

**CALIFORNIA COASTAL COMMISSION**

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**Item F7b**

Filed: November 12, 2009  
49th Day: December 31, 2009  
180th Day: May 11, 2010  
Staff: Liliana Roman-LB  
Staff Report: January 27, 2010  
Hearing Date: February 12, 2010  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-09-180

**APPLICANT:** Frederick E. Hitchcock Jr.

**AGENT:** The Planning Associates, Attn: Jonathan Petke

**PROJECT LOCATION:** 1880 N El Camino Real #81, San Clemente (Orange County)

**PROJECT DESCRIPTION:** Installation of a new 1,345 sq. ft., 19.5' tall mobile home, with above-ground concrete block pier foundation, paver patio, 11' tall patio cover, 30" tall masonry seat wall along oceanfront, drainage improvements and minimal landscaping on an oceanfront lot.

**LOCAL APPROVALS RECEIVED** City of San Clemente Planning Division Approval-in-Concept dated September 17, 2009

**SUBSTANTIVE FILE DOCUMENTS:** City of San Clemente Certified Land Use Plan (LUP), Coastal Hazard & Wave Runup Study, Spaces 80 & 81 1880 N. El Camino Real, San Clemente, CA prepared by GeoSoils, Inc. dated November 10, 2009.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project with eight (8) special conditions, which require 1) compliance with construction-related best management practices (BMPs), 2) conformance with proposed drainage plans, 3) landscaping requirements, 4) avoidance of expanded future shoreline protection, 5) conformance with permitting requirements for future development, 6) assumption of risk, waiver of liability and indemnity 7) proof of applicants' legal ability to comply with permit conditions, and 8) generic deed restriction. The primary issues associated with this development are coastal hazards such as flooding and wave uprush, public access and visual impacts.

The applicant proposes to install a new mobile home in Unit Space #81 in the Capistrano Shores Mobile Home Park located between the first public road and the sea and seaward of the OCTA railroad tracks in San Clemente. The mobile home park is a non-conforming use on a stretch of beach developed with 90 mobile homes parallel to the shoreline on a lot designated OS2 Privately Owned Open Space (intended for open space – no formal easement) in the City of San Clemente Land Use Plan (LUP). A rock revetment protects the 90 mobile home units at this site from direct wave attack.

The applicant has submitted a Coastal Hazard & Wave Runup Study that deems the existing bulkhead/rock revetment adequate to protect the proposed mobile home. The Commission staff's coastal engineer concurs that no improvements to the bulkhead/rock revetment in front of Unit Space #81 is necessary at this time. Therefore, Commission staff recommends approval of the installation of a new mobile home in Unit Space #81 with applicant acknowledgement and agreement that the site may be subject to hazards from flooding, wave uprush, sea level rise, and erosion and that if in the future the applicant seeks a coastal development permit to construct new or repair the existing shoreline protective devices it would be as part of a larger comprehensive analysis/proposal for the entire shoreline protective devices protecting the whole of Capistrano Shores Mobile Home Park.

**LIST OF EXHIBITS:**

1. Location Map
2. Assessors Parcel Map
3. Coastal Access Points Map
4. Project Plans
5. Site Photographs

**STAFF RECOMMENDATION:**

**MOTION:**            *I move that the Commission approve Coastal Development Permit No. 5-09-180 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II.        STANDARD CONDITIONS:**

1.        Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2.        Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent

manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. 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.

### III. SPECIAL CONDITIONS:

#### 1. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- A. No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
- B. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- C. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
- D. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.
- E. Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
- F. Staging and storage of construction machinery and storage of debris shall not take place on any sandy beach areas.

#### 2. Drainage Plan

The applicants shall conform to the site drainage details depicted in the hardscape plan received in the Commission's office on 09/17/09 depicting proposed concrete pavers sloped to drain to the back (street side) of the mobile home unit space and an overflow area drain both directed to an underground dry well for on-site percolation of runoff from all site impervious areas. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### 3. Landscaping – Native, Drought Tolerant, Non-Invasive Plants

All areas affected by construction activities not occupied by structural development shall be re-vegetated for erosion control purposes.

Vegetated landscaped areas shall consist of non-invasive and drought-tolerant plants. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).

