

CALIFORNIA COASTAL COMMISSION

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RECORD PACKET COPY

Filed:	April 13, 2000
49 th Day:	June 1, 2000
180 th Day:	October 10, 2000
Staff:	ALB/LB
Staff Report:	February 14, 2002
Hearing Date:	March 5-8, 2002
Commission Action:	Approved with Conditions

Item Tu 19a**STAFF REPORT: REVISED FINDINGS**

APPLICATION NUMBER: 5-00-111

APPLICANTS: Joe & Carol Ballard; Bryan & Danielle Ballard

AGENT: Frank Montesinos

PROJECT LOCATION: 108 Capistrano Lane, San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a new 3781 square foot, 32' high (23' 6" above centerline of frontage road), split level duplex ranging from two to four stories in height with two attached 2-car garages on a vacant, sloping lot.

PROJECT SPECIFICS:

Lot Area:	3200 sq. ft.
Building Area:	4825 sq. ft.
Building Coverage:	1361 sq. ft.
Pavement Coverage:	1028 sq. ft.
Landscape Coverage:	811 sq. ft.
Parking Spaces:	Four (4)
Land Use Designation:	Residential High Density
Avg. Max. Ht.:	32 feet
Ht. above Frontage Rd.:	23 feet 6 inches

DATE OF COMMISSION ACTION: August 9, 2000

COMMISSIONERS ON PREVAILING SIDE: Commissioners Daniels, Desser, Dettloff, Estolano, Hart, Kruer, McClain-Hill, Nava, Reilly, Woolley and Chairman Wan.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action of August 9, 2000 approving the construction of a duplex on a vacant lot in the Pier Bowl district of the City of San Clemente subject to two (2) special conditions. Special Condition No. 1 requires the applicant to submit revised plans which show the height of the structure not to exceed a maximum average height of 20'0" above the centerline of Capistrano Lane. Special Condition No. 2 requires the recordation of a future improvements deed restriction.

In approving the project, the Commission required a reduction in height so that the duplex conforms to the height of the immediately adjacent structures. The major issue of this staff report is preservation of public coastal views. As proposed, the project would have obstructed a public

view of the shoreline within a designated view corridor. As approved, the structure is consistent with the pattern of development in the surrounding area and does not result in additional view blockage. This was an after-the-fact permit, as construction was initiated without benefit of a coastal development permit.

STAFF NOTE: *In its approval of the project, the Commission modified the allowable height specified in Special Conditions 1 and 2 of the staff report. Staff recommended approval of a 23'6" high structure, while the Commission restricted the maximum allowable height to 20'0," consistent with the height of the two adjacent structures. The majority of changes made by the Commission are discussed on pages 7-9 of the current staff report.*

LOCAL APPROVALS RECEIVED:

Approval-in-Concept from the Department of Community Development of the City of San Clemente; Approval of Cultural Heritage Permit 99-13 from the Planning Commission of the City of San Clemente; City of San Clemente Geotechnical Review dated June 24, 1999 and City of San Clemente Building Permits.

SUBSTANTIVE FILE DOCUMENTS:

City of San Clemente Certified Land Use Plan, City of San Clemente Pier Bowl Specific Plan and Coastal Development Permits P-2-28-77-312 (Schroeder), P-7-11-77-1324 (Easton) and P-12-2-77-2353 (Hartfield).

LIST OF EXHIBITS:

1. Vicinity Map
2. Assessor's Parcel Map
3. Pier Bowl Boundary Map
- 4a. Revised Project Plans
- 4b. Original Project Plans
5. City of San Clemente Planning Division Memorandum dated March 27, 2000
6. Location of Previously-Issued CDPs in Pier Bowl District
7. Copies of Previously-Issued CDPs in Pier Bowl District
8. View Corridor Figure from Pier Bowl Specific Plan
9. Site Photos

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following motion and resolution:

MOTION: *"I move that the Commission adopt the revised findings in support of the Commission's action of August 9, 2000 in approving Coastal Development Permit 5-00-111 with conditions."*

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the August 9, 2000 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for Coastal Development Permit 5-00-111 on the ground that the findings support the Commission's decision made on January 11, 2000, and accurately reflect the reasons for it.

I. 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. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **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.
5. **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.

II. SPECIAL CONDITIONS:

1. **Final Project Plans**
 - A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and approval of the Executive Director, two (2) full sets of final project plans approved in concept by the City of San Clemente which demonstrate that the maximum height of the structure approved by Coastal Development Permit 5-00-111 does not exceed 20' 0" (including roof pitch) above the centerline of Capistrano Lane.
 - B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development Deed Restriction

- A. By acceptance of this permit, the applicant hereby acknowledges that the height of the structure approved by Coastal Development Permit 5-00-111 for development at 108 Capistrano Lane in the City of San Clemente shall not exceed a maximum height of 20' 0" (including roof pitch) above the centerline of Capistrano Lane.
- B. **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, reflecting the above restrictions on development within the parcel. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Location, Description and Background

Project Location

The subject site is located at 108 Capistrano Lane in the Pier Bowl area of the City of San Clemente (Exhibits 1 & 2). The subject site is a "through lot" which abuts both Capistrano Lane to the northeast (inland) and Santa Ana Lane to the southwest (seaward). The site is located within the Residential High (RH) density zoning designation, approximately one-quarter mile from the shoreline. The nearest public coastal access is provided at the entrance to the San Clemente Municipal Pier.

The Pier Bowl is a mixed-use district adjacent to the Municipal Pier, which serves as the central focal point of the City (Exhibit 3). The area includes commercial, visitor-serving and residential development. As described in the Pier Bowl Specific Plan, the topography of the subject area gently slopes seaward, forming a "*natural amphitheater to the ocean.*"

Project Description

The applicant is proposing the construction of a new 3781 square foot, 32' high (average max. height above finished grade) split-level duplex ranging from two to four stories in height with two attached 2-car garages on a vacant, sloping lot (Exhibit 4a). One garage will take access from Capistrano Lane, while the other garage will take access from Santa Ana Lane. The project also involves approximately 900 cubic yards of cut for site preparation. Excess material will be disposed of at the Prima Deshecha Landfill.

City Approval of Project

On April 20, 1999, the City of San Clemente Planning Commission approved Cultural Heritage Permit 99-13 for construction of the proposed duplex. The Cultural Heritage Permit was necessary due to the proximity of the subject site to a designated historic site. The City's staff report for the Cultural Heritage Permit included a condition requiring Coastal Commission approval prior to issuance of a building permit. However, no coastal development permit (CDP) application was submitted to the Commission. Instead, the City's Planning Division staff subsequently cleared a building permit through an improperly issued Categorical Exclusion approval.

As allowed under Categorical Exclusion Order E-82-1 (City of San Clemente), certain categories of development located in specific geographic areas can be excluded from the requirement of obtaining a coastal development permit if specific conditions are met. However, the subject site is not located within an area encompassed by the Categorical Exclusion Order. In addition, even if the site had been located within a Categorical Exclusion area identified on the map, the proposed duplex did not meet the Categorical Exclusion condition limiting project height to a maximum of 25 feet above average finished grade. Therefore, the City's approval was issued in error. Attached is a memo dated March 27, 2000, summarizing the City's internal investigation into the approval of the current project (Exhibit 5).

The majority of existing development within the subject area appears to be pre-coastal (constructed prior to the passage of the Coastal Act). However, Commission staff has identified six (6) Commission approvals determined to be applicable to the currently proposed project. These were residential developments either conditioned to maintain a specific height limit or were proposed at the height specified below. Exhibit 6 graphically depicts the location of each prior Commission action.

1. On April 4, 1977, the Coastal Commission approved P-2-28-77-312 (Schroeder) for the construction of a four-story duplex, conditioned not to exceed **20' from the centerline of the frontage road (Capistrano Lane)** at 110 Capistrano Lane (Exhibit 7a). The Schroeder residence is located directly south of the subject site.
2. On August 11, 1977, the Commission approved CDP No. P-5-13-77-920 (Ratkelis) for the construction of a 3-level duplex with four-car subterranean level garage, conditioned not to exceed **30' 6" above the centerline of Santa Ana Lane** at 117 Capistrano Lane (Exhibit 7b). This structure is located three lots south of the subject site.
3. On August 11, 1977, the Commission approved CDP No. P-7-11-77-1324 (Easton), which allowed the construction of a four-story duplex, conditioned not to exceed **36' above the centerline of Alameda** and **23' 6" above the centerline of Santa Ana Lane** at 122 Santa Ana Lane (Exhibit 7c). This structure is located one block west and seven lots south of the subject site, at the intersection of Santa Ana Lane, Monterey Lane and S. Alameda Lane.
4. On August 25, 1977, the Commissions approved CDP No. P-7-28-77-1482 (Glover) for the construction of a three-story, four-unit apartment building with subterranean garage for eight cars, proposed at **28' 4" above the centerline of the frontage road** at 511 Avenida Del Mar (Exhibit 7d). This structure is located two lots north of the subject site, at the intersection of Avenida Del Mar, Capistrano Lane and Santa Ana Lane.
5. On January 9, 1978, the Commission approved CDP No. P-12-2-77-2353 (Hartfield), which allowed the construction of a 3-story (over garage level) triplex, conditioned not to exceed **26' above average finished grade** and **36' above the centerline** of the frontage road at 123 Coronado Lane (Exhibit 7e). This structure is located two blocks west and seven lots south of the subject site, at the intersection of Monterey Lane, S. Alameda Lane and Coronado Lane.
6. On August 11, 1980, the Commission approved Coastal Development Permit P-80-7017 (Rampart Research and Financial) for the demolition of a single-family dwelling and construction of a new three-story, five-unit condominium proposed at **25' above average finished grade** and **32' above the centerline of the frontage road** at 103 Coronado Lane (Exhibit 7f). This structure is located two blocks west and three lots north of the subject site, at the intersection of Avenida Del Mar, S. Alameda Lane and Coronado Lane.

Written Public Comment

A total of seventy-three (73) letters of opposition have been received to date. The opponents express concern over the height of the proposed structure as it relates to view obstruction and community character. Many request the height of the proposed duplex be restricted to 20' above the centerline of Capistrano Lane.

B. Standard of Review

The Commission certified the City of San Clemente Land Use Plan (LUP) on May 11, 1988, and approved an amendment in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan (IP) portion of the Local Coastal Program (LCP). The suggested modifications expired on October 10, 1998. Therefore, the City has no certified LCP and the Commission retains permit issuance jurisdiction.

The City has recently submitted the revised IP for Commission review. However, until such time as the IP is approved and the City's LCP has been fully certified by the Commission, the Chapter Three policies of the Coastal Act are applied as the standard of review. The City's certified LUP will be used as guidance in the current analysis.

Also noted, the City adopted the Pier Bowl Specific Plan on October 13, 1993. The Specific Plan is included in the City's recent IP submittal for Commission review. However, as the Commission has yet to certify the Specific Plan, the Plan will not be applied as guidance.

C. Scenic and Visual Resources

1. Coastal Act Policy

Section 30251 of the Coastal Act states, in pertinent part:

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.

2. City of San Clemente Land Use Plan Policies

Section 305 of the City's certified LUP contains the following Coastal Visual and Historic Resources Goals and Policies.

Policy XII.5 states:

Preserve the aesthetic resources of the City, including coastal bluffs, visually significant ridgelines, and coastal canyons, and significant public views.

Policy XII.9 states:

Promote the preservation of significant public view corridors to the ocean.

3. Pier Bowl Specific Plan Policies

The Pier Bowl Specific Plan contains policies and standards for allowable building height and view preservation within the Pier Bowl district. During public workshops for the development of the Specific Plan, the protection of significant public views was identified as an important design issue. Included in the Specific Plan is an identification of significant view corridors, including the Pier and ocean from Avenida Del Mar. Exhibit 8 illustrates four of the six designated view corridors in the Specific Plan. However, as the Commission has yet to certify the City's Specific Plan, these policies will not be used as guidance in the current analysis.

4. Analysis of Scenic and Visual Resource Issues

The applicant is proposing to construct a new 32' high, 2-4 story duplex on a vacant, in-fill lot. The project is sited in an area where development is allowed to reach to a maximum average building height of 45' above existing grade. (Averages are used to measure building height on sloping lots.) However, at present, the structures within the surrounding residential neighborhood do not typically exceed a 35-foot average maximum height above existing grade. The majority of developments on similar "through lots" within the subject area maintain a consistent building height of no more than four stories on the downward sloping side and two stories on the upward sloping side, with heights not exceeding 35' above average finished grade.

The current pattern of development has created a fairly uniform line of structures along each parallel block within the Pier Bowl area. As shown in Exhibit 9a, each row of residences steps down with the topography toward the ocean. A few older residences maintain a lower building height, but the majority of newer structures along Capistrano Lane, Santa Ana Lane and S. Alameda Lane are at least two stories tall. Since the area is almost entirely built out, the majority of coastal views are achieved by looking over or around these existing structures when traveling down Avenida Del Mar, a public roadway leading to the ocean.

Development at the currently vacant lot will obstruct a portion of the existing public view of the shoreline and the Municipal Pier from Avenida Del Mar. However, the construction of a 2-4 story split level structure at the site is consistent with existing development and cannot be prohibited entirely. Nonetheless, to maintain consistency with the current pattern of development and prior Commission action, the height of the new development can be conditioned to be in conformance with the height of surrounding development. The adjacent homes are approximately 20' above the centerline of the frontage road, Capistrano Lane.

Staff has evaluated the following three (3) project alternatives regarding the proposed structure height: 1) allow the structure to be built as proposed with a pitched roof at 32' average maximum height and 23' 6" above the centerline of Capistrano Lane, 2) require the structure to be constructed with a flat roof at 22' 2' above Capistrano Lane, or 3) require the structure to be constructed at 20' above the centerline of Capistrano Lane.

Alternative 1

As proposed, the structure would be constructed at 32' above average finished grade, or 23' 6" above the centerline of the frontage road, Capistrano Lane. The plane (i.e. plate line) of the structure would be located at approximately 21' 6" above the centerline of the frontage road (Capistrano Lane) and the pitched tile roof features would extend to a maximum height of 23' 6," as shown in Exhibit 4a. This alternative would allow the applicant to construct a duplex approximately 3' 6" taller than the adjacent flat roof structure at 110 Capistrano Lane and approximately 4' taller than the adjacent flat roof structure at 106 Capistrano Lane. This would create additional view blockage and would appear inconsistent with the pattern of development in the surrounding area (Exhibit 9b).

Alternative 2

The flat roof alternative would reduce the height of the proposed structure to 22' 2", a minimal difference from the proposed structure height at 23' 6". The flat roof alternative includes an 8" parapet wall above the 21' 6" plane for adequate roof runoff. While this alternative would reduce the building height, the additional public view benefit would be minimal.

Alternative 3

The third alternative would limit the allowable building height to 20' above the centerline of Capistrano Lane. As such, the structure would be exactly the same height as the Schroeder residence next door. The height of the structure next door was restricted by the Commission's action in 1977. View blockage of the ocean as seen from Avenida Del Mar would be reduced by approximately 3' 6" along the northern length of the structure as compared to Alternative 1, and by 2' 2" compared to Alternative 2. This alternative will improve public views by reducing the overall height and structural mass.

Preferred Alternative

The Commission finds Alternative 3 to be preferable based on the pattern of surrounding development, the resultant public view effect of the proposed project, and past Commission actions in the area.

