

**CALIFORNIA COASTAL COMMISSION**  
631 Howard Street, San Francisco 94105 — (415) 543-8555

REVISED STAFF RECOMMENDATION

Appeal No. 421-78  
(Olympian Hotel)  
Hearing Opened: 12/12/78

DECISION OF REGIONAL COMMISSION: Permit granted with conditions by South Coast Regional Commission

PERMIT APPLICANT: Olympian Hotel Partnership, Seymour and Steven Jacoby

DEVELOPMENT LOCATION: 20802 Pacific Coast Highway, Malibu, Los Angeles County (Exhibit 1)

DEVELOPMENT DESCRIPTION: Construction of a two-story, two-bedroom 2,160-sq. ft. single-family residence with attached two-car garage (Exhibit 2)

APPELLANTS: Olympian Hotel Partnership, Seymour and Steve Jacoby

PUBLIC HEARING: Opened December 12, 1978, in Los Angeles

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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, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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. Conditions

1. Placement of Protective Device on the Beach. The seaward bulkhead for the septic system shall extend no further seaward than a line drawn between the nearest adjacent bulkheads providing for the minimal amount necessary to create a leachfield for a 750-sq. ft. septic tank set back ten ft. from the seaward bulkhead.

2. Stringline for House and Deck. Prior to issuance of a permit the applicant shall submit to the Executive Director for his review and approval revised plans which indicate that no part of the enclosed living space of the structure shall be built seaward of a line drawn between the nearest adjacent corners of the enclosed living space of the nearest adjacent structures, and no part of the

deck shall be built seaward of a line drawn between the nearest adjacent corners of the decks of the adjacent structures (Exhibit 3). Where an adjacent structure has no deck, the deck stringline shall be lined up parallel with the house stringline but not to extend beyond the bulkhead.

3. Source of Materials on Beach. Suitable materials for filling behind the bulkhead on the beach shall be imported by the applicant and not obtained from the site or any other beach location.

4. Placement of Drainage Pipe. Prior to issuance of a permit, the applicant shall submit to the Executive Director for his review and approval revised plans which indicate that the storm drainage pipe on the eastern end of the property shall extend no further seaward than the bulkhead for the proposed project. The design of the drainage pipe shall be certified by a coastal engineer.

5. Vertical Access to the Beach. Prior to issuance of the permit, the Executive shall certify in writing that the following conditions have been met. The applicant shall execute and record a document, the form and content of which has been approved by the Executive Director of the Commission, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for public access to the shoreline. Such easement shall be free of prior liens and encumbrances except tax liens. The easement shall allow for pedestrian access to and from the shoreline. The offer shall be irrevocable for a period of 25 years running from the date of recording and shall run in favor of the People of the State of California binding successors and assigns of the applicant landowner. Applicant shall also provide an area for stairs down from the vertical accessway, if necessary, to the beach seaward of the structure.

6. Lateral Access Along the Shoreline. Prior to issuance of the permit, the Executive Director shall certify in writing that the following conditions have been met. The applicant shall execute and record a document, the form and content of which has been approved by the Executive Director of the Commission, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director, an easement for public access and recreation along the shoreline. Such easement shall be located adjacent to the mean high tide line extending 25 ft. inland from the current high water mark; however, in no case shall the public be allowed to use the beach which is closer than five ft. from the residence. The offer shall be irrevocable for a period of 25 years running from the date of recording and shall run in favor of the People of the State of California binding successors and assigns of the applicant landowner.

7. Waiver of Public Liability. Prior to issuance of a permit, the applicant shall submit to the Executive Director a document such as a deed restriction to be recorded free of prior encumbrances except for tax liens, in which document the applicant shall agree for himself and any successors in interest to waive any claims against the Commission or any other public agency for damage or injury to the property or the development resulting from drainage from the storm pipe, storm, tsunami, flood, or other wave action, and shall also agree to relinquish any rights to public disaster funds or loans for repair, replacement, or rehabilitation of the property or the development made available because of any drainage problems, storm, tsunami, flood, or other wave action. The document approved by the Executive Director shall be recorded prior to construction and evidence thereof submitted to the Executive Director.