4. Future Response to Erosion/No Future Shoreline Protective Device

A. No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device is authorized by this coastal development permit.

B. By acceptance of this permit, the applicant agrees, on behalf of himself and all successors and assigns, that any future repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device shall only be undertaken as part of a larger comprehensive analysis/proposal including the entire shoreline protective device protecting the whole of Capistrano Shores Mobile Home Park. No encroachment onto public property and/or seaward of the existing revetment shall be permitted as part of the comprehensive plan.

C. By acceptance of this Permit, the applicant waives, on behalf of himself and all successors and assigns, any rights to new shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed new mobile home.

D. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, foundations, patio covers, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-09-179. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-09-179. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-09-179 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding and wave uprush, sea level rise, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards.

7. Proof of Legal Ability to Comply with Conditions

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall provide proof of the permittee's legal ability or authority to comply with all the terms and conditions of this coastal development permit.

8. Generic Deed Restriction

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

Project Location

The proposed project is located between the first public road and the sea and seaward of the OCTA railroad tracks at Unit #81 in the Capistrano Shores Mobile Home Park at 1880 N. El Camino Real in the City of San Clemente, Orange County (Exhibits 1 & 2). The mobile home park is an existing non-conforming use on a stretch of beach developed with 90 mobile homes parallel to the shoreline on a lot designated OS2 Privately Owned Open Space (intended for open space – no formal easement) in the City of San Clemente Land Use Plan (LUP). An older timber bulkhead and a rock

revetment protect the 90 mobile home units along the entire length of the Capistrano Shores Mobile Home Park (including the subject site) from direct wave attack.

On the seaward side of the subject site (Unit #81), the proposed mobile home would be fronted by a narrow perched beach, an older timber bulkhead and quarry stone rock revetment between the subject property and the Pacific Ocean. The applicant provided a Coastal Hazard and Wave Runup Study Analysis.

Vertical public access to this beach is not available at the site or anywhere else along the length of the Capistrano Shores Mobile Home Park. Vertical public access is available approximately half a mile south at the North Beach access point (Exhibit #3) and to the north at the Poche Beach access; however, lateral access along the beach in front of the mobile home park and revetment is only accessible during low tide; during high tide the waves crash up against the rock revetment.

### Project Description

The applicant proposes to install a new 1,345 sq. ft., 19.5' tall mobile home with an above-ground concrete block pier foundation, paver patio along the side yards and oceanfront portion of the unit, 11' tall patio cover, 30" tall masonry seat wall along oceanfront, drainage improvements and minimal landscaping along the street front. Each unit in the mobile home park provides two parking spaces per unit. Demolition/removal of the mobile home previously at this site was approved by the Commission at its January 2008 hearing under CDP 5-07-360-W. All proposed new development is landward of the bulkhead/rock revetment. The proposed siting of the new mobile home and hardscape improvements meet the LUP structural and deck stringline policy for new infill construction on a beachfront and all other City standards.

The Capistrano Shores Mobile Home Park is a stock co-operative owned by Capistrano Shores, Inc. This applicant only represents a small ownership interest but the special conditions recommended by staff in order for the project to be in compliance with the Coastal Act, require some acknowledgement from the entire stock cooperative. Therefore, the Commission is mailing Capistrano Shores, Inc., a notice of application submittal and invitation to join as co-applicant for CDP 5-09-179 and furthermore, imposes **Special Condition 7** requiring the applicant provide proof of legal ability or authority to comply with all the terms and conditions of this coastal development permit.

### **B. HAZARDS**

Section 30253 of the Coastal Act states in relevant part:

*New development shall:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

### Revetment/Bulkhead – Existing Conditions

The applicant provided a Coastal Hazard and Wave Runup Study prepared by GeoSoils, Inc., dated November 10, 2009. The Study states that the site shore protection primarily consists of a quarry stone revetment; directly behind the stone is a timber bulkhead backed by about a 10-foot wide perched beach that runs the length of the mobile home park. The revetment is composed of meta-volcanic quarry stones that range in size from less than ½ ton to about 11 ton with an average size of about 5 tons. The datum used in the GeoSoils report is National Geodetic Vertical Datum 1929 (NGVD 29). The top of the revetment at the subject site varies from +13.7 feet NGVD29 to +15.7 feet NGVD29 with an average elevation of about +15 feet NGVD29. The visible slope of the revetment varies from 2/1 to 1.5/1 (h/v). A visual inspection of the existing revetment/bulkhead in front of the subject site conducted by GeoSoils, Inc. found the revetment in good condition and not in need of maintenance at this time.