As discussed previously, the Commission has imposed building height restrictions on four of the six known developments that were issued coastal development permits within the subject area. Commission actions include the approval of a duplex at 110 Capistrano Lane, next door to the subject site, which was limited to 20' above the centerline of the frontage road [CDP No. P-2-28-77-312 (Schroeder)]. Similarly, through the implementation of Alternative 3, the height of the proposed structure will not exceed 20' from the centerline of the frontage road, Capistrano Lane. Consequently, the proposed duplex will be built at a height consistent with the adjacent structures (Exhibit 9c).

A lower building profile will minimize obstruction of the ocean view when traveling toward the San Clemente Pier via Avenida Del Mar. Avenida Del Mar is the main entrance road into the Pier Bowl. The Commission recognizes this horizon view of the ocean to be a visual resource of statewide significance. The proposed project will be conditioned not to exceed a height of 20' above the frontage road, Capistrano Lane. As such, the preponderance of the existing public view within the Avenida Del Mar view corridor will be maintained. In addition, the project, as conditioned, will have no affect on existing views toward the Pier Bowl core as seen from the San Clemente Municipal Pier. The duplex, as conditioned below, will be consistent with the height and character of the adjacent structures as viewed from both Avenida Del Mar and the Municipal Pier.

5. Special Conditions

Special Condition No. 1 requires the applicant to submit two (2) full sets of project plans, approved by the City of San Clemente, showing that the proposed structure not exceed a maximum average height of 20' 0" above the centerline of the frontage road (Capistrano Lane). The Commission also imposes Special Condition No. 2, which requires the applicant to record a deed restriction which notifies the applicant and any future landowners that the structure approved by CDP 5-00-111 shall not exceed a maximum height of 20' 0" above Capistrano Lane.

6. Conclusion

The project, as conditioned, will result in minimal obstruction of the public view of the ocean from Avenida Del Mar. The proposed duplex conforms to the existing pattern of development and with past Commission actions in the subject area. A 20' high structure is allowable, as it is consistent with the adjacent structures. Based on records research and field visits, Commission staff has

confirmed that the majority of existing structures in the surrounding area have been constructed at comparable heights. In addition, the Commission has set a precedent of limiting height to 20' above the frontage street, Capistrano Lane. As such, the Commission's current action is consistent with prior actions in the Pier Bowl district. . Therefore, the Commission finds the proposed duplex, as conditioned, to be consistent with Section 30251 of the Coastal Act.

D. New Development

1. Coastal Act Policies

As defined by Section 30106 of the Coastal Act, "development" includes a change in the density or intensity of use of land or construction, reconstruction, demolition, or alteration of the size of any structure. The proposed project involves construction of a new duplex on a vacant lot.

Section 30250 (a) of the Coastal Act requires that new development be located where it will not have significant adverse effects on coastal resources. It states, in relevant part:

- (a) *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

As stated previously, Section 30251 of the Coastal Act requires the scenic and visual qualities of coastal areas to be considered and protected as a resource of public importance. Therefore, new development should be sited so as not to adversely affect scenic and visual resources.

2. City of San Clemente Land Use Plan Policies

Section III. G of the City of San Clemente Certified Land Use Plan (LUP) contains various policies regarding new residential development within the Pier Bowl district. These policies are being used as guidance.

LUP Policy I.5 addresses multi-family residential development as follows:

Require that multi family residential projects be designed to convey a high level of quality and distinctive neighborhood character in accordance with the Urban Design Element.

The LUP includes the following policy intent for the Pier Bowl area:

Plan policy provides for the continuation of the Pier Bowl as a recreational activity area. Coastal recreational uses including retail, restaurant, hotel, bed and breakfast, time share, and residential are allowed. Cultural and recreational activities, including the Ocean Festival, are encouraged. Building design in the Pier Bowl is required to preserve public views, encourage pedestrian activity, to be sensitive to the Pier Bowl's topography and to be a Spanish Colonial Revival Architecture style.

The LUP also contains Policy VI.5 requiring the preparation of a Specific Plan to guide new development in the Pier Bowl:

Formulate a Specific Plan incorporating detailed land uses, design and public improvement requirements to ensure consistent development of the Pier Bowl area.

3. Pier Bowl Specific Plan Policies

The Pier Bowl Specific Plan provides policies, development standards and design guidelines for new development in the subject area. Of particular interest as it relates to the currently proposed development, the Specific Plan requires the design of buildings to be compatible with the surrounding area, particularly adjacent buildings and suggests that in-fill development not contrast greatly with the neighboring structure. However, as noted previously, the Pier Bowl Specific Plan has not been reviewed and certified by the Commission and therefore, is not being applied in the current analysis.

4. Analysis of Development Issues

The applicant is proposing to construct a new 32' high duplex (23' 6" above frontage street) in the Pier Bowl area of San Clemente. The project is consistent with the 45' height limit set forth in the City of San Clemente Zoning Ordinance for structures within the Residential High (RH) density district. In addition, the project is consistent with the City's LUP (used as guidance in the current evaluation) which requires the design of buildings to be "*sensitive to the Pier Bowl's topography and to be a Spanish Colonial Revival Architecture style.*" However, the height of the proposed structure exceeds the maximum height previously allowed by the Commission in the immediate vicinity. The Commission restricted the height of a structure next door to 20'0" above the frontage street, Capistrano Lane.

The maximum height of the proposed structure is taller than the immediately adjacent structures by approximately 3'-4'. If approved at the height proposed, the structure will decrease the existing public view of the ocean from Avenida Del Mar. The area is almost entirely built out, and the majority of views are achieved by looking over or around existing structures. Therefore, the proposed project will result in additional view blockage if allowed to be constructed at the 23' 6" above the frontage street. While virtually any development at this in-fill lot will obstruct a portion of an existing public view, the Commission cannot preclude all development at this site. The Commission, can, however, limit the height of the structure to be comparable to the existing development in the immediate area. As such, the Commission imposes Special Conditions 1 and 2, discussed in Section C.

5. Conclusion

The Commission finds the development, as conditioned, consistent with existing development in the subject area and will not result in a significant adverse effect on the existing public view. The Commission has previously imposed building height restrictions in the subject area, thereby setting a development precedent, as reviewed on page 5 of the current report. Existing structures along Capistrano Lane and Santa Ana Lane are a maximum average height of 35 feet above grade. The structure, as conditioned, will be consistent with the 20'0" height limit set by the Commission in a prior action next door. For the reasons discussed above, the Commission finds that the proposed development, as conditioned, is consistent with Sections 30250 and 30251 of the Coastal Act.

E. Unpermitted Development

Without benefit of a coastal development permit, the applicant has initiated construction of the duplex. Site preparation (i.e. grading and foundation placement) and structural framing has occurred.

Commission action on this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

F. Local Coastal Program

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 (LCP) which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan (LUP) for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan (IP) portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. Therefore, the Commission retains coastal development permit jurisdiction in the City of San Clemente.

As conditioned, the development is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

G. Consistency with the California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the scenic and visual resources and new development policies of the Coastal Act. Mitigation measures, in the form of special conditions, require 1) submittal of revised project plans showing a maximum height of 20'0" above Capistrano Lane; and 2) recordation of a deed restriction limiting allowable building height, will minimize all adverse effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

CAPISTRANO
BEACHDANA
POINT

PACIFIC

OCEAN

SEE F2

- 1 OCEAN DR
- 2 PACIFIC DR
- 3 SURF DR
- 4 SANDY DR
- 5 BREAKER DR
- 6 BEACH DR
- 7 TIDE TIDE DR
- 8 SEA BREEZE DR
- 9 DOLPHIN DR

SAN
CLEMENTE

SUBJECT SITE

MUNICIPAL PIER

1 CORONADO LN
2 ALAMEDA LN
3 SANTA ANA LN
4 CAPISTRANO LN
5 CORONA LN

ANTHONY STA

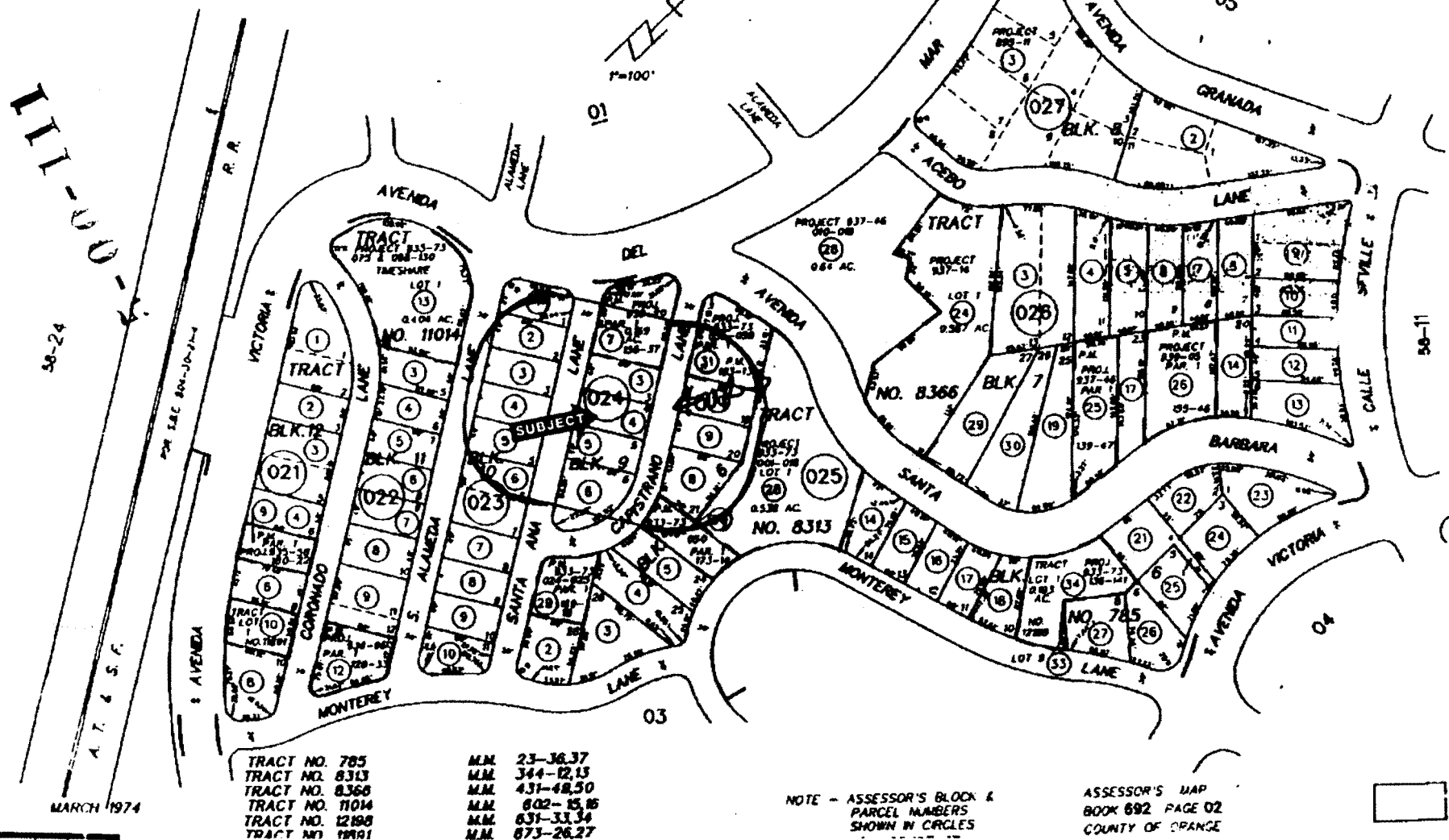
1 AND PRINCESA

California Coastal
Commission

Vicinity Map

Application Number: 5-00-111

EXHIBIT No. 1



MARCH 1974

EXHIBIT NO. 2

Application Number: 5-00-111

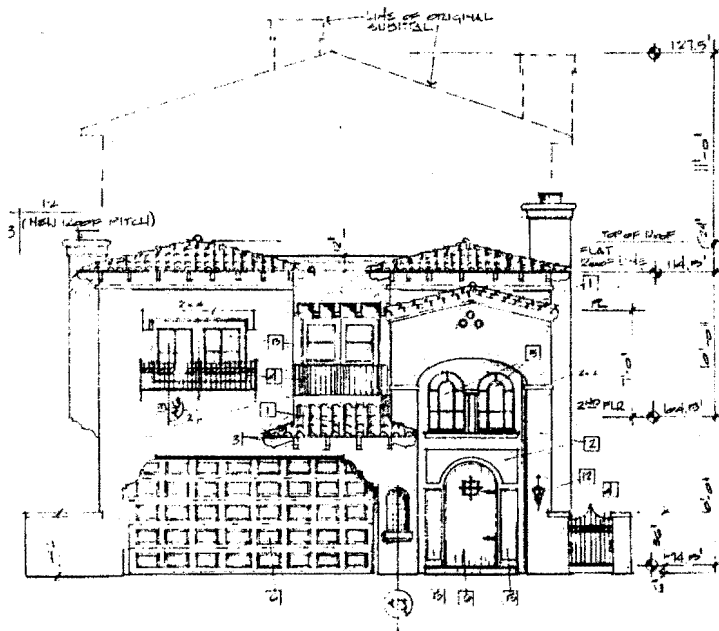
Parcel Map

California Coastal Commission

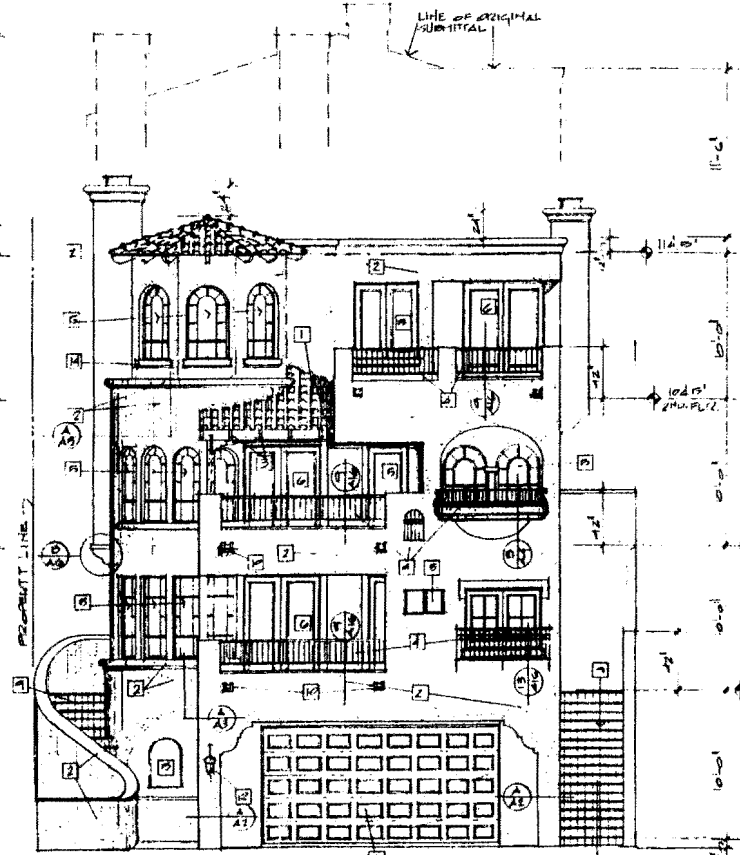
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CALIFORNIA
COASTAL COMMISSION