8. Overall Condition. Final working drawings shall be submitted to the Executive Director prior to the commencement of construction; these drawings shall be accompanied by an Architect's Certificate certifying that the final working drawings are in substantial conformance to the plans approved by the Executive Director pursuant to the above conditions. All development shall be in strict conformance with those drawings. No construction shall commence prior to the submission of evidence to the Executive Director that all conditions have been satisfied.

### III. Findings and Declarations

The Commission finds and declares as follows:

1. Project Description. The applicant proposes to construct a two-story single-family dwelling with an attached two-car garage and a jacuzzi. The proposed dwelling is 2,160 sq. ft. and is situated on a 7,236-sq. ft. oceanfront lot. The septic system is to be constructed behind a bulkhead on the beach underneath the structure (Exhibits 2, 3).

The parcel slopes down abruptly from Pacific Coast Highway to the beach. There is a 36-in. diameter drainage pipe in an easement on the eastern property line. The project as proposed would exceed the structural stringline by  $11\frac{1}{2}$  ft. and the deck stringline by  $10\frac{1}{2}$  ft., as imposed by the Regional Commission.

2. Shoreline Protection. The proposed project is to be built on the beach. 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 the natural landforms along bluffs and cliffs.

Section 30235 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff-retaining walls, and other construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Residents in the area of the project site are served by septic systems which must be built on the beach due to the small size of the lots. A bulkhead acts to protect the septic system and is usually constructed under the structure and back-filled with sand or dirt. The septic system is then installed in the filled area. The proposed location for the bulkhead will provide the minimum amount necessary to create a leachfield which will meet the County's requirement for a 750-sq. ft. septic tank.

The project as conditioned attempts to place the bulkhead as close as possible in line with the bulkheads on the adjacent properties and still meet the County

standards. This finding is consistent with previous State Commission action in Appeal No. 161-78 (New West Construction) which also involved the construction of a two-story, two-bedroom house on the Malibu beach.

The project site is in an area of Malibu in which the beachfront lots are almost all developed with residences. The proposed bulkhead would protrude further seaward than the bulkheads on the adjacent properties by about ten ft. although would be in line with at least half of the turning bulkhead on the property to the east. According to a coastal engineer for the County of Los Angeles, this protrusion would not present a problem on the coastal processes. Furthermore, the County of Los Angeles Building and Safety Department and the State Lands Commission stated that the proposed placement of the bulkhead would not diminish the dry sandy beach since the most landward mean high tide line is located 40 ft. seaward of the proposed project; the most seaward mean high tide line would leave as much as 100 ft. of sandy beach.

Because it is unlikely that the proposed bulkhead would substantially alter the natural landform or adversely impact the natural shoreline processes of an area already containing numerous bulkheads in similar locations on the beach, the Commission finds that the project as conditioned will be consistent with Sections 30253(2) and 30235 of the Coastal Act. In order to preserve the structural integrity of the site and surrounding area, the Commission has conditioned the importation of suitable materials for filling behind the bulkhead.

The hazards from wave action are well documented and common to most structures built on the beach in Malibu. The project site area is nearly completely developed with beachfront residences so that it does not seem reasonable to restrict the development of the few remaining scattered vacant lots despite the very real hazards from flooding and wave action. The project, as conditioned, requires the applicant to waive any future public protection of subsidies related to wave damage or flood hazards and to record the waiver to put future owners of the property on notice both of the hazards and of their obligation to relieve the public of future liability. The Commission finds that, as conditioned, the project will be consistent with Section 30253(1) of the Coastal Act.

2. Public Access. The project site is located between the nearest public road, Pacific Coast Highway, and the sea (Exhibit 1). Therefore, the following public access provisions of the Coastal Act apply to this project:

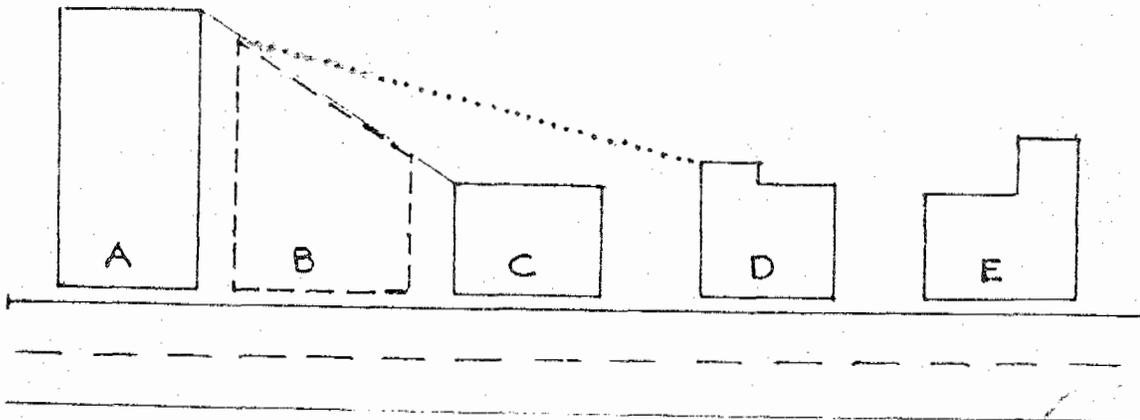
30211. Development shall not interfere with the public's right of access to the sea. . .including but not limited to, the use of dry sand and rock coastal beaches to the first line of terrestrial vegetation.

30212. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety. . .or the protection of fragile coastal resources. . .  
[or] (2) adequate access exists nearby. . .

The Regional Commission determined that there is a need for vertical access on this lot because of the lack of access to the beach for over one mile to the east and for over one-half mile to the west. The State Commission, therefore, finds that provision of vertical access on the project site is consistent with Sections 30211 and 30212 of the Coastal Act. A recorded six-ft. easement along the western property line giving the public the privilege and right to pass and repass over this

easement and extending from the road to the mean high tide line is an appropriate measure to provide vertical access.

In order to prevent new houses and house modifications from encroaching onto the beach, the Regional Commission imposed standard lateral access conditions on this project and established the stringline method to determine the point beyond which no part of a proposed new structure, including decks, may be built. Pursuant to the Regional Interpretive Guidelines, the stringline is the imaginary line drawn between the nearest adjacent corners of the adjacent structures. The appellants contend, however, that the stringline should be the imaginary line drawn between the most seaward point of the adjacent structures. The State Commission finds the nearest adjacent corners of the adjacent structures to be the appropriate measuring points for a house stringline and the nearest adjacent corners of adjacent decks to be the appropriate measuring points for a deck stringline. To apply the appellant's method for measuring a stringline could allow existing structures to progressively extend onto the beach if one particular structure was built far out on the beach, thereby setting a new buildable line for other properties along the beach to successively follow. The Regional Commission staff report illustrates this effect as follows:



In this case, Structure B would be limited by a stringline from Structure A to C. After Structure B was built and if the most seaward point was used as the point of the stringline, then Structure C could be built out to a stringline between Structures B and D (dotted line) and so on down the beach. If C built out, then the owner of Structure B would have his view along the coast blocked, at least partially, on both sides, and the owners further down the beach would suffer further view blockage. Although private views are not considered in the Act, there is an equity problem here. As it presently exists, the stringline provides that no individual can completely overwhelm his neighbors and that everyone maintains at least a partial view while the public has only a minimum encroachment onto the beach it has traditionally used. Also, the stringline, as it is defined in the Los Angeles County Guidelines, has been in use since 1974, and all new construction has been built to this condition. If it is modified as requested by this applicant, then we can expect a large number of applications for modification of the stringline condition.

There is a discrepancy between the architect's plans and photographs taken of the site regarding the existence of a porch or deck on the adjacent property to the east of the proposed project. The architect's plans, based on a land survey,

dated August, 1977, indicates there is a porch on the western end of this adjacent property which protrudes seaward approximately six ft. from the structure. Yet, photographs dated December, 1977 (Exhibit 4), submitted by the owner of the property to the west of the subject project indicate no porch exists on the eastern adjacent property. If these photographs correctly depict the site, the Commission finds the deck stringline for the proposed project shall be lined up parallel with the House stringline but shall at no point extend seaward of the bulkhead.

The standard lateral access conditions on the proposed project provides a 25-ft.-wide strip of beach measured from the waterline on which the public may walk, sit, swim, or participate in any normal beach activities. This lateral access provision is limited in that the public shall not be allowed to use the beach, which is closer than five ft. to the proposed structure. Similar conditions have been imposed by the Regional Commission and State Commissions on almost all applications for homes on beachfront lots in Malibu.