### Wave Run-Up/Overtopping Analysis

At the landward side of the perched beach are the individual mobile home site improvements. The width of the perched beach provides some set-back protection for the mobile home from wave splash overtopping of the revetment/bulkhead. The Wave Run-Up Study states that under extreme, worst case (>75 year recurrence) oceanographic conditions the revetment can be overtopped at a rate of about 0.5 ft<sup>3</sup>/s-ft. This is less than one foot of water coming over the top of the revetment for each wave. The impact of waves overtopping the revetment will be reduced by the approximately 8 feet wide beach between the existing revetment and a proposed new 30-inch tall patio masonry seat wall. The proposed mobile home is setback another 10 feet from the masonry seat wall. Additionally, the proposed raised foundation design would resist flowing wave runup waters in excess of 1 foot in height.

The analysis in the Study includes some consideration for a small amount of sea level rise. The amount of sea level considered in the analysis ranges from 4.3 inches to 28 inches over the next 100 years, and for the quantitative analysis, the Study uses a 2 foot sea level rise.<sup>1</sup> The sea level rise amount used in the provided analysis for the proposed project is a low estimate for the coming 100 year time period. However, as the proposed project is a mobile home, it may represent a reasonable upper limit for sea level rise for a 40 to 50 year time period and this time period may be appropriate for a mobile home development as the expected life of a mobile home structure is lower than that of a permanent detached single-family residence and can reasonably be estimated at approximately a 50 year time life. For purposes of a mobile home replacement, the Commission's staff coastal engineer concurs that an upper limit for sea level rise for a 40 to 50 year time period is appropriate for the anticipated economic life of a mobile home development.

### Erosion and Flooding Hazards

Regarding erosion hazards on the subject site, the Coastal Hazard and Wave Runup Study states, "While the beach experiences short term erosion, there is no clear indication of a significant long term erosion trend. Because the shoreline is stabilized by the revetment and as long as the revetment is maintained, the proposed mobile home homes [Unit #80 and Unit #81] are reasonably safe from the short term erosion hazards."

The Study finds that the proposed mobile home is reasonably safe from flooding. The analysis shows that the site has the potential to be flooded on occasion from waves breaking on the revetment, overtopping the bulkhead and reaching the mobile house units. Such flooding is a hazard that would be expected for a location this close to the ocean even with the existing shore

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<sup>1</sup> This is less than the high estimates of sea level rise, ranging up to 55 inches, based upon analysis by Dr. Stefan Rahmsdorf, and used as the basis of analysis by the California Climate Action Team of climate impacts to the California coast.

protection provided by the bulkhead/revetment (deemed adequate by the Study) that is protecting the units from the main wave attack.

Furthermore, the entire mobile home park, including the subject site is located within the tsunami inundation zone according to the California Emergency Management Agency (CalEMA). **Special Condition #6** warns the applicant and subsequent owners that this is a high hazard area and that by acceptance of coastal development permit #5-09-180 the applicant acknowledges the risks, such as flooding that are associated with location in the tsunami inundation zone, and that are associated with development sited so close to the ocean. The Commission admonishes the applicant to cooperate with the local CalEMA or emergency responders in case of a large earthquake or a tsunami warning.

The applicant does not propose any changes or improvements to the existing bulkhead/revetment along the portion that protects Unit #80. Because the proposed development involves the placement of a new structure, that structure is not entitled to new shoreline protection under Section 30235. If the existing protection becomes inadequate at a future date, the proposed development is a mobile unit that could be re-located and/or removed and replaced with a smaller and/or differently configured unit that provides an adequate setback from the shoreline to avoid hazards. If such relocation or replacement would not address the hazard, the mobile unit could be removed entirely. **Special Condition #4** establishes requirements related to hazard response including that any future repairs/improvements to the existing bulkhead/revetment shoreline protective device occur as part of a comprehensive plan for the entire mobile home park and that any repairs/enhancements occur within the mobile home park's private property and not further encroach onto the public beach. No additional shoreline protective devices shall be constructed for the purpose of protecting ancillary improvements (e.g., patios, decks, fences, landscaping, etc.) located between the principal structure and the ocean. For any type of future shoreline hazard response alternatives to the shoreline protection must be considered that will eliminate impacts to scenic visual resources, recreation, and shoreline processes. Alternatives would include but are not limited to: relocation and/or removal of all or portions of the principal structures that are threatened, structural underpinning, and other remedial measures capable of protecting the principal structure(s) without shoreline stabilization devices. Alternatives must be sufficiently detailed to enable the Coastal Commission to evaluate the feasibility of each alternative, and whether each alternative is capable of protecting existing structures that are in danger from erosion and other coastal hazards. The Capistrano Shores Mobile Home Park Homeowner Association informed staff they are in the process of preparing a collective Wave Uprush and Coastal Hazards Study for the entire length of the bulkhead/revetment. Additionally, **Special Condition #4** requires the applicant waive on behalf of himself and all successors and assigns, any rights to new shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed new mobile home development in Unit Space #80.