CAPISTRANO LN. ELEVATION



SANTA ANA LANE ELEVATION

GENERAL NOTES

1. TWO PLY BARREL SPANISH CLAY TILE ROOFING. 4" TERRAZZOTA COLOR & C.O.D. (#200) RIDGES AND FIRST ROW TO BE GROUDED, AS MANUFACTURED BY M.C.A. ROOFING PRODUCTS CO., TORONTO (TAPBNEY #200), FIRE RATED BY A.S.T.M. D66 TEST CLASS A MIN. OVER TWO LAYERS 15# FELT NOT MOVED AND 3/4" PLYWOOD SHEATHING.
2. 7/8" EXTERIOR PLASTER ON WTL. LATH, SAND 120/100 FINISH. BALUNDED EXTERIOR CORNERS. COLOR AS MANUFACTURED BY "OMEGA PRODUCTS CORP." 18 OMEGA WHITE, AND AS APPROVED BY THE ARCHITECT. PROVIDE 2 LAYERS OF CHALK "D" PAPER FELT OVER PLYWOOD AT BREAK WALLS.
3. 4x8 EXPOSED RAFTER TAILS, CORBELS AND ANY EXPOSED LUMBER TO BE S.S. WITH SOLID STAINED "OLYMPIC 705", DARK BROWN OAK, OR APPROVED EQUAL.
4. W.L. RAILINGS, POT HOLDERS, GRILLS, ETC. TO BE PAINTED SOLID BLACK.
5. TRUE DIVIDED LIGHTS WOOD WINDOWS, AS MANUFACTURED BY "WOZEN WOOD WINDOWS". SOLID STAINED, SEE WINDOW SCHEDULE FOR REQUIREMENTS.
6. WOOD DOORS WITH TRUE DIVIDED LIGHT PANELS STAIN TO MATCH WINDOWS.
7. CHIMNEY STACK, 2x FRAMED WITH STUCCO FINISH, AS NOTED. #1. ANY OPENINGS TO BE NOT LESS THAN 2'-0" VERT. AND 10'-0" HORIZ. FROM ANY ROOF COMPONENTS. PROVIDE SPARK ARRESTORS FOR ALL FLUES. USE STUCCO DETAIL AS DESCRIBED ON NOTE #8.
8. 2x4 TRIM BOUNDED OVER 2x10 AND 2x12 CAPSTUCCOED DETAIL, #88 "A" / "A" / "B".
9. USE SPANISH PAVERS (12x12) AT STAIR TREADS AND COLORED HAND PAINTED CERAMIC TILE AT RISERS.
10. STUCCOED OVERFLOW CUTTERS.
11. 12x12 OPENINGS IN PARAPET WITH WOOD CROSS INSERTS PAINTED TO MATCH TERRAZZOTA COLOR OF ROOF.
12. LIGHT FIXTURE.
13. WINDOW SHUTTERS PAINTED AS PER ARCHITECT.
14. USE 2x6 OVER 2x6 FOR WINDOW SILL DETAIL AS SHOWN IN ELEVATIONS. STUCCO OVER.

EXHIBIT No. 4a

Application Number: 5-00-111

Revised Project Plans

California Coastal
Commission

francisco p. montesinos a.i.a.
108 via zapata
san clemente, california 92672
(949) 3613520, fax (949) 3613729
montesinos@artek.com

Artek

108 CAPISTRANO LANE
SAN CLEMENTE, CA 92672

drawn by: P.M.
date: 8-99
plan check: J. J.
bidg permit:
rev date: by:

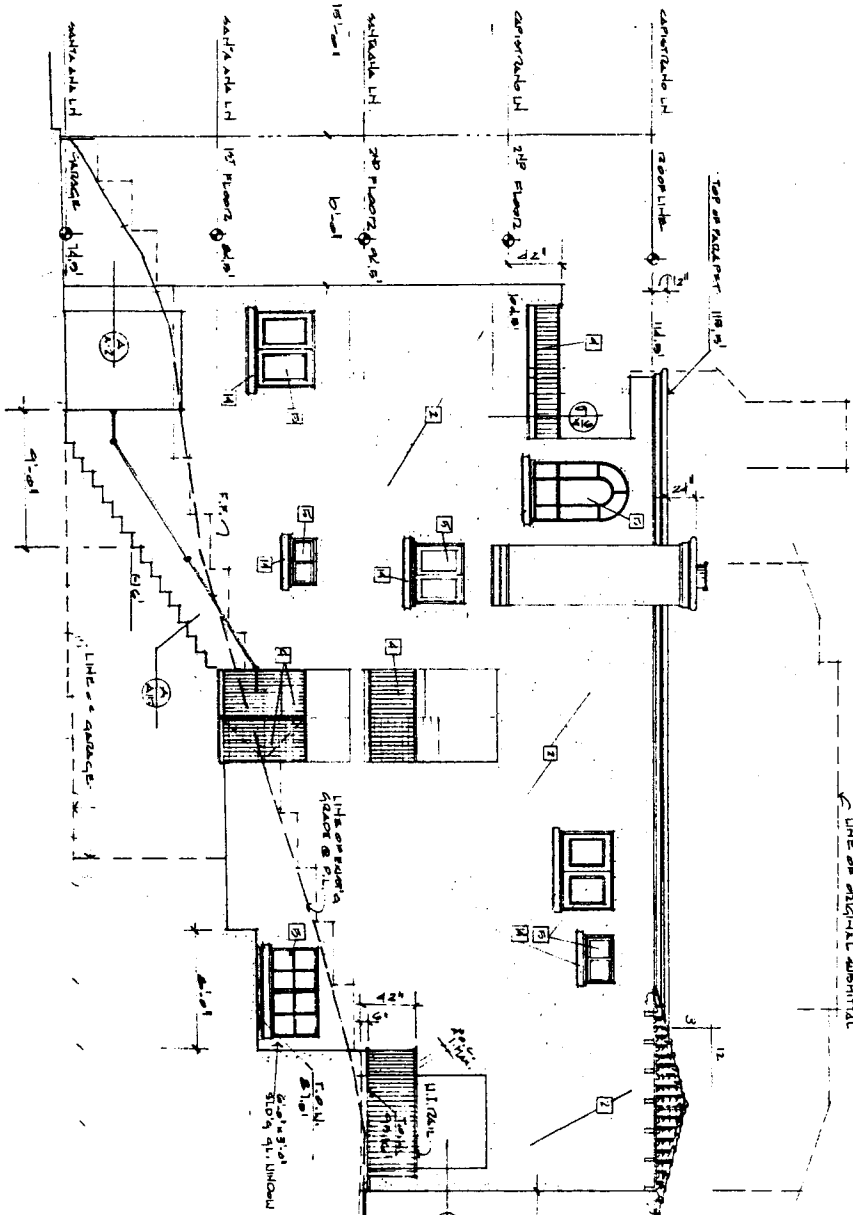
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SOUTH SIDE ELEVATION

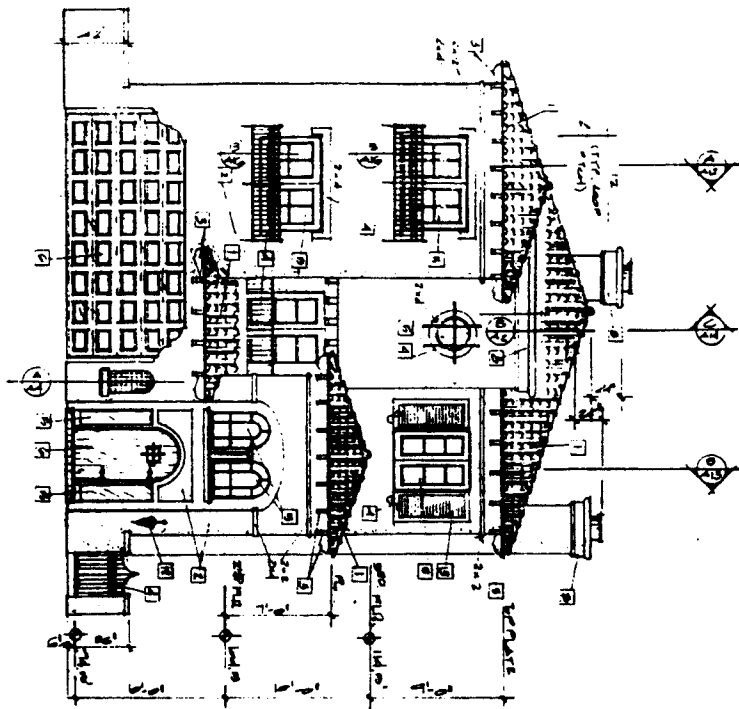


GENERAL NOTES

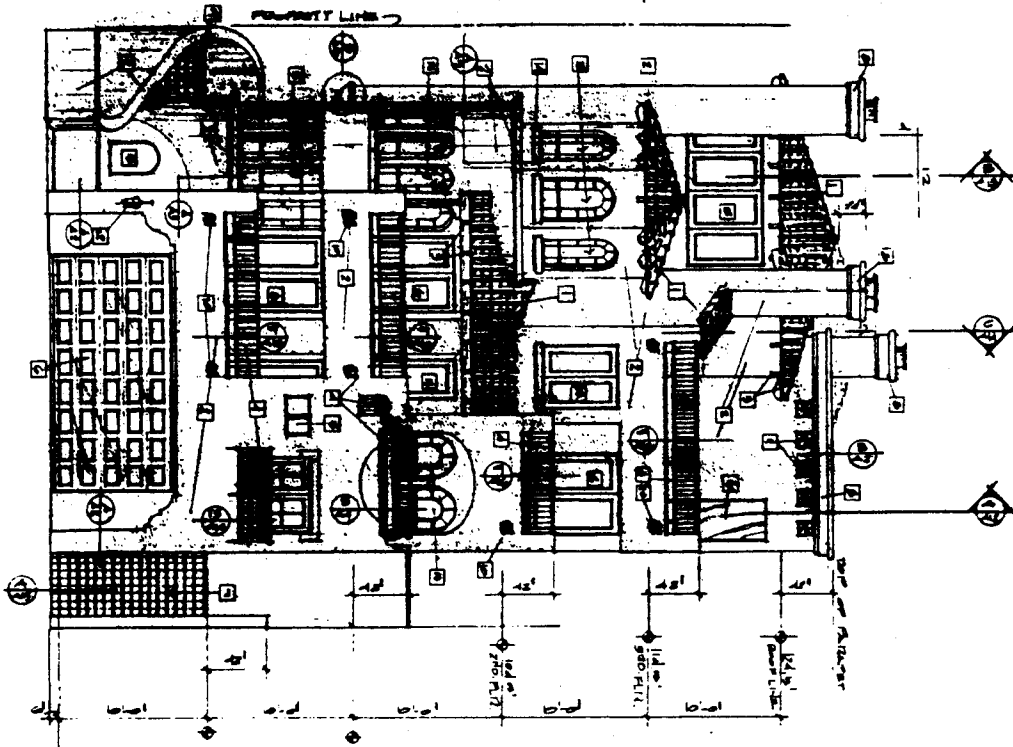
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SANTA ANA LN. ELEVATION



CAPISTRANO LN. ELEVATION



GENERAL NOTES:

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EXHIBIT No. 4

Application Number: 5-00-111

Original Project Plans

California Coastal Commission

Artek.

francisco p. montesinos a.i.a.
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san clemente, california 92672
tel 36-3520 fax (949) 36-3729 montesinos@artek.com

108 CAPISTRANO LANE
SAN CLEMENTE, CA 92672

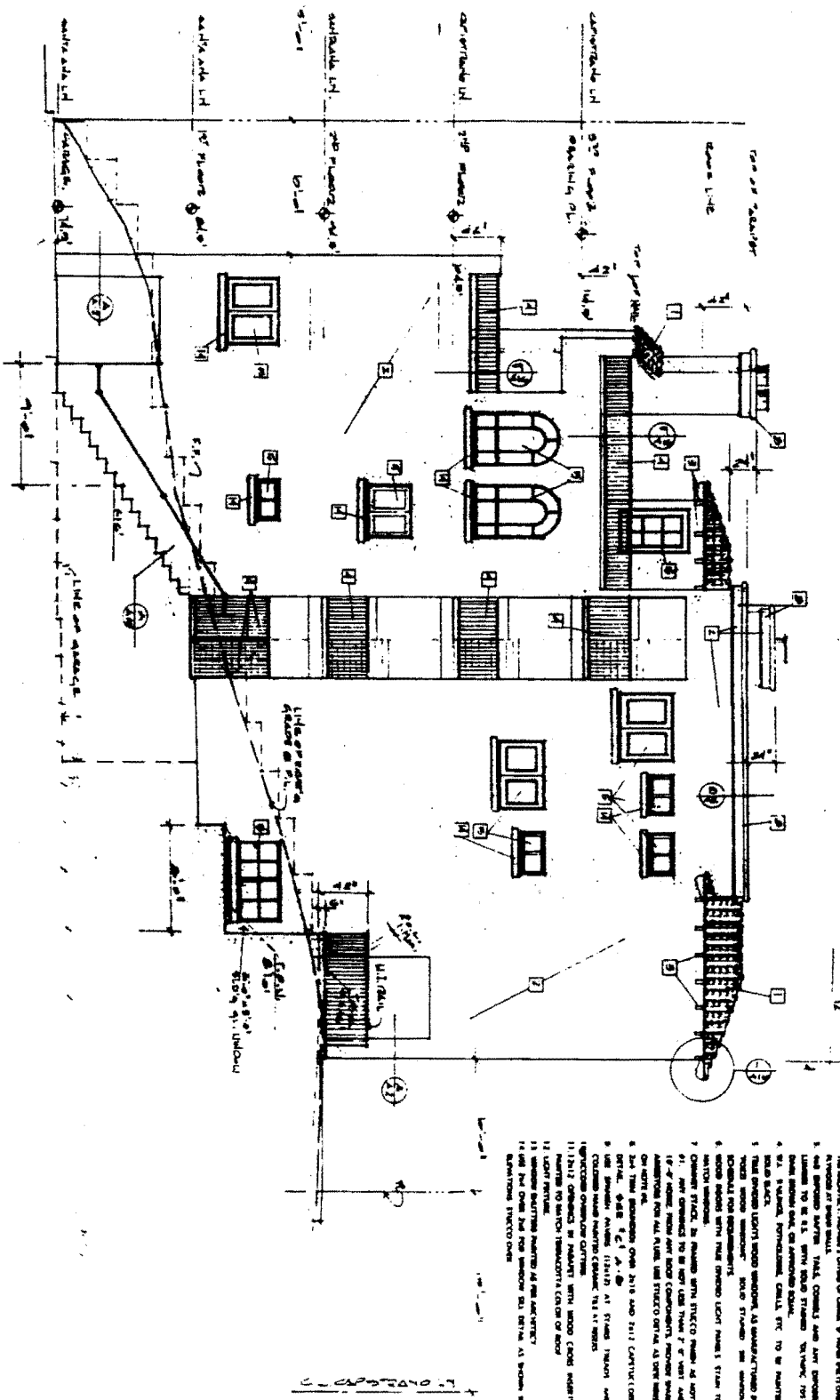
drawn by: J. L. J.
date: 8-11
plan check: J. L. J.
bldg permit: J. L. J.
rev done by: J. L. J.

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of 15

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SOUTH SIDE ELEVATION



GENERAL NOTES

- [illegible]

Artek.

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EX. 4b
3

drawn by P.L.
date 3-79
plan check 2-80
bldg permit.

Sheet number
A-11



francisco p. montesinos A.I.A.
architect license number 13710
108 via zapata
san clemente, california 92672
(714) 361-3520

Artek.

1548 CARASTRANO LANE
SAN CLEMENTE, CA 92672

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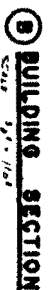
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KEYED & GEN. CONST. NOTES

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STEWART TO THE DIRECTOR AT
MILLS & CO. 100 N. 10th St. N. D.

(A) BUILDING SECTION

[illegible]

-Also view $\frac{1}{8}$ " front & side thru hole at
walls and ceiling. Nothing will be seen.

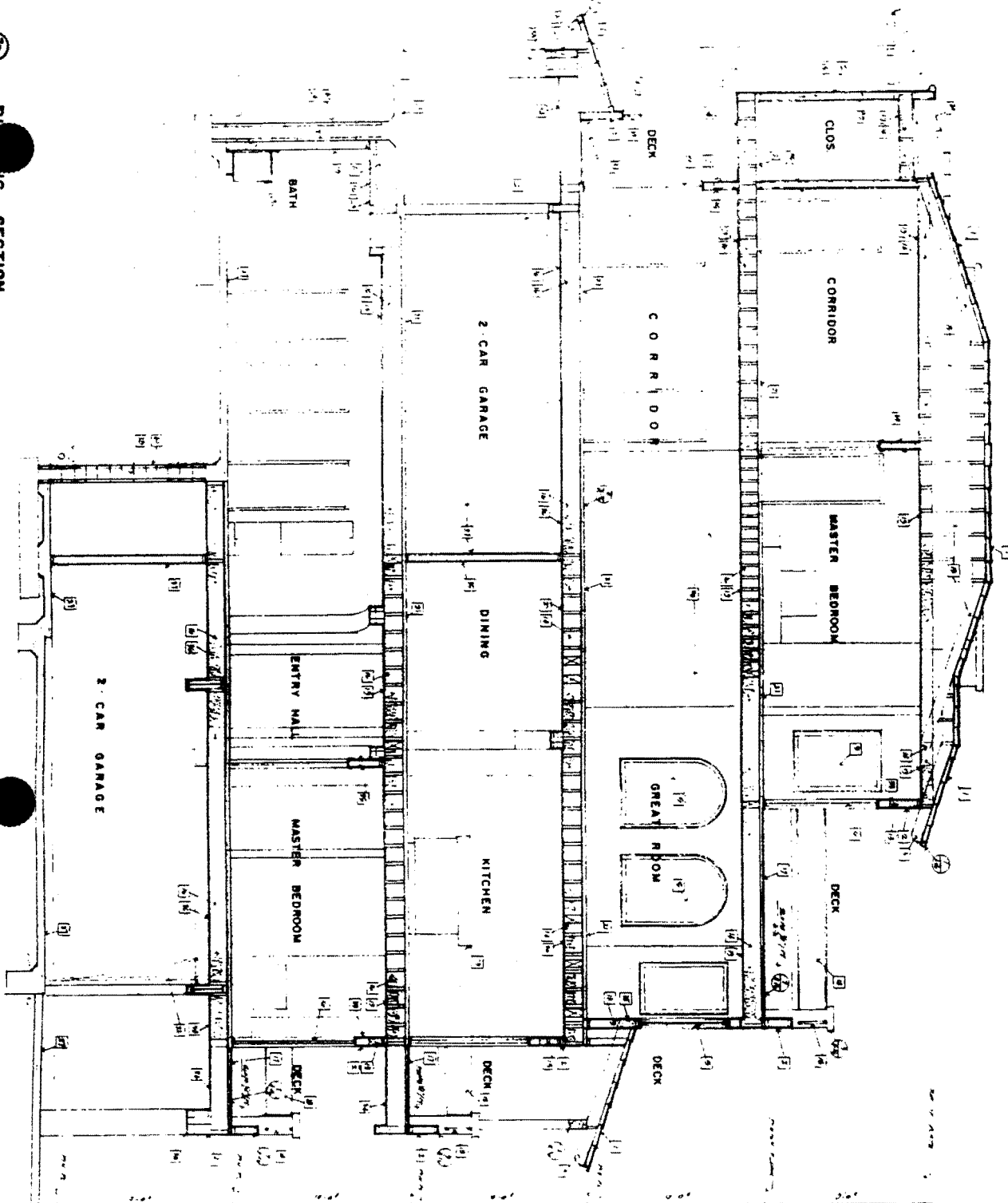
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KEYED & GEN. CONST. NOTES

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francisco p. montesinos a.i.a.
108 via zapata h.c. # 13710
san clemente, california 92672
249 361-3325 fax 649 361-3329 montesinosp@earthlink.net

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Memorandum Planning Division

March 27, 2000

RECEIVED
APR 5 2000

CALIFORNIA
COASTAL COMMISSION

To: Mike Parness, City Manager
From: Jim Hare, City Planner
Subject: Ballard Duplex Processing Review
Copies: Jim Holloway, Community Development Director
Jeff Goldfarb, Assistant City Attorney

This memorandum is to document my internal investigation of the matter of the Ballard duplex, leading up to the issuance of a stop work order. In doing so, this memorandum will speak to the following questions:

1. Does the project conform to City codes, especially as regards to height?
2. What process steps did the project take?
3. Why did construction begin before obtainment of a Coastal Development Permit?
4. Did Frank Montesinos intervene in the processing of the application or the building permit?
5. What are the actual and likely future steps?

Project Description

The particular development project at issue is known as the Ballard Duplex. It is located at 108 Capistrano Lane, within the Pier Bowl Specific Plan district of San Clemente. The site is a through lot, extending from Capistrano Lane westerly and downhill to Santa Ana Lane. The proposed project is an unsubdivided residential duplex. Each residence has a two-car garage, one each facing the two fronting streets. Including the garage levels, the building is three stories facing onto Capistrano Lane and five stories facing onto Santa Ana Lane

Does the Project Conform to City Codes?

The project complies with all objective standards of the Pier Bowl Specific Plan and City Zoning. As for the primary issue of concern, height, the building is 43'-4" where 45'-0" is permitted. It observes 5'-0" minimum sideyards and

minimum front yards on both fronting streets. Recessed garages observe 18'-0" setbacks.

What process steps did the project take?

Due to the Pier Bowl requirement for architectural permits and the proximity of historic sites, the project was subject to obtaining a discretionary Cultural Heritage Permit. Frank Montesinos filed applications on behalf of the owner with the Planning Division on January 26, 1999. The permit was reviewed by the Design Review Subcommittee of the Planning Commission on February 25, 1999. Since Mr. Montesinos serves on the sub-committee, he excused himself from the sub-committee and presented the project as applicant representative. The record reflects consideration of neighborhood issues, including height, during the sub-committee meeting.

The project went to an initial hearing before the full Planning Commission on March 16, 1999. Commission Vice Chairman Ricardo Nicol served as chair for the hearing, as Mr. Montesinos again excused himself. The staff presentation included comments regarding discussion at the Design Review Subcommittee. Mr. Montesinos made no extensive presentation, but made himself available for questions. Minutes reflect testimony from Gary Button and Mary Schneider, both concerned with height and view blockage. Commissioner Pat Leyden addressed the testimony and supported the project. On motion of Commissioner Ron Runofson, seconded by Commissioner Dorothy Prohaska, the project was approved 6-0-1, Frank Montesinos abstaining. No appeal or City Council call up was undertaken in response to the Planning Commission action.¹

Questions were received by staff regarding the noticing of the hearing. In reviewing the file, staff determined that the noticing information provided by the applicant took in a 100' radius, whereas City codes require a 300' noticing radius.² On that basis, staff determined that the hearing was void, and commenced a renoticing of the project.

The re-noticed hearing before the Planning Commission took place on April 20, 1999. Once again, Commission Vice Chairman Ricardo Nicol served as chair for the hearing, as Mr. Montesinos excused himself. There was no testimony offered by applicants, representatives or others at this hearing. On motion of Ron

¹ At the request of the City Council, staff has recently amended the Planning Commission minutes format to clearly indicate which actions are final with the Commission and which will proceed to City Council.

² This event lead directly to two changes in process within the Planning Division. Whereas previously support staff retained the notice mailing information until the noticing date, those materials are now forwarded to the assigned planner and checked as a part of the process to determine the completeness of the application. Secondly, staff no longer follows the past practice of allowing applications to begin processing without all noticing information provided, with the noticing materials being allowed to "catch up".

Ex. 5
2

Runolfson, seconded by Dennis Papilion, the project was approved by vote of 5-0-1, with Frank Montesinos abstaining and Pat Leyden absent.

Why did construction begin before obtainment of a Coastal Development Permit?

The suspension of the issued building permit and the issuance of a "stop work" order on the existing construction of the duplex has occurred because the project lacks clearance by the Coastal Commission, as required of projects generally within the Coastal Zone. In preparing the staff report for the Cultural Heritage Permit action, staff had indeed placed a condition requiring such Coastal Commission approval. Planning Division staff's reason for clearing the building permit was based on staff's misunderstanding of a document issued by the Coastal Commission which excludes many similar projects from the need to obtain such approval.

In 1982, the Coastal Commission issued a document known as an Exclusion Order, which is binding on both the City and the Commission. This Order generally states that homes and duplexes, built in areas not on a coastal bluff or canyon, and inland of the first street parallel to the shore, are excluded from any requirement to obtain a Coastal Development Permit. This description of the Order was used and trained to staff since the inception of the Order. However, the text of the Order itself contains exceptions from the exclusion – that is conditions under which the normal rule does not apply and Coastal Commission permission is required. One such criteria is evoked when the structure would exceed 25'-0" in height. The Exclusion Order also has appended maps of applicability, which do not take in the project site. Thus, the project was not correctly processed and cleared by Planning Division staff under the Exclusion Order.³

Staff had raised the Exclusion Order with Mr. Montesinos during his due diligence investigations on behalf of the applicant, prior to submittal of the project for processing. During the plan check process, the need for Coastal Commission consideration was questioned by the plan checker but internally signed off by Planning Division. Neither the applicant nor his representatives had contact with the Division at the time that the Exclusion Order was applied to the project.

As the project arose in framing, residents in the area raised the issue of Coastal Zone processing, and staff revisited the specific language of the Exclusion Order

³ Copies of the Exclusion Order have been made for staff and a review of the Order has been completed as a part of a recent staff meeting, to prevent similar misinterpretations in the future. Since the maps generally conform to the area description which was previously trained and since most single family and duplex zones limit height to 25'-0" regardless, staff is unaware that this error has occurred in any other project.

EX. 5
3

to discover the error. Within twenty-four hours of the discovery, the building permit was suspended and a "stop work" notice was posted.

Did Frank Montesinos intervene in the processing of the application or the permit?

Clearly every employee of the Planning Division and every member of the Planning Commission are aware of Mr. Montesinos, and so it is obviously difficult to document how his involvement in the project effected the outcome of decision making. It is similarly true that Mr. Montesinos is, through his role on the Commission, acutely aware of the City's design standards and the preferences of the Planning Commission, so it is therefore equally difficult to assess how that knowledge makes the process more straight forward for him and his applicants. That said, the record and my review reflects the following:

1. Mr. Montesinos reviewed the requirements for submittal and the standard for review for the project at the Planning Division public counter prior to assembling an application for submittal;
2. In his due diligence meetings at the Planning Division counter, Mr. Montesinos was informed by Division staff of the Exclusion Order—he did not independently raise the issue with staff;
3. In each hearing of the Planning Commission and its Design Review Subcommittee where the Ballard project was discussed, Mr. Montesinos excused himself and did not participate in the deliberative discussions;
4. Staff evoked the Exclusion Order during plan check as a result of internal discussions at the line staff level; again, it was not evoked or alluded to by Mr. Montesinos;
5. Mr. Montesinos has not meet with any supervisor or manager in the Planning Division, including the City Planner, at any time during the discretionary or ministerial processing of the project until the time the "stop work" notice was issued. Further, no supervisory or managerial direction has been given to staff to process the Ballard project in any way different from the processing of a project from any other applicant

What are the actual and likely future steps?

The suspension of work on the Ballard duplex relates to the single matter of requirement to provide a clearance from the Coastal Commission. The means of processing the application and the matters taken into account as a part of that

Ex. 5
4

process are solely at the discretion of the Coastal Commission. In speaking with neighbors to the site, we have pointed out that the 25'-0" height contained in the Exclusion Order is a test for referral and in all probability should not be considered to be a limitation that the Commission would be obligated to enforce. Ultimately, the Coastal Commission will need to determine the means of processing and whether that process results in the project being approved in conformance with the City's approvals, modified or denied. Any action that significantly changes the design of the building would require additional processing by the City.

The applicant has met with staff regarding the "stop work" order. Subsequently, two steps have been undertaken:

1. Based on the Planning Commission's valid approval of the project, an "in concept" City approval has been confirmed for the applicants use as a part of his submittal to the Coastal Commission for their permission. Staff believes that the applicant has begun the Coastal Commission process.
2. Due to the expected amount of time during which the building permit will be suspended, the applicant has met with Building Division staff to determine ways to preserve the existing exposed construction on the site. Particular instruction has been given to the applicant in this regard, which may result in some activity at the site.

ATTACHMENT

Planning Commission Reports and Minutes 3/16/99 and 4/20/99

EX. 5
5

**MINUTES OF THE MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION**

April 20, 1999

@ 7:00 p.m.

City Council Chambers

100 Presidio

San Clemente, CA 92672

1. CALL TO ORDER

Chair Montesinos called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

Chair Montesinos led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Montesinos, Runolfson, Papilion, Bonner, Nicol, Prohaska

Commissioners Absent: Leyden

Staff Present: Jim Hare, City Planner
Jason Martin, Associate Planner
Akram Hindiye, Senior Civil Engineer
Ted Simon, Senior Civil Engineer
Jeff Goldfarb, Assistant City Attorney
Eileen White, Recording Secretary

4. SPECIAL ORDERS OF BUSINESS - None

5. MINUTES

IT WAS MOVED BY COMMISSIONER RUNOLFSON, SECONDED BY COMMISSIONER BONNER AND CARRIED 4-0-2 (WITH NICOL AND PROHASKA ABSTAINING) to receive and file the minutes of the meeting of April 6, 1999, as presented.

6. ORAL COMMUNICATIONS - None

EX. 5
6

7. WRITTEN COMMUNICATIONS

Chair Montesinos announced that all Commissioners have received a letter from the group "San Clemente Citizens for Responsible Development" inviting them to attend a meeting to be held on Tuesday, April 27, 1999, at St. Andrews by the Sea Methodist Church on Calle Frontera.

8. CONSENT CALENDAR

A. Proposed Parking Prohibition

Should the Planning Commission approve staff's recommendation to prohibit parking on a portion of South El Camino Real and Camino Mira Costa for the purpose of providing adequate sight distance.

B. Proposed Parking Modifications on Calle Lago and Calle de Los Molinos

Should the Planning Commission approve staff's recommendation to modify the parking restriction on portions of Calle Lago and Calle de Los Molinos.

IT WAS MOVED BY COMMISSIONER BONNER, SECONDED BY COMMISSIONER Runolfson AND UNANIMOUSLY CARRIED to adopt item 8.A.

Commissioner Bonner requested that staff speak to item 8.B.

Akram Hindiyeh summarized the proposed parking modifications, the intent of which is to provide the necessary parking on Calle Lago and prevent vehicle storage on portions of Calle de los Molinos. Staff met with representatives from businesses located on Calle Lago and most were supportive of the proposal. No objections have been received to date. After the modifications are implemented, the end result will be an increase in long term parking and a decrease in short term parking. The parking restrictions will restrict overnight parking by vehicles being worked on by the automotive repair shops in the area. Staff is confident that the auto repair establishments can accommodate the cars in their parking areas overnight. The Calle de los Molinos Business Group has voiced their support of the staff proposal.

IT WAS MOVED BY COMMISSIONER BONNER, SECONDED BY COMMISSIONER PROHASKA AND UNANIMOUSLY CARRIED to adopt item 8.B.

EX. 5

7

9. PUBLIC HEARINGS

A. Cultural Heritage Permit 99-13, Ballard Duplex

A request by Frank Montesinos, AIA, on behalf of O.V. and Bryan Ballard, for a Cultural Heritage Permit to construct 2 attached dwelling units in the Pier Bowl Specific Plan area at 108 Santa Ana Lane, the legal description being Lot 4, Block 9, Tract 785.

Chair Montesinos excused himself from consideration of this item. Commissioner Nicol chaired this portion of the meeting.

Jason Martin summarized the staff report. This item is back before the Commission because of a noticing error attributed to an outdated form. The project was sufficiently re-noticed. Staff gave an overview of the project and recommends approval of the project as conditioned.

Frank Montesinos, the architect representing the applicant, was available for questions. There was no public testimony.

IT WAS MOVED BY COMMISSIONER RUNOLFSON, SECONDED BY COMMISSIONER PAPILION AND CARRIED 5-0-1 (WITH MONTESINOS ABSTAINING) to adopt Resolution no. PC 99-24, approving Cultural Heritage Permit 99-13, Ballard, a request to construct a new residential duplex located at 108 Santa Ana Lane.

In response to Commissioner Prohaska's question regarding the possibility that adjacent neighbors be provided with copies of the Pier Bowl Specific Plan, City Planner Hare stated that any interested party may request a copy of the document for the cost of reproducing it. Producing the lengthy document without reimbursement for any and/or all those individuals who spoke to this project at the last meeting would be cost prohibitive.

Chair Montesinos resumed the chairperson position.

B. Site Plan Permit (SPP) 99-11, Rick's Trailer Supply

A request by Kevin Grant of General Contractors, on behalf of Rick Unfried, to construct a 13,000 square foot building with associated parking and vehicular circulation areas on the 1.75 acre, vacant lot located along the planned extension of Avenida Fabricante. The proposed use is a RV service and storage facility. The subject site is located in the easterly, industrial portion of the Rancho San Clemente Business Park, the legal description of the site being Lot 6 of Tract 14609.

EX. 5
8

Jason Martin presented the project. A colored rendering and vicinity map were displayed for the Commissioners' consideration. The project is composed of three components; a RV parts and service building requiring a site plan permit, a conditional use permit allowing the proposed use; and a minor exception permit to allow the installation of a six foot high wall. He distributed a memo detailing a driveway misalignment that has recently come to staff's attention. He indicated the location of a utility vault on the site plans that will interfere with the applicant's driveway placement. Although he is unsure how this issue will ultimately be resolved, the applicant is considering several alternatives and additional study of the site is required before a decision can be made. Staff will have final approval over the revised plans.

Don Mueller, the architect representing the applicant, described the project. The building is a tilt-up style constructed with concrete block and painted in earth tones. The RV storage area will be screened off with an eight-foot wall, which is set back 25 feet from the street. An abundant amount of mature landscaping will be installed behind the eight-foot wall for screening purposes. He is confident that the driveway can be realigned or redesigned to staff's satisfaction and agrees with all the conditions attached to the project. In response to Commissioner Nicol's question regarding overnight street parking, he assured the Commissioners that it is not the owner's intent to encourage his customers to park their RV's on the street. In response to Commissioner Bonner's question, he noted that the RV storage lot will accommodate approximately 30 vehicles.

Commissioner Nicol commented that together the well-designed building and abundance of mature landscaping made for a very attractive project. He advised the applicant to try to conserve as much of the landscaping as possible during the driveway redesign.

IT WAS MOVED BY COMMISSIONER BONNER, SECONDED BY COMMISSIONER PROHASKA AND UNANIMOUSLY CARRIED to adopt Resolution no. PC 99-31, adopting a mitigated negative declaration and approving Site Plan Permit 99-11, Conditional Use Permit 99-12, and Minor Exception Permit 99-47, Rick's RV, to allow construction of a building and establishment of recreational vehicle service, storage and supply business in the San Clemente Industrial Center.

C. Site Plan Permit (SPP) 99-26, Dana Innovations (Dynamic Building)

A request by Dynamic Builders to construct a 43,240 square foot office/warehouse building with associated parking and vehicular circulation areas on the 2.5 acre, vacant lot located along the planned extension of Avenida Fabricante. The subject site is located in the Rancho San Clemente Business Park, the legal description being Lot 4 of Tract 15257.

EX. 5
9

Jason Martin presented the staff report. This is a request to construct an office/warehouse building in the San Clemente Business Park. In addition to some minor issues that can be addressed through the conditions of approval, the Development Management Team (DMT) identified significant concerns with the building's east elevation and non-compliance with the City's Hillside Development Ordinance. In response to these concerns, the applicant submitted revised landscaping plans that attempt to screen the east elevation and installed "story poles" to indicate the building's visibility from Steed Park and Avenida La Pata. A perspective drawing was also submitted for the Commissioners' consideration.

The Design Review Sub-Committee reviewed the project and recommended modifications relating to the building height and color scheme. The applicant revised his plans accordingly. DRSC members agreed with the applicant that the view encroachment was minor and that the starkness of the east elevation can be mitigated with landscaping.

Because the project does not comply with the requirements in the Hillside Development Ordinance, however, staff is recommending that the Planning Commission deny the project. Staff believes the project should be re-designed to comply with all City standards and guidelines.

Barry Segal, a partner in Dynamic Builders, addressed the two concerns identified by staff. The stark east elevation will be mitigated by proposed landscaping and has limited visibility from down the street. It will not be visible from Avenida Pico. With regard to the ridgeline obstruction, he noted that the obstruction is only visible from the concession stand line at Steed Park. Only 10-15% of the building is actually projecting into the ridgeline view. He believes that the project complies with the intent of the Hillside Development Ordinance, and that the ridgeline view blockage is minimal.

In response to questions regarding the width of the truck access, City Engineer Ted Simon reported that staff had thoroughly tested the access driveway with templates and concluded that the width was adequate. On the site plans, he indicated some of the changes to the driveway and entry area proposed by staff to improve access to the site. The applicant has agreed to revise the plans accordingly.

The Commissioners also discussed the possibility of requiring the applicant to enhance the landscaping in the greenbelt areas adjacent to the property that are currently owned and maintained by two separate business park associations. Attorney Jeff Goldfarb explained that the project cannot be conditioned to enhance or exert control over the property of another. It would be within the Commission's purview, if they so desire, to require that the applicant put forth his best effort to formulate an agreement with an adjacent association to enhance the landscaping on that association's property.

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In response to Commissioner Nicol's suggestion, the applicant agreed to research the availability of alternative roofing material colors. Staff will have approval over the final selection.

Following discussion, the consensus of the Commission was that the projection into the ridgeline was insignificant or minimal at best. The fact that the ridgeline encroachment can only be seen from Steed Park as opposed to being visible from many different locations, further minimizes the view blockage issue. In addition, the applicant has adequately mitigated the starkness of the east elevation with landscaping.

Commissioner Papilion believes that the project can and should be redesigned or reoriented on the site to bring it into full compliance with the Hillside Development Ordinance. Standards and guidelines have been put in place and should be adhered to. He does not agree that the starkness of the east elevation can be mitigated with landscaping. He agrees with staff that the architectural design should be enhanced and the building needs more articulation. Approval of this project is clearly bending the rules and may set precedence for other projects.

The Commission directed the applicant to research the available roofing materials on the market with the intent of enhancing the view of the rooftop from the Ridgeline Trail. Staff, pursuant to the requirements of the San Clemente Zoning Ordinance, will review and have final approval of the roofing materials selected.

IT WAS MOVED BY COMMISSIONER NICOL, SECONDED BY COMMISSIONER RUNOLFSO AND CARRIED 5-1 (WITH PAPILION AGAINST) to approve Resolution no. PC 99-32, adopting a negative declaration and approving Site Plan Permit 99-26, Dana Innovations (AKA Sonance) to allow construction of an office/warehouse building in the Rancho San Clemente Business Park.

10. NEW BUSINESS - None
11. OLD BUSINESS - None
12. REPORTS OF COMMISSIONERS/STAFF

A. Planning Commission Representation at Next City Council Meeting

The Commissioners decided there was no need to send a representative to the next City Council meeting.

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B. Minutes of Zoning Administrator Meeting – April 13, 1999

Included in the Commissioners' packets for their consideration.

C. Long Range Tentative Agenda

Included in the Commissioners' packets for their review.

In response to a request from Design Review Sub-committee members Runolfson, Papilion, and Montesinos, City Planner Jim Hare agreed to place the Marblehead Coastal project on the April 29 DRSC agenda.

13. ADJOURNMENT

IT WAS MOVED BY COMMISSIONER PROHASKA, SECONDED BY COMMISSIONER NICOL AND UNANIMOUSLY CARRIED to adjourn at 8:45 p.m. to the Study Session of the Planning Commission to be held on Tuesday, May 4, 1999, at 4:00 p.m. at Council Chambers, City Hall, 100 Avenida Presidio, San Clemente, CA 92672.

Respectfully submitted,

Frank Montesinos, Chair

Attest:



Jim Hare, Secretary

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TO: PLANNING COMMISSION

FROM: Jason Martin, Associate Planner 

SUBJECT: Cultural Heritage Permit (CHP) 99-13, Ballard Duplex

ISSUE

Should the Planning Commission approve a request to construct a residential duplex at 108 Santa Ana Lane.

ENVIRONMENTAL REVIEW

The Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has determined the project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure.

BACKGROUND

Frank Montesinos AIA, on behalf of O.J. and Bryan Ballard, has submitted an application package, which proposes the construction of a residential duplex on the vacant lot located at 108 Santa Ana Lane.

The project was considered by the Planning Commission on 3/16/99. The minutes from that meeting are included as Attachment B. After the Planning Commission meeting, it was determined by staff that the public hearing notice was not conducted in full compliance with City requirements. The City requires that a public hearing notice be mailed to property owners within a 300 foot radius of the site. Public hearing notices for this project were mailed to property owners within a 100 foot radius of the site.

The cause of the noticing error has been traced to the applicant being provided an application form which listed outdated noticing requirements (i.e. 100 feet). The application has since been updated and outdated applications have been discarded.

The subject site is located within the Residential High Density zone as designated in the Pier Bowl Specific Plan, and is located within 300 feet of a designated historic structure. (See the attached location map).

Generally, residential duplexes would be reviewed and approved administratively. However, because of the site's location within an architectural overlay zone (all properties in the Pier Bowl are within an architectural overlay zone) and its close proximity to designated historic

EX. 5
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The DRSC considered the project and discussed several issues. Much of the discussion was in response to comments and questions made by several surrounding property owners. In particular clarification was given regarding the projects proposed height and its compliance with City standards. The applicant used prepared photo analysis to illustrate the proposed project relative to the built environment. That analysis will be at the meeting for Planning Commission consideration.

It was highlighted that on the taller building elevation, progressively increased building setbacks for the top three stories and a high degree of building articulation are proposed and would do much to lessen the perceived mass of the building.

Ultimately, the DRSC concurred that the proposed architecture was of a high quality and well suited for the area. They did comment that one of the lower level windows on the Santa Ana Lane elevation and visible to the public view should be paned glass. The applicant concurred. A condition of Approval is being recommended accordingly.

In conclusion, staff believes that the project meets all the required findings for the cultural heritage permit. The design of the project with the proposed architectural features (i.e. traditional materials and design elements, progressively increased setbacks for upper floors, and the high degree of building articulation) will complement the pedestrian orientation of the Pier Bowl and the Spanish Colonial Revival style architecture of the nearby historic structure. Additionally, the project complies with all identified requirements of the San Clemente Zoning Ordinance and the Pier Bowl Specific Plan including those relating to height, lot coverage, setbacks, and on-site parking.

ALTERNATIVES/IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with Staff and conditionally approve CHP 99-13 which would result in the construction of a residential duplex, as described in this report, on a vacant lot in the Pier Bowl located at 108 Santa Ana Lane..
2. The Planning Commission, at its discretion, can recommend additions, or modifications to the request, which would result in any revisions being incorporated accordingly.
3. The Planning Commission can deny CHP 99-13.

RECOMMENDATION

Staff recommends that the Planning Commission approve CHP 99-13 subject to the attached Resolution and Conditions of Approval included as Attachment A.

Attachments:

- A. Resolution with Conditions of Approval
- B. Planning Commission Meeting Minutes

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Discussion ensued regarding the functional layout of the building; the number of surplus parking spaces granted to businesses in the Downtown Shopping District and the procedure for keeping track of the parking waivers; and the possibility that an aesthetic nuisance may be created if the project is not completed as proposed.

Dave Guiterrez, representing the applicant, stated that the applicant intends to complete the project in its entirety as proposed. He agreed to bring the project back for additional review if the applicant changes his mind. He requested that condition no. 1.e. be deleted to allow the applicant to install single paned windows instead of true divided panes.

Commissioner Nicol agreed with the applicant's request. He noted that true divided windows will impair visibility into and out of the building.

Planner Hare commented that the required use of true divided paned windows is included in the design guidelines. This treatment, and others contained in the architectural overlay guidelines, are not always in concurrence with modern retail philosophy. It is within the Planning Commission's discretion whether to require the applicants to adhere to these guidelines.

IT WAS MOVED BY COMMISSIONER NICOL, SECONDED BY COMMISSIONER BONNER AND UNANIMOUSLY CARRIED to adopt Resolution no. PC 99-23, approving CHP 99-15 and DSP 99-34, K & S Cleaners, a request to conduct an exterior building remodel, construct a building addition totaling 690 square feet, for a parking waiver, and to install business signage on the property located at 114 S. El Camino Real with the following revisions:

Page 4, delete condition no. 1.E.

Page 5, delete condition no. 4.

C. Cultural Heritage Permit 99-13. Ballard Duplex

A request by Frank Montesinos, AIA, on behalf of O.V. and Bryan Ballard, for a Cultural Heritage Permit to construct 2 attached dwelling units in the Pier Bowl Specific Plan area at 108 Santa Ana Lane, the legal description being Lot 4, Block 9, Tract 785.

Chair Montesinos excused himself from consideration of this item. Vice-Chair Nicol led the meeting.

Jason Martin summarized the staff report. Review of this duplex is before the Commission due to its location within the Pier Bowl architectural overlay zone and its close proximity to designated historical buildings. During its review, the DRSC commented that the proposed architecture was of

ATTACHMENT B

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high quality and well suited for the area. A suggestion to replace one of the lower level windows with paned glass was well received by the applicant and a condition of approval was written and included in the project accordingly. Staff recommends approval of the request as conditioned.

Frank Montesinos, representing the applicant, was available for questions.

Public Testimony:

Gary Button, San Clemente resident, lives across the street from the proposed project. He distributed photographs depicting views of the site from all angles. On one of the photographs, he indicated the proposed location and height of the duplex and expressed concerns that it would be taller than all the other buildings on the street. Instead of the ocean view from his front window that he has enjoyed for many years, his home will overlook a "skyscraper." Noting that city workers have visited the site and installed meters, he asked if the building permits have already been approved.

Mr. Montesinos responded to Mr. Button's comments. The installation of water meters is unrelated to this project. Mr. Button's home, and most of the other homes on the street, are at least three stories high. In addition, he noted that the project is subject to Coastal Commission approval.

Mary Schneider, San Clemente resident, pointed out that no other homes on the street are five stories high.

Mr. Martin remarked that the proposed project is in compliance with the height restrictions in the Zoning Ordinance and Pier Bowl Specific Plan.

Commissioner Leyden commented that nearby residents have enjoyed the views afforded by the empty lot for many years and, understandably, are reluctant to lose the views. The project proposed is consistent with other homes in the neighborhood, well-designed architecturally, and will be an asset to the community.

Commissioner Nicol remarked that the project has been extensively reviewed to ensure that it meets all code requirements. The duplex meets or exceeds all applicable requirements.

IT WAS MOVED BY COMMISSIONER RUNOLFSON, SECONDED BY COMMISSIONER PROHASKA AND CARRIED 6-0-1 (WITH MONTESINOS ABSTAINING) to adopt Resolution no. PC 99-24, approving Cultural Heritage Permit 99-13, Ballard, a request to construct a new residential duplex located at 108 Santa Ana Lane.

Chair Montesinos resumed control of the meeting.

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RESOLUTION NO. PC 99-24

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY
OF SAN CLEMENTE, CALIFORNIA, APPROVING CULTURAL HERITAGE
PERMIT 99-13, BALLARD, A REQUEST TO CONSTRUCT A NEW
RESIDENTIAL DUPLEX LOCATED AT 108 SANTA ANA LANE**

WHEREAS, on January 26, 1999, an application was filed by Frank Montesinos AIA, on behalf of O.J. and Bryan Ballard of 5774 Sycamore Ave. Rialto, 92377, and completed on February 25, 1999, for a Cultural Heritage Permit to allow construction of a new duplex on a vacant lot located at 108 Santa Ana Lane, the legal description being Lot 4, Block 9 of Tract 785; and

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure; and

WHEREAS, on February 25, 1999, the Design Review Sub-committee considered the proposed project and provided comments to the applicant; and

WHEREAS, on April 20, 1999, the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: This project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure.

Section 2: The architectural treatment for the project complies with the San Clemente General Plan and Pier Bowl Specific Plan and the architectural guidelines in the City's Design Guidelines in that the proposed duplex is compatible in scale, mass and form with the other building in the vicinity of the site.

Section 3: The project, as conditioned, complies with the San Clemente Zoning Ordinance and the Pier Bowl Specific Plan in that the height of the duplex complies with the 45 foot maximum height limit of the Residential High (RH) district and the front, rear and side setbacks comply with the required setbacks established for the RH district.

ATTACHMENT A
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Section 4: The general appearance of the proposal is in keeping with the character of the neighborhood and is not detrimental to the orderly and harmonious development of the City in that the proposed duplex is compatible with the scale of other properties in the surrounding neighborhood.

Section 5: The proposed project preserves and strengthens San Clemente's historic identity as a Spanish Village in the building architectural design and proposed building materials are characteristic of the Spanish Colonial Revival style.

Section 6: The proposed project will not have negative visual or physical impacts upon the historic structure located at 109 Alameda Lane in that the building architectural design and proposed building materials are compatible with those of the historic structure.

Section 7: The Planning Commission of the City of San Clemente hereby approves Cultural Heritage Permit 99-13, Ballard, a request to allow the construction of a new duplex at 108 Santa Ana Lane, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on April 20, 1999.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on April 20, 1999, and carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

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EXHIBIT 1

CONDITIONS OF APPROVAL*
CULTURAL HERITAGE PERMIT 99-13, BALLARD

1. The owner or designee shall develop the approved project in conformance with the site plan, floor plans, elevations, sample materials board, and any other applicable submittals approved by the Planning Commission on April 20, 1999, subject to modifications by these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Planning Commission.

(Plng.)_____

2. The windows above the garage to the right of the first floor balcony along the Santa Ana Lane elevation shall be true divided pane glass.
3. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, the Uniform Fire Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Administrative Code, and the Uniform Codes as adopted by the City. (Bldg.)_____
4. Prior to issuance of building permits, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that Coastal Commission approval has been obtained for the project. (Plng.)_____
5. Prior to issuance of building permits, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect, nor shall permits be issued, unless such written consent is submitted to the City. (Plng.)_____

* All Conditions of Approval are Standard, unless indicated as follows:

- Denotes modified Standard Condition of Approval
- ■ Denotes project-specific Condition of Approval

TO: PLANNING COMMISSION

FROM: Jason Martin, Associate Planner 

SUBJECT: Cultural Heritage Permit (CHP) 99-13, Ballard Duplex

ISSUE

Should the Planning Commission approve a request to construct a residential duplex at 108 Santa Ana Lane.

ENVIRONMENTAL REVIEW

The Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has determined the project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure.

BACKGROUND

Frank Montesinos AIA, on behalf of O.J. and Bryan Ballard, has submitted an application package, which proposes the construction of a residential duplex on the vacant lot located at 108 Santa Ana Lane. The subject site is located within the Residential High Density zone as designated in the Pier Bowl Specific Plan, and is located within 300 feet of a designated historic structure. (See the attached location map).

Generally, residential duplexes would be reviewed and approved administratively. However, because of the site's location within an architectural overlay zone (all properties in the Pier Bowl are within an architectural overlay zone) and its close proximity to designated historic buildings, special attention has been given to the design of this project under the Cultural Heritage Permit process.

The request was considered by the Design Review Sub Committee on February 25, 1999. At the DRSC meeting several property owners from the neighborhood made general comments and asked questions to clarify their understanding of the project. Issues identified at the meeting are outlined in the Analysis Section of this report.

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The required public hearing notice has been conducted for the application. As of the date of this report preparation no comments either in support, or against, have been received from the public regarding this project.

ANALYSIS AND CONCLUSION

Project Description

The project is proposed on one, of the few remaining, vacant lots in the Pier Bowl area. The subject site is an interior, "through" lot with established multi-family residential uses on either side. The project is a residential duplex. The applicant has indicated that the project would be homes for himself and his son. No separate ownership, although allowable under the San Clemente Zoning Ordinance, is proposed at this time

The site has frontage on two streets: Santa Ana Lane and Capistrano Lane. The proposed development is oriented towards the west and ocean/pier views. The site slopes and drains down in a westerly direction to Santa Ana Lane from Capistrano Lane at an estimated gradient of 20%. The building is proposed with 5 foot side yard setbacks on both sides, and 10 foot setbacks from both Santa Ana Lane and Capistrano Lane. Garages are recessed and setback 18 feet from the property line. Two, two-car garages are proposed, one for each unit, and on each of the two street frontages. Excluding the ground-floor garages, the building is 2 stories on Capistrano Lane and 4 stories on Santa Ana Lane. The height of the buildings has been calculated in accordance with the required "averaging" method identified in the San Clemente Zoning Ordinance. The maximum height of the building is 43 feet 4 inches.

Architecturally the proposed building exhibits many elements of the traditional, Spanish Colonial Revival style. They include wrought-iron, wood, and ceramic tile accents; an arched main entrance doorway and arched windows; architectural niches; tiled stair risers and a curvilinear stair case; a smooth Mission style finish; wood paned windows; and clay tile roofing materials with exposed rafter tails.

Design Review Sub Committee (DRSC)

The project architect, who sits on the City's DRSC, excused himself from his committee member role during the DRSC's consideration of the item. He assumed the role as representative for the applicant, and presented the project to the DRSC.

The DRSC considered the project and discussed several issues. Much of the discussion was in response to comments and questions made by several surrounding property owners. In particular clarification was given regarding the projects proposed height and its compliance with City standards. The applicant used prepared photo analysis to illustrate the proposed

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project relative to the built environment. That analysis will be at the meeting for Planning Commission consideration.

It was highlighted that on the taller building elevation, progressively increased building setbacks for the top three stories and a high degree of building articulation are proposed and would do much to lessen the perceived mass of the building.

Ultimately, the DRSC concurred that the proposed architecture was of a high quality and well suited for the area. They did comment that one of the lower level windows on the Santa Ana Lane elevation and visible to the public view should be paned glass. The applicant concurred. A condition of Approval is being recommended accordingly.

In conclusion, staff believes that the project meets all the required findings for the cultural heritage permit. The design of the project with the proposed architectural features (i.e. traditional materials and design elements, progressively increased setbacks for upper floors, and the high degree of building articulation) will complement the pedestrian orientation of the Pier Bowl and the Spanish Colonial Revival style architecture of the nearby historic structure. Additionally, the project complies with all identified requirements of the San Clemente Zoning Ordinance and the Pier Bowl Specific Plan including those relating to height, lot coverage, setbacks, and on-site parking.

ALTERNATIVES/IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with Staff and conditionally approve CHP 99-13 which would result in the construction of a residential duplex, as described in this report, on a vacant lot in the Pier Bowl located at 108 Santa Ana Lane..
2. The Planning Commission, at its discretion, can recommend additions, or modifications to the request, which would result in any revisions being incorporated accordingly.
3. The Planning Commission can deny CHP 99-13.

RECOMMENDATION

Staff recommends that the Planning Commission approve CHP 99-13 subject to the attached Resolution and Conditions of Approval included as Attachment A.

Attachments:

- A. Resolution with Conditions of Approval
- B. Location Map
- C. Plans

EX. 5
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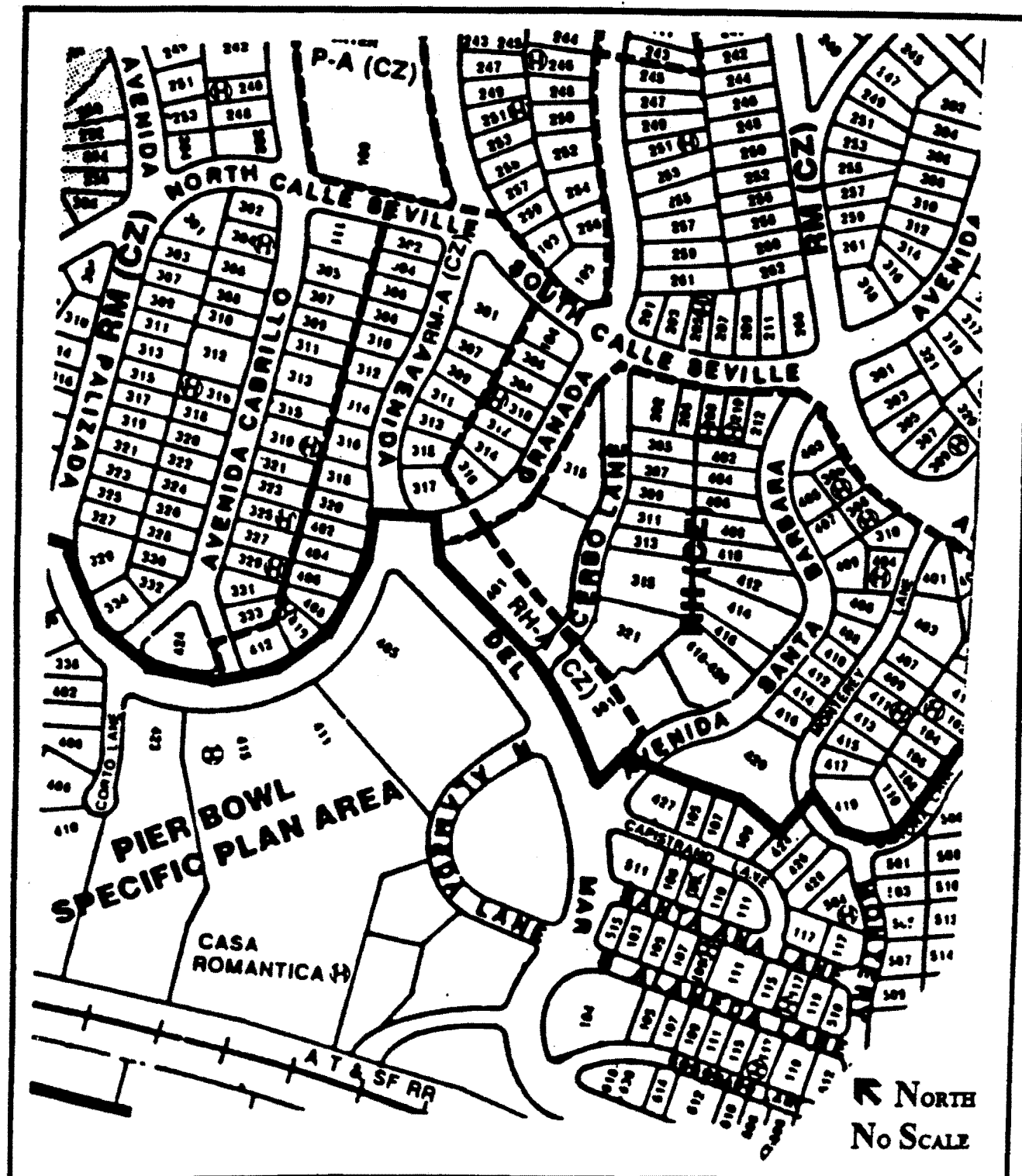


CITY OF SAN CLEMENTE

PLANNING DIVISION

LOCATION MAP

CASE NO. - Cultural Heritage Permit (CHP) 99-13



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RESOLUTION NO. PC 99-24

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY
OF SAN CLEMENTE, CALIFORNIA, APPROVING CULTURAL HERITAGE
PERMIT 99-13, BALLARD, A REQUEST TO CONSTRUCT A NEW
RESIDENTIAL DUPLEX LOCATED AT 108 SANTA ANA LANE**

WHEREAS, on January 26, 1999, an application was filed by Frank Montesinos AIA, on behalf of O.J. and Bryan Ballard of 5774 Sycamore Ave. Rialto, 92377, and completed on February 25, 1999, for a Cultural Heritage Permit to allow construction of a new duplex on a vacant lot located at 108 Santa Ana Lane, the legal description being Lot 4, Block 9 of Tract 785; and

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure; and

WHEREAS, on February 25, 1999, the Design Review Sub-committee considered the proposed project and provided comments to the applicant; and

WHEREAS, on March 16, 1999, the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: This project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure.

Section 2: The architectural treatment for the project complies with the San Clemente General Plan and Pier Bowl Specific Plan and the architectural guidelines in the City's Design Guidelines in that the proposed duplex is compatible in scale, mass and form with the other building in the vicinity of the site.

Section 3: The project, as conditioned, complies with the San Clemente Zoning Ordinance and the Pier Bowl Specific Plan in that the height of the duplex complies with the 45 foot maximum height limit of the Residential High (RH) district and the front, rear and side setbacks comply with the required setbacks established for the RH district.

