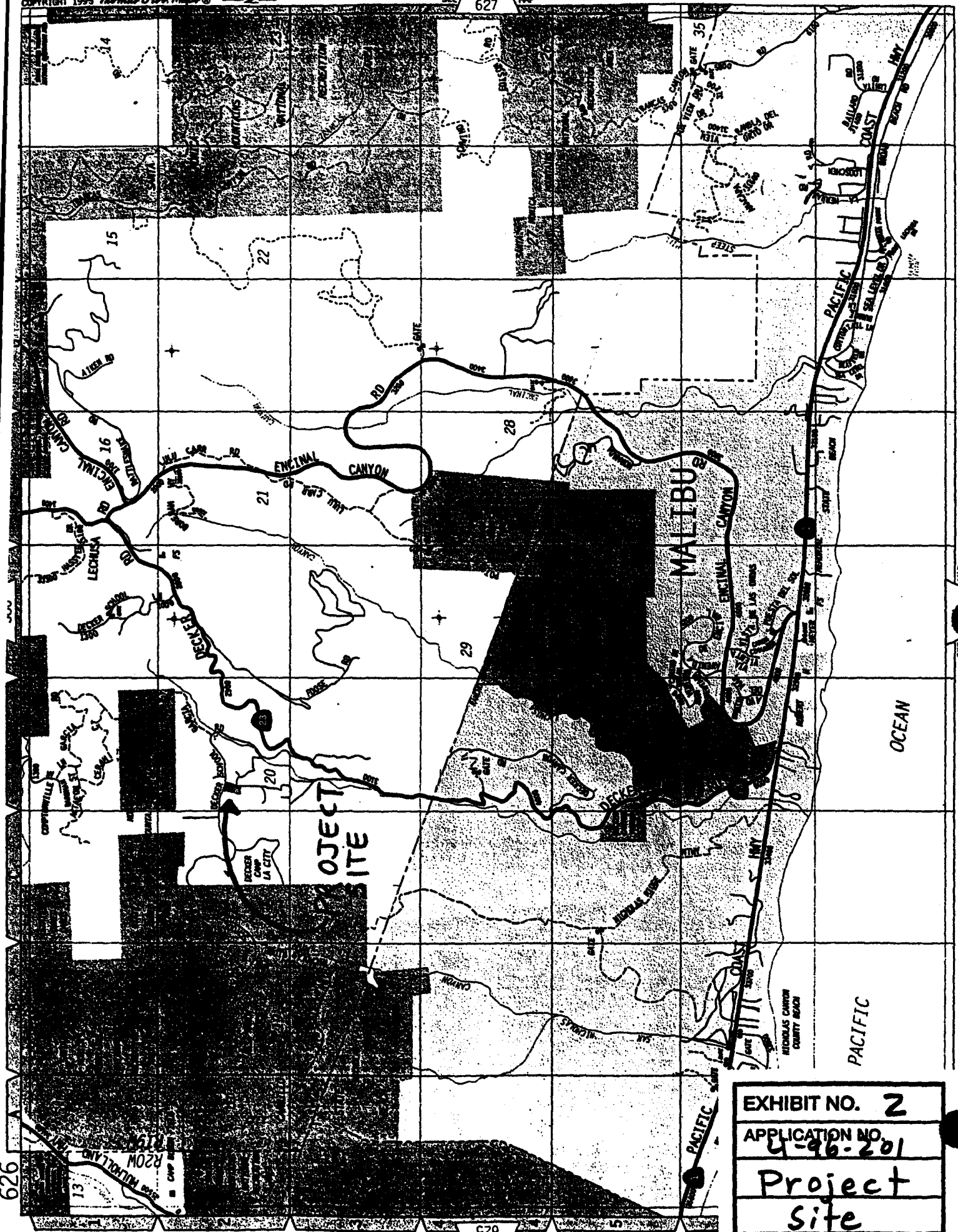
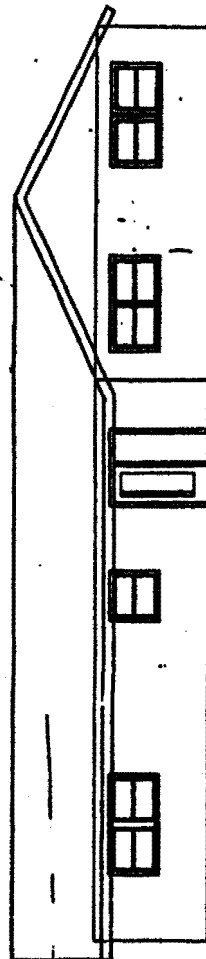
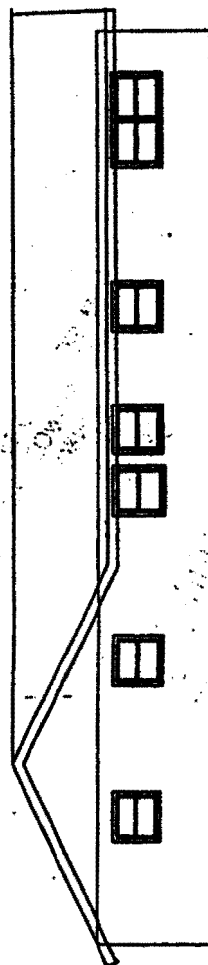
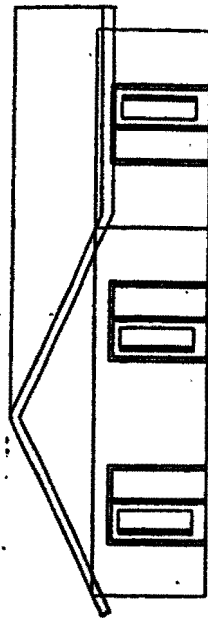
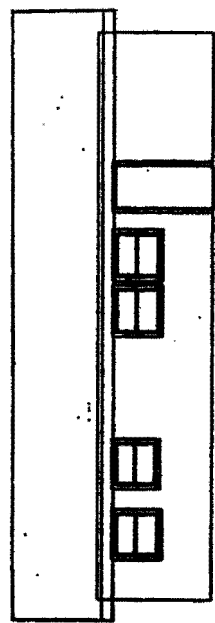


EXHIBIT NO. 2
APPLICATION NO. 4-96-201
Project Site

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ELEVATIONS

EXHIBIT NO. 4
APPLICATION NO. 4-96-201
Elevations

Open Space Deed Restricted Area

33210 Decker School Road

Malibu, CA

FORMER RESIDENCE  
REVISE TO INCLUDE  
NEW PROJECT



EXISTING  
DRIVEWAY  
REVISE  
OPEN SPACE  
TO ALLOW  
DRIVEWAY

PREVIOUS  
DRIVEWAY  
REVISE  
OPEN SPACE  
TO PROTECT  
CREEK AREA

EXHIBIT NO. 5

APPLICATION NO.  
4-96-201

OPEN SPACE  
AREA