To ensure that any prospective future owners/occupants of Unit Space #80 are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition #8** requiring that the property owner(s) record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

As conditioned, the Commission finds the proposed development consistent with Section 30253 of the Coastal Act.



**D. SCENIC AND VISUAL QUALITIES**

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....”*

Development at this location must be sited and designed to be visually compatible with the character of the area. It is also necessary to ensure that new development be sited and designed to protect views along public vantage points. The proposed development is on a perched beach protected by a bulkhead/revetment adjacent to the public beach. The site is visible looking inland from the beach. Views of the mobile home park and white water ocean views can available from proposed public trails along the coastal bluffs inland of El Camino Real at the Marblehead Coastal site. The proposed mobile home meets the structural and deck stringlines and is therefore compatible with the character of the mobile home park. Additionally, as designed, the 19’ 16” height of the proposed single-story mobile home is compatible with the height of the rest of the exclusively single-story mobile homes in the Capistrano Shores Mobile Home Park.

As proposed, the Commission finds the proposed development consistent with Section 30251 of the Coastal Act.

**E. PUBLIC ACCESS**

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30212 of the Coastal Act states, in part:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

*(2) Adequate access exists nearby, or,*

As shown in Exhibit 3, the proposed mobile home will be located between the first public road and the sea directly seaward of the OCTA railroad tracks.

Vertical public access is not available through the Capistrano Shores Mobile Home Park, therefore, no construction impacts to public access are anticipated. Lateral public access is available along the public beach seaward of the bulkhead/revetment during low tide. Vertical public access to the beach exists nearby at Poche Beach, approximately 600 yards north of the site. Public access from the southern end of the mobile home park is available at the North Beach public access point. Exhibit #3 provides a map of the primary public coastal access points in the City.

The proposed project is sufficiently set back to be consistent with the pattern of development of the surrounding mobile homes within the Capistrano Shores Mobile Home Park. Furthermore, the

setback provides an area that may accommodate any necessary future bulkhead/revetment repairs/enhancement efforts within the mobile home unit's private property thereby protecting intertidal habitat and avoiding any possible future public access impacts that may arise due to rock revetment encroachment into public beach areas (both individually and cumulatively).

As proposed, the Commission finds the development consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

#### **F. WATER QUALITY**

Section 30230 of the Coastal Act states, in pertinent part:

*Marine resources shall be maintained, enhanced, and where feasible, restored...*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

To protect water quality during construction, the applicant proposes and **Special Condition #1** requires the applicant to implement best management practices (BMPs) designed to avoid temporary impacts to the ocean by minimizing erosion and preventing soil and debris from entering coastal waters during construction. Furthermore, the applicant proposes drainage from the predominantly paved site to slope away from the ocean and toward the street where water runoff from the site will be directed to a dry well for onsite water infiltration and to a small strip of landscaped permeable area. No vegetation either native or ornamental is currently found on the vacant site. The applicant proposes and **Special Condition #3** requires the applicant utilize drought tolerant, non-invasive plant species.

As proposed and conditioned, the project will minimize possible adverse impacts on coastal waters to such an extent that it will not have a significant impact on marine resources, biological productivity or coastal water quality. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to protect marine resources, promote the biological productivity of coastal waters and to protect human health.

#### **G. LOCAL COASTAL PROGRAM**

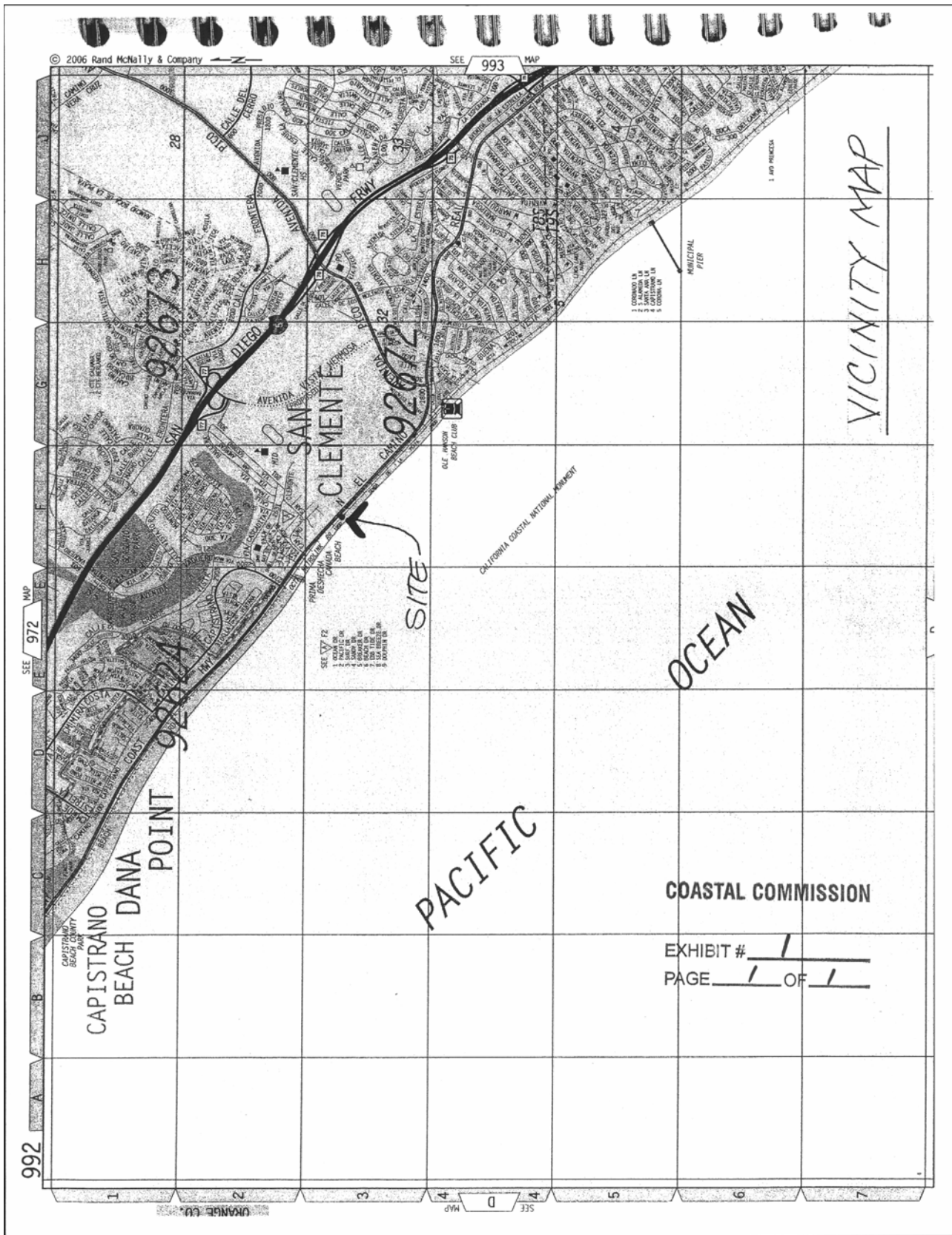
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms to Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan 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 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.

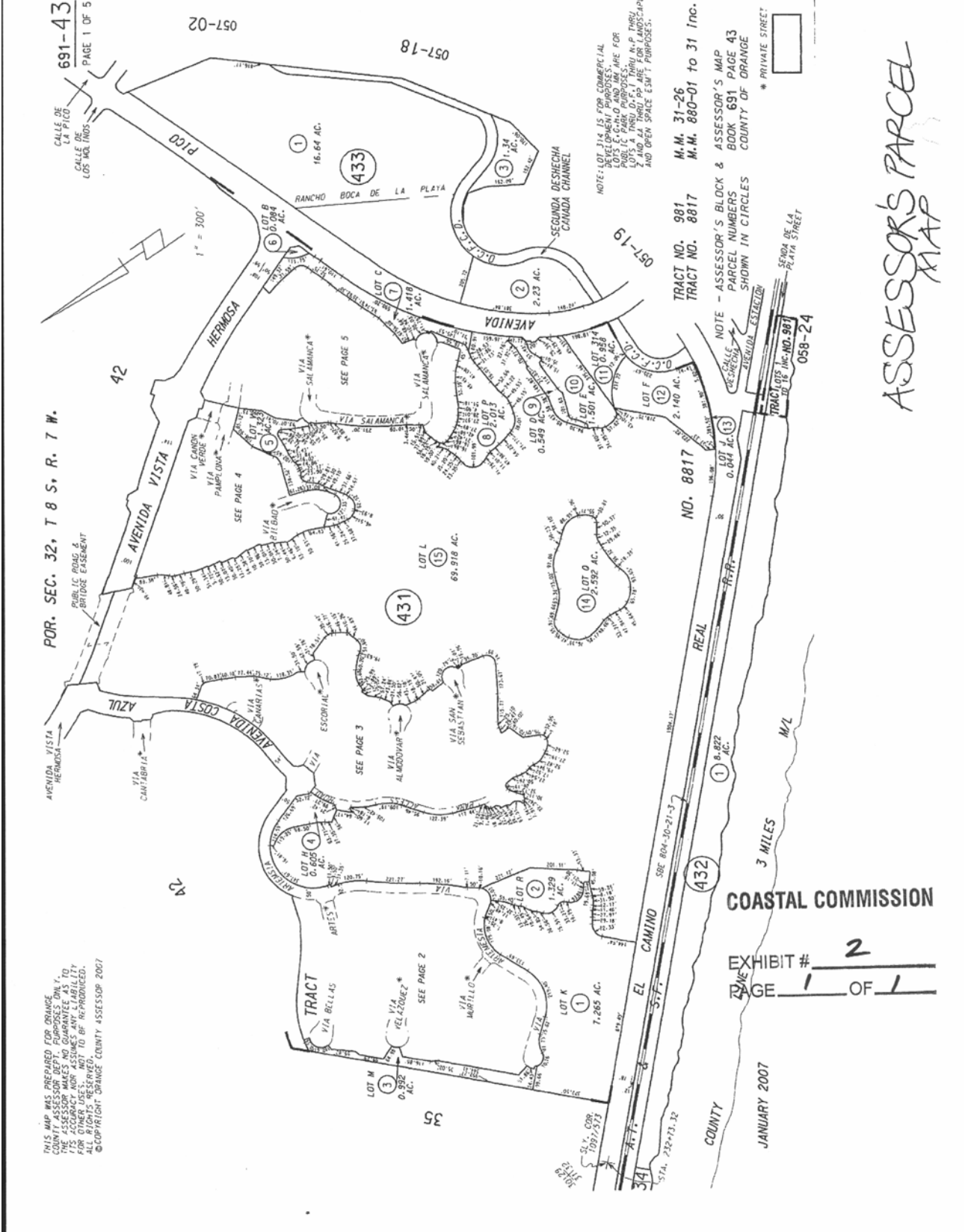
The proposed development, as conditioned, is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice 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).

#### **H. 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 that the activity may have on the environment.

The City of San Clemente is the lead agency for purposes of CEQA compliance. The City determined that the project is categorically exempt from CEQA as a Class 2 Item 15302 exemption. However, the Commission adopts additional mitigation measures including: special conditions related to compliance with construction-related best management practices (BMPs), drainage, landscaping, shoreline protection, future development, assumption of risk, waiver of liability and indemnity. As conditioned, the proposed project is found consistent with the public access, water quality, biological and visual resource protection policies of the Coastal Act and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.





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NOTE: LOT 314 IS FOR COMMERCIAL DEVELOPMENT PURPOSES. LOTS 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

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TRACT NO. 981 M.M. 31-26  
 TRACT NO. 8817 M.M. 880-01 to 31 Inc.  
 NOTE - ASSESSOR'S BLOCK & ASSESSOR'S MAP PARCEL NUMBERS BOOK 691, PAGE 43 SHOWN IN CIRCLES COUNTY OF ORANGE

TRACT NO. 981 M.M. 31-26  
 TRACT NO. 8817 M.M. 880-01 to 31 Inc.

TRACT NO. 981 M.M. 31-26  
 TRACT NO. 8817 M.M. 880-01 to 31 Inc.

COASTAL COMMISSION

EXHIBIT # 2  
 PAGE 1 OF 1

JANUARY 2007

ASSESSOR'S PARCEL MAP