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Section 4: The general appearance of the proposal is in keeping with the character of the neighborhood and is not detrimental to the orderly and harmonious development of the City in that the proposed duplex is compatible with the scale of other properties in the surrounding neighborhood.

Section 5: The proposed project preserves and strengthens San Clemente's historic identity as a Spanish Village in the building architectural design and proposed building materials are characteristic of the Spanish Colonial Revival style.

Section 6: The proposed project will not have negative visual or physical impacts upon the historic structure located at 109 Alameda Lane in that the building architectural design and proposed building materials are compatible with those of the historic structure.

Section 7: The Planning Commission of the City of San Clemente hereby approves Cultural Heritage Permit 99-13, Ballard, a request to allow the construction of a new duplex at 108 Santa Ana Lane, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on March 16, 1999.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on March 16, 1999, and carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

EX. 5

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EXHIBIT 1

CONDITIONS OF APPROVAL*
CULTURAL HERITAGE PERMIT 99-13, BALLARD

1. The owner or designee shall develop the approved project in conformance with the site plan, floor plans, elevations, sample materials board, and any other applicable submittals approved by the Planning Commission on March 16, 1999, subject to modifications by these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Planning Commission.

(Plng.)_____

2. The windows above the garage to the right of the first floor balcony along the Santa Ana Lane elevation shall be true divided pane glass.
3. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, the Uniform Fire Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Administrative Code, and the Uniform Codes as adopted by the City. (Bldg.)_____
4. Prior to issuance of building permits, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that Coastal Commission approval has been obtained for the project. (Plng.)_____
5. Prior to issuance of building permits, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect, nor shall permits be issued, unless such written consent is submitted to the City. (Plng.)_____

* All Conditions of Approval are Standard, unless indicated as follows:

- Denotes modified Standard Condition of Approval
- ■ Denotes project-specific Condition of Approval

CDP No. P-7-28-77-1482 (Glover):
Allowed construction of a three-story,
four-unit apartment building with,
subterranean garage for eight cars,
proposed at 28' 4" above the centerline
of the frontage road
at 511 Avenida Del Mar.

CDP No. P-80-7017
Rampart Research and Financial):
lowed demolition of a single-family
lling and construction of a new three-
y, five-unit condominium proposed at
above average finished grade and
32 feet above the centerline of
the frontage road
at 103 Coronado Lane.

CDP No. P-2-28-77-312 (Schroeder):
Allowed construction of a four-story
duplex, conditioned not to exceed 20'
from the centerline of the frontage
road (Capistrano Lane)
at 110 Capistrano Lane.

CDP No. P-5-13-77-920 (Ratkelis):
 Allowed construction of a 3-level duplex
 with four-car subterranean level garage,
 conditioned not the exceed 30' 6" above
the centerline of Santa Ana Lane
at 117 Capistrano Lane.

CDP No. P-7-11-77-1324 (Easton):
Allowed construction of a four-story
duplex, conditioned not to exceed 36'
above the centerline of Alameda and
23' 6" above the centerline of
Santa Ana Lane
at 122 Santa Ana Lane.

CDP No. P-12-2-77-2353 (Hartfield):
Allowed construction of a 3-story (over
garage level) triplex, conditioned not to
exceed 26' above average finished
grade and 36' above the centerline of
the frontage road
at 123 Coronado Lane.

EXHIBIT No. 6

Application Number: 5-00-111

**Location of Prior
Commission Actions**

California Coastal
Commission

ASSESSOR'S MAP
BOOK 692 PAGE 02
COUNTY OF CRANE

ASSESSOR'S BLOCK &
PARCEL NUMBERS
SHOWN IN CIRCLES
44.180-22.193-13

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P. O. BOX 1450

LONG BEACH, CALIFORNIA 90801

213/590-5071 714/846-0648

COASTAL DEVELOPMENT PERMITApplication Number: P-2-28-77-312Name of Applicant: Mr. & Mrs. Jack Schroeder1675 Angelus Avenue, Los Angeles, CA 90026Permit Type: ☐ Emergency
☒ Standard
☐ AdministrativeDevelopment Location: 110 Capistrano Lane, San Clemente, CADevelopment Description: Construct a four-story duplex with an outdoor
spa, conditioned not to exceed 20 feet from the centerline of the
frontage road (Capistrano Lane).

I. The South Coast Commission finds that:

A. The proposed development, or as conditioned, is:

1. In conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of local government to prepare a local coastal program in conformity with said chapter.
2. If located between the nearest public road and the shoreline of any body of water in the coastal zone is in conformity with public access and public recreation policies of Chapter 3, California Coastal Act of 1976.
3. That there are/are no feasible alternatives, or mitigation measures, as provided in the California Environmental Impact Act, available which would substantially lessen adverse impact that the development as finally proposed has on the environment.

EXHIBIT #1, P. 5

EXHIBIT No. 7a

Application Number: 5-00-111

CDP No. P-2-28-77-312

California Coastal
Commission

II. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

Prior to issuance of permit, applicant shall submit revised plans
reducing the height to 20 feet from centerline of frontage road
(Capistrano).

Condition/s Met On 4/12/77 By ej ef

III. Whereas, at a public hearing, held on April 4, 1977 at
(date)
Huntington Beach by a 12 to 0 vote permit application
number P-2-28-77-312 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a copy of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on
April 18, 1977.



M. J. Carpenter
Executive Director

I, _____, permittee/agent, hereby acknowledge
receipt of Permit Number P-2-28-77-312 and have accepted its contents.

(date)

(signature)

EXHIBIT #1, P. 6

EX. 7a

/dh 2

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 590-5071 (714) 846-0648

COASTAL DEVELOPMENT PERMIT

FILE COPY

Application Number: P-5-13-77-920Name of Applicant: Algis Ratkelis27182 Puerto del Oro, Mission Viejo, CA 92675Permit Type: ☐ Emergency
☒ Standard
☐ AdministrativeDevelopment Location: 117 Capistrano Lane, San Clemente, CADevelopment Description: Construct a 3-level duplex with four-car
subterranean level garage, 30.5 feet above centerline of Santa
Ana, with condition.

I. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

Prior to issuance of permit, applicant shall submit revised plans
limiting the height of the project to three levels (including garage),
for a total height of 30.5 feet above centerline of frontage road.Condition/s Met On 2-14-78By ml / L.F.

EXHIBIT No. 70

Application Number: 5-00-111

CDP No. P-5-13-77-920

California Coastal
Commission

II. The South Coast Commission finds that:

A. The proposed development, or as conditioned;

1. The developments are in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and 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 of the California Coastal Act of 1976.
2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

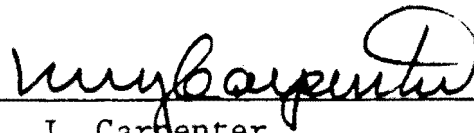
III. Whereas, at a public hearing, held on August 11, 1977 at Huntington Beach by a unanimous ~~tex~~ vote permit application number P-5-13-77-920 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on February 14, 197 8.


 M. J. Carpenter
 Executive Director

I, _____, permittee/agent, hereby acknowledge receipt of Permit Number P-5-13-77-920 and have accepted its contents.

 (date)

 (signature)

EX. 76
 2

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 590-5071 (714) 846-0648

COASTAL DEVELOPMENT PERMIT

CALIFORNIA
COASTAL COMMISSIONApplication Number: P-7-11-77-1324Name of Applicant: M. J. Easton7738 S. Vale Drive, Whittier, CA 90602Permit Type: ☐ Emergency
☒ Standard
☐ AdministrativeDevelopment Location: 122 Santa Ana Lane, San Clemente, CADevelopment Description: Construct a four-story duplex with a two-
and three-bedroom unit, attached four-car garage, 36 feet above center-
line of Alondra and 23½ feet above centerline of Santa Ana, with condition.

I. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

Prior to issuance of permit, applicant shall submit revised plans
limiting the height of the project to 36 feet above centerline of
Alondra and 23½ feet above centerline of Santa Ana.Condition/s Met On August 30, 1977By ml

EXHIBIT No. 7c

Application Number: 5-00-111

CDP No. P-7-11-77-1324

California Coastal
Commission

I. The South Coast Commission finds that:

A. The proposed development, or as conditioned, is:

1. In conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of local government to prepare a local coastal program in conformity with said chapter.
2. If located between the nearest public road and the shoreline of any body of water in the coastal zone is in conformity with public access and public recreation policies of Chapter 3, California Coastal Act of 1976.
3. That there are/are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the development as finally proposed may have on the environment.

III. Whereas, at a public hearing, held on August 11, 1977 at Huntington Beach by a unanimous ~~xxx~~ vote permit application number P-7-11-77-1324 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on August 30, 1977.

M. J. Carpenter
M. J. Carpenter
Executive Director

I, Mrs. M. J. Easton, permittee/agent, hereby acknowledge receipt of Permit Number P-7-11-77-1324 and have accepted its contents.

Sept 1, 1977
(date)

Mrs. M. J. Easton
(signature)

Ex. 7c
2

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

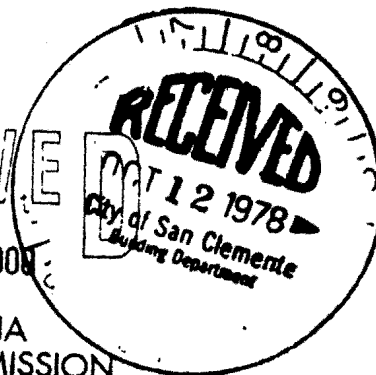
666 E. OCEAN BOULEVARD, SUITE 3107
P.O. BOX 1450
LONG BEACH, CALIFORNIA 90801
(213) 590-5071 (714) 846-0648

11 October 1978

RECEIVED

MAY 10 2008

CALIFORNIA
COASTAL COMMISSION



Mr. Harry Marcus
Chief Building Inspector
City of San Clemente
100 Avenida Presidio
San Clemente, CA 92672

11-10-78

Re: Permit Application P-77-1324

Dear Mr. Marcus:

This letter is to confirm the many conversations between your office and ours regarding the height of the building under construction at 122 Santa Ana Lane (our P-77-1324). The permit issued by our office conditioned the height of the building to 36 feet above the centerline of "Alondra" (a typographical error on our part; it should be Alameda) and 23½ feet above the centerline of Santa Ana. The permitted height was designed to preserve the views of the ocean and pier from dwellings further up the hill. As such, we consider conformance to the conditioned Santa Ana height to be of greater importance than the Alameda ("Alondra" height).

From staff's calculations at the site (in the presence of some dozen San Clemente officials, citizens and interested observers), we determined that the building is 23' 3-3/8" in height above the centerline of Santa Ana Lane (as measured from curb to curb). This is below the conditioned height. We understand that the building height on Alameda is roughly 38' and we all agree this is above the conditioned height. The building under construction, however, is the one that we approved, and we believe that the error in height on Alameda is due to an error in the calculation of the slope. The intent of the permit condition is being met, and, therefore, we see nothing to be gained by the filing of a violation report. It is important that the intent of permit conditions are met and we believe that the intent of the height condition placed

EX. 7c
3

Mr. Harry Marcus

-2-

11 October

on P-1324 is being met.

If you have any further questions, please do not hesitate to c
our office.

Sincerely yours,

SOUTH COAST REGIONAL COMMISSION


M. J. Carpenter
Executive Director

MJC:dn

cc: Jim Chase
Mr. Dennison
Mr. & Mrs. M. J. Easton

EX. 7c
4

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 590-5071 (714) 846-0648

COASTAL DEVELOPMENT PERMIT

FILE COPY

Application Number: P-7-28-77-1482Name of Applicant: Norman GloverP. O. Box 3759, San Clemente, CA 92672Permit Type: ☐ Emergency
☒ Standard
☐ AdministrativeDevelopment Location: 511 Del Mar, San Clemente, CADevelopment Description: Construct a three-story, four-unit apartment
building with subterranean garage for eight cars, 28'4" above
centerline of frontage road.I. The proposed development is subject to the following conditions imposed
pursuant to the California Coastal Act of 1976:NoneCondition/s Met On N/ABy ml

EXHIBIT No. 7d

Application Number: 5-00-111

CDP No. P-7-28-77-1482

California Coastal
Commission

II. The South Coast Commission finds that:

A. The proposed development, or as conditioned;

1. The developments are in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and 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 of the California Coastal Act of 1976.
2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

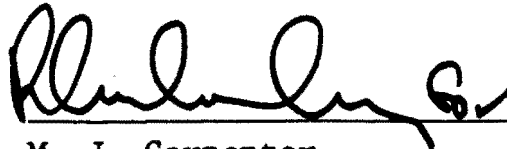
III. Whereas, at a public hearing, held on August 25, 1977 at Huntington Beach by a unanimous ~~to~~ vote permit application number P-7-28-77-1482 is approved.

IV. This permit may not be assigned to another person except as provided in Section 131/0, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on September 12, 197 7.



M. J. Carpenter
Executive Director

I, _____, permittee/agent, hereby acknowledge receipt of Permit Number P-7-28-77-1482 and have accepted its contents.

(date)

(signature)

Ex. 7d

2 /dt

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(313) 590-5071 (714) 846-0648

Correction

COASTAL DEVELOPMENT PERMIT

RECEIVED

MAY 10 2000

CALIFORNIA
COASTAL COMMISSION

Application Number: P-12-2-77-2353

Name of Applicant: John Hartfield

31732 Via Perdiz, Coto de Caza, CA 92678

Permit Type: ☐ Emergency
☒ Standard
☐ Administrative

Development Location: 123 Coronado Lane, San Clemente, CA

Development Description: Construction of a 3-story over garage level,
triplex with 8 on-site parking spaces, jacuzzi and solar panels.Twenty six feet above average finished grade and thirty six above
centerline of frontage road on a 5470 sq. ft. lot in an R-4 zone.I. The proposed development is subject to the following conditions imposed
pursuant to the California Coastal Act of 1976:

1. Prior to issuance of permit, applicant shall submit: a. revised
plans indicating: 1) height not to exceed 26 feet above average finished
grade, and 2) one guest and two to one parking on site, and b. a deed
restriction for recording limiting the use of the structures to three units.
2. Developer shall notify staff upon completion of framing and shall not
proceed beyond that point until the Executive Director has verified that
the development conforms to the Commission approved plans.

Condition/s Met On May 5, 1978

By

L.F.

EXHIBIT No. 7c

Application Number: 5-00-111

CDP No. P-12-2-77-2353

California Coastal
Commission

II. The South Coast Commission finds that:

A. The proposed development, or as conditioned:

1. The developments are in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and 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 of the California Coastal Act of 1976.
2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

III. Whereas, at a public hearing, held on January 9, 1978 at Huntington Beach by a 8 to 3 vote permit application number P-12-2-77-2353 is approved.

V. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on

May 5, , 197 8 .



M. J. Carpenter
Executive Director

I, _____, permittee/agent, hereby acknowledge receipt of Permit Number _____ and have accepted its contents.

(date)

(signature)

Ex. 7c

2

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION
666 E OCEAN BOULEVARD, SUITE 3107
P.O. BOX 1450
LONG BEACH, CALIFORNIA 90801
(213) 390 5071 (714) 846 0648



COASTAL DEVELOPMENT PERMIT

Permit Type: ☒ Administrative ☒ Standard ☐ Emergency

Application Number: P-80-7017

Name of Applicant: Rampart Research and Financial
22842 Via Cordova, South Laguna, CA 92677

Development Location: 103 Coronado Lane
San Clemente, CA

Development Description: Demolition of a single-family dwelling and construction of a new five-unit condominium. Structure to be 3 levels (2 over parking). Each unit will have 3 bedrooms, 2 baths and will range from 1,817 sq. ft. to 2,217 sq. ft. Project to include a swimming pool, jacuzzi, and 11 parking spaces to conform to parking guidelines.

I. Whereas, at a public hearing, held on August 11, 1980
at Huntington Beach by a vote of unanimous ~~xx~~

the Commission hereby grants, subject to condition/s, a permit for the proposed development, on the grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Conditions: Please see attached pages

EXHIBIT No. 7f

Application Number: 5-00-111

CDP No. P-80-7017

California Coastal Commission

Conditions for permit^{or} number P-80-7017

The permit is subject to the following conditions:

1. Prior to issuance of permit, the applicant shall dedicate one of the five (5) units as affordable housing by utilizing one of the following options:

OPTION 1

1(A) Sales Units. If the low- and moderate-income housing opportunities are to be developed as sale units, prior to the issuance of a permit, the developer shall enter into an agreement with the Commission, or its designee, to ensure that subsequent sales following the initial sale of the unit will be at a price which is affordable to households earning substantially the same percentage of the median income as the initial purchasers of the units and shall be recorded as a covenant to run with the land, with no prior liens other than tax liens. The agreement shall include substantially the following conditions:

(1) The applicant, his successors, and any subsequent purchasers shall give a governmental or non-profit agency, subject to the approval of the Executive Director, an option to purchase the units. The agency or its designee may assign this option to an individual private purchaser who qualifies as a low- or moderate-income person in substantially the same income range as the person for whom the initial sales price was intended to provide a housing opportunity.

(2) Whenever the applicant or any subsequent owner of the unit wishes to sell or transfer the units he/she shall notify the agency or its designee of his/her intent to sell. The agency, its designee, or its assignee shall then have the right to exercise the option within 180 days in the event of the initial sale of the units by the developer, or within 90 days for subsequent sales. Following the exercise of the option, escrow shall be opened and closed within 90 days after delivery of the notice of exercise of the option.

(3) Following the notice of intent to sell the unit, the agency or its designee shall have the right to inspect the premises to determine whether repair or rehabilitation beyond the requirements of normal maintenance ("deferred maintenance") is necessary. If such repair or rehabilitation is necessary, the agency or its designee shall determine the cost of repair, and such cost shall be deducted from the purchase price and paid to the agency, its designee, or such contractors as the Department shall choose to carry out the deferred maintenance and shall be expended in making such repairs.

(4) The agency or its designee may charge a fee, to be deducted from the purchase price paid by the assignee for its reasonable costs of qualifying and counseling purchasers, exercising the option, and administering this resale control program.

(5) The option price to be paid by the agency, its designee, or assignee, shall be the original sales price of the unit plus an amount to reflect the percentage of any increase in the median income since the time of the original sale.

Ex. 7f

Conditions for permit number P-80-7017, continued

(6) The purchaser shall not sell, lease, rent, assign, or otherwise transfer the premises without express written consent of the agency or its designee. This provision shall not prohibit the encumbrancing of the title for the sole purpose of securing financing; however, in the event of foreclosure or sale by deed of trust or other involuntary transfer, title to the property shall be taken subject to this agreement.

(7) Such other conditions as the Executive Director determines are necessary to carry out the purpose of this agreement.

OPTION 2

2(A) Rental Units. If the low- and moderate-income housing opportunities are to be developed as rental units, prior to the issuance of a permit, the developer shall enter into an agreement with the Commission to assure that the units will continue to be rented at a price which is affordable to low- and moderate-income renters. The agreement shall bind the applicant and any successors in interest to the real property being developed and shall be recorded as a covenant to run with the land, with no prior liens other than tax liens, for a period extending 30 years from the date the agreement is recorded. The agreement shall provide that either:

(1) The rents on the units shall be fixed at a rent which is affordable to low-income persons; this rent may be adjusted annually to reflect changes in the median income; or,

(2) The units shall be rented at the Fair Market rent for existing housing as established by the Department of Housing and Urban Development (HUD) either to persons who meet the standards established by HUD for rent subsidy under Section 8 of the Housing Act of 1937, as amended, or as it may subsequently be amended, and applicable regulations; or persons who meet the requirements of any other rent subsidy or funding program that provides rental housing for low-income households. The applicant shall make best efforts to accomplish the intent of the provision; those efforts shall include, but are not limited to, entering into any contracts offered by HUD, a local Housing Authority, or such other agency administering a rent subsidy program for low-income households, and refraining from taking any action to terminate such rent subsidy program thereby entered.

In the event that at any time within 30 years after the agreement is recorded housing subsidies are not available, the applicant or his/her successor shall maintain the rental levels for the unit at amounts no higher than those that would otherwise be the maximum for Section 8 housing units and shall rent the units to qualified low-income tenants. In the event that Section 8 or comparable maximum rental levels are no longer published by the Federal government or by local governmental agencies, maximum rental levels shall be a base rent established by the last rental filing published for the Section 8 program adjusted by a percentage to reflect the percentage increase or decrease in the median income.

EX. 7f
3

Conditions for permit number P-80-7017, continued

OPTION 3

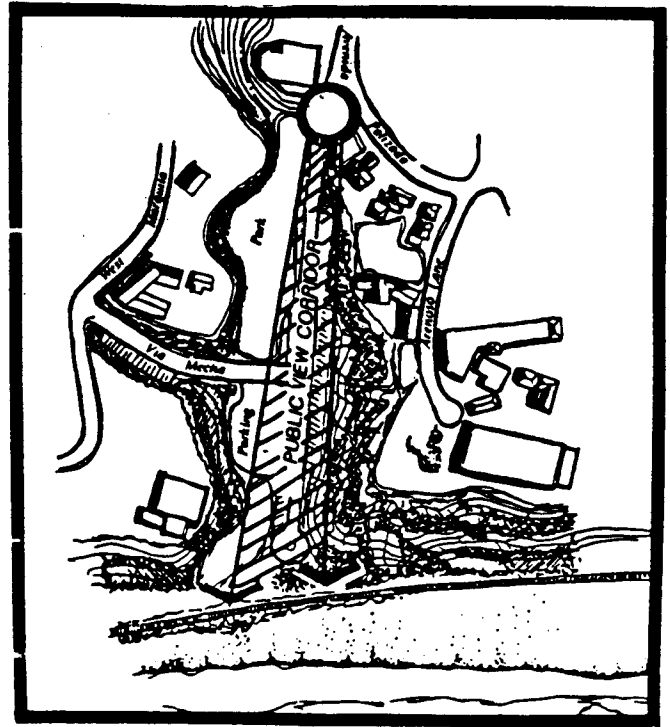
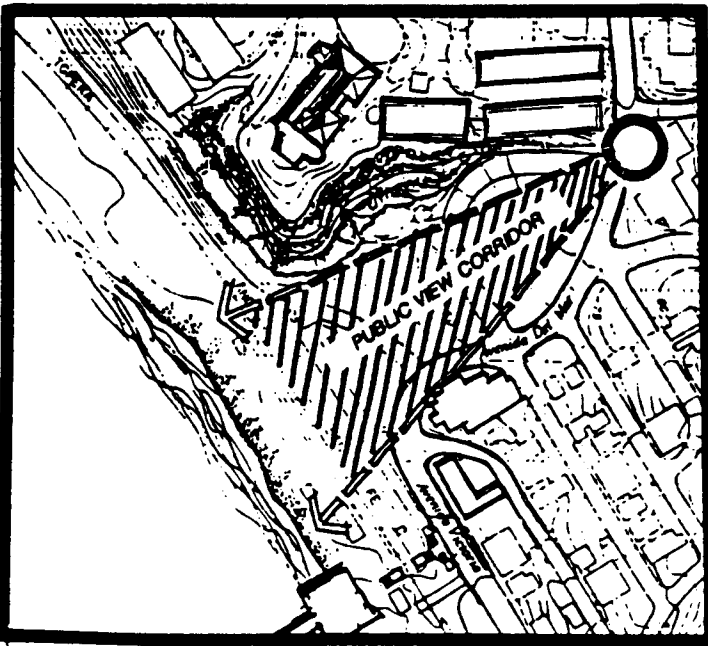
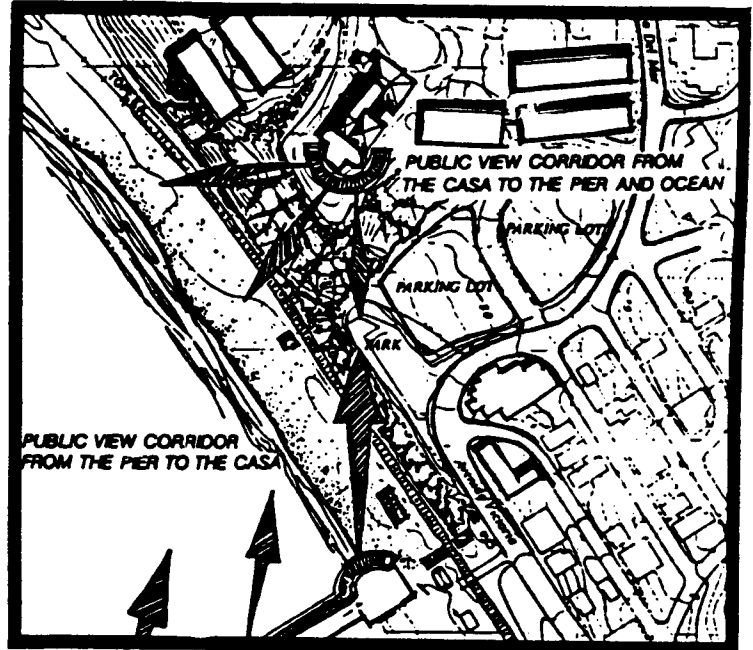
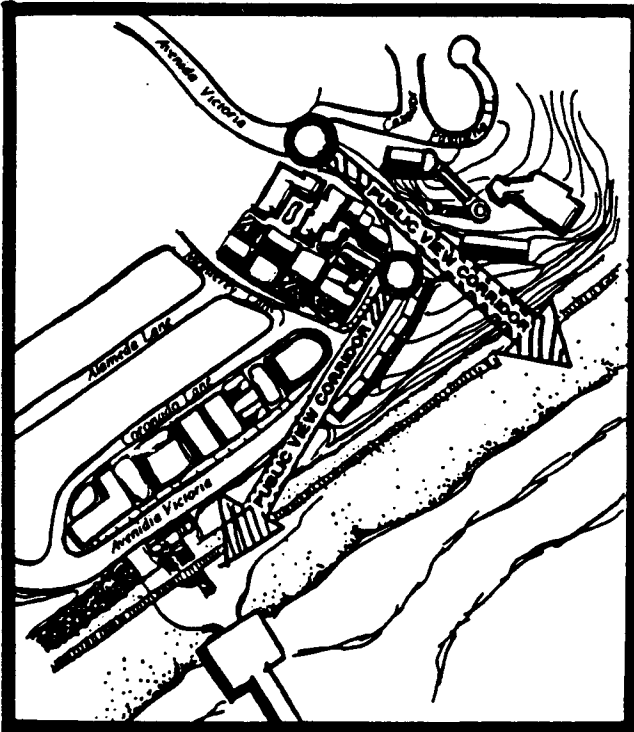
If Options 1 and 2 are not economically feasible as found by the Commission then the following will be required:

As a condition of accepting this permit, the applicant shall agree to pay 3% of the sales price of each and every unit constructed pursuant to this permit (payable as each unit closes escrow) into a fund to be established by the Department of Housing and Community Development to be used for the purchase of land for the development of affordable housing within the coastal zone in the market area of this development. Up to 10% of this fund may be used to pay the Department's administrative costs, if any. The fund may be used for other costs of developing affordable housing rather than land purchase upon the written approval of the Executive Director of the State Commission.

To secure performance of the fee payment, prior to issuance of this permit, the applicant shall enter into an agreement with the Department of Housing and Community Development to pay this fee, with the Department agreeing to administer the fund, and shall deliver to the Department an irrevocable letter of credit for the amount of _____ (estimated by the applicant at the time of this hearing as 3% of the expected sales price), to be released upon payment of 3% of the actual sales price. Evidence of this agreement and delivery of the letter of credit shall be presented to the Executive Director of the State Commission prior to issuance of this permit.

EX. 7f

4



PIER BOWL
SPECIFIC PLAN

EXHIBIT No. 8

Application Number: 5-00-111

View Corridor Figure from
Pier Bowl Specific Plan



California Coastal
Commission

VIEW CORRIDORS

FIGURE 5



EXHIBIT No. 9

Application Number: 5-00-111

Site Photo



California Coastal
Commission



EXHIBIT No. 70

Application Number: 5-00-111

Site Photo



California Coastal
Commission

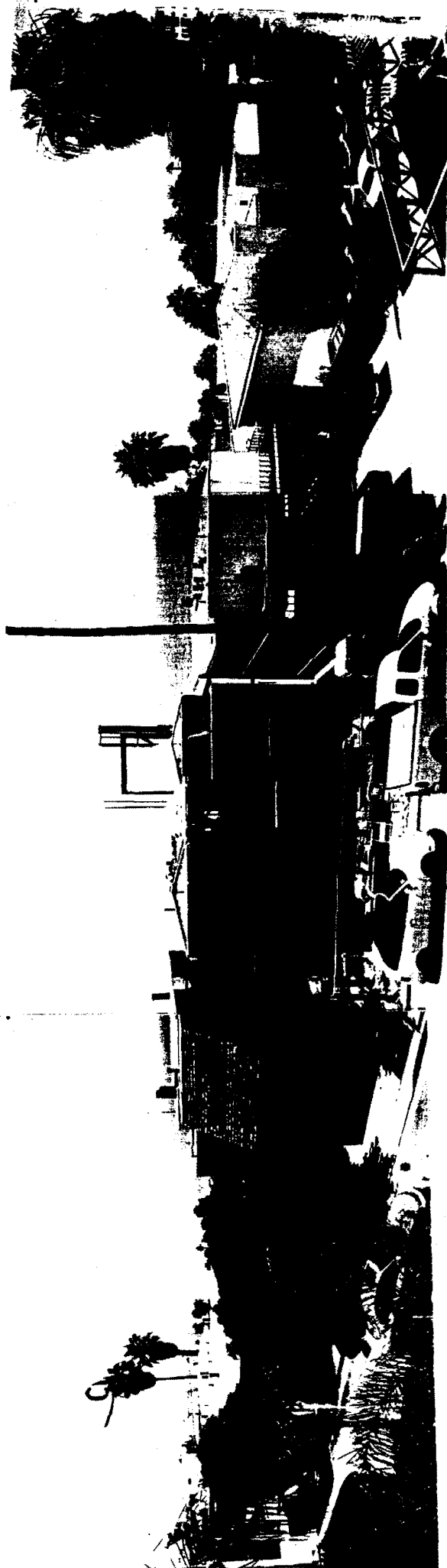


EXHIBIT No. 9

Application Number: 5-00-111

Site Photo



California Coastal
Commission