An additional lateral access condition requires ending the proposed extension of the county's storm drainage pipe in line with the proposed bulkhead. To allow further seaward extension of such a sharp-ended object would risk the safety of beach users.

The Commission finds that the project as conditioned will be consistent with the public access policies of Chapter 3 of the Coastal Act.

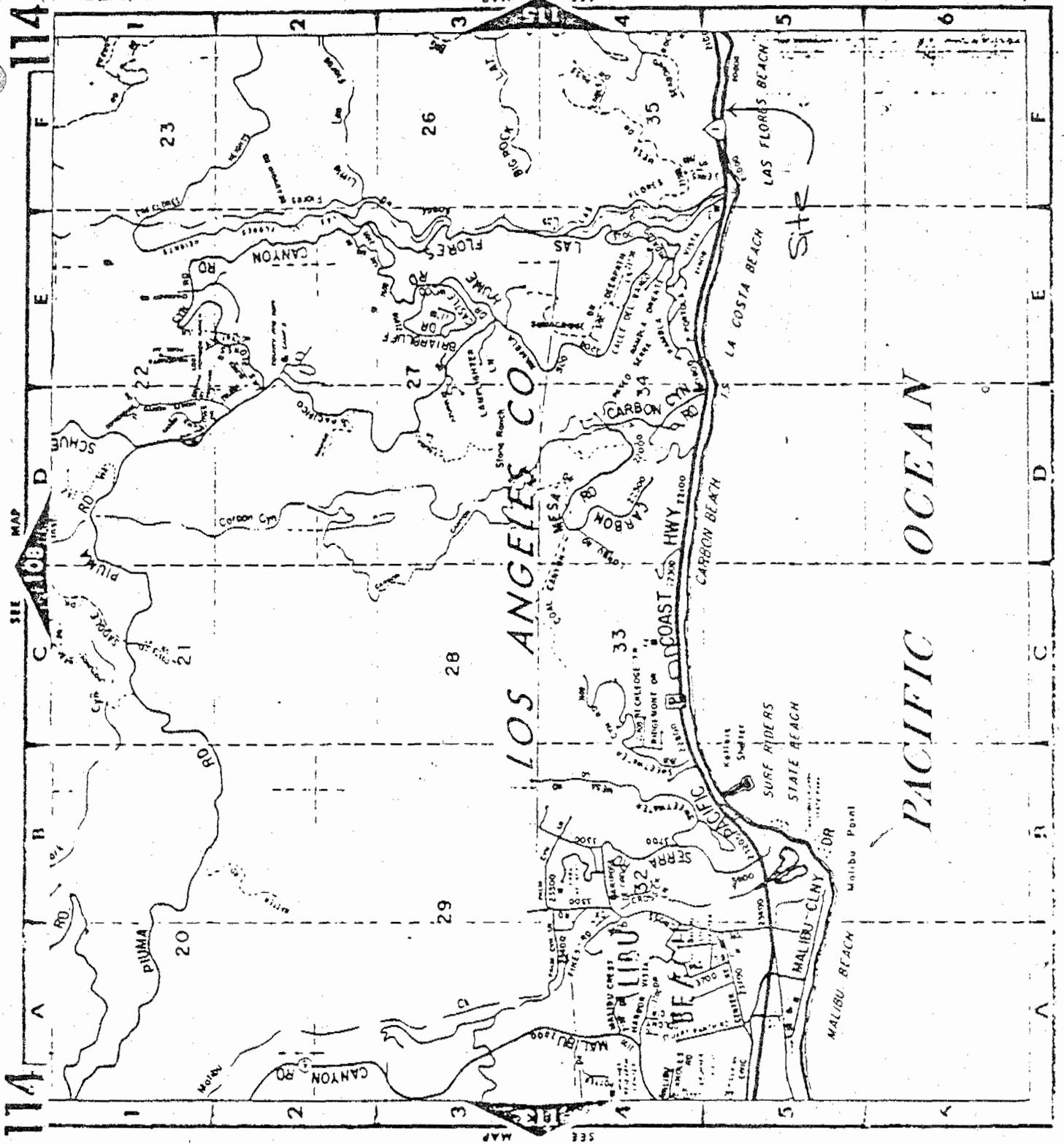
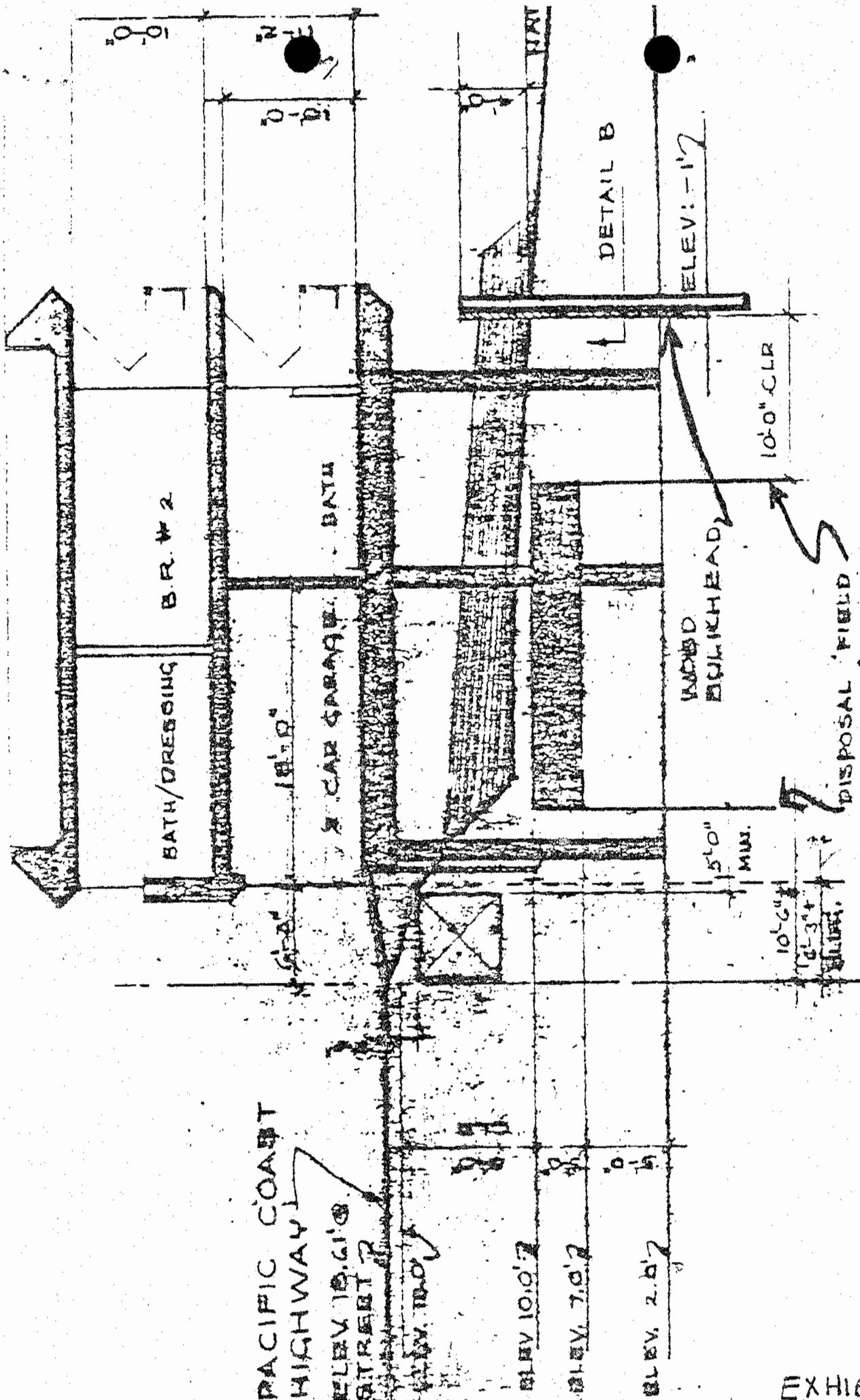


EXHIBIT 1



SECTION THROUGH SITE & PROPOSED BUILDING

1/8" = 1'-0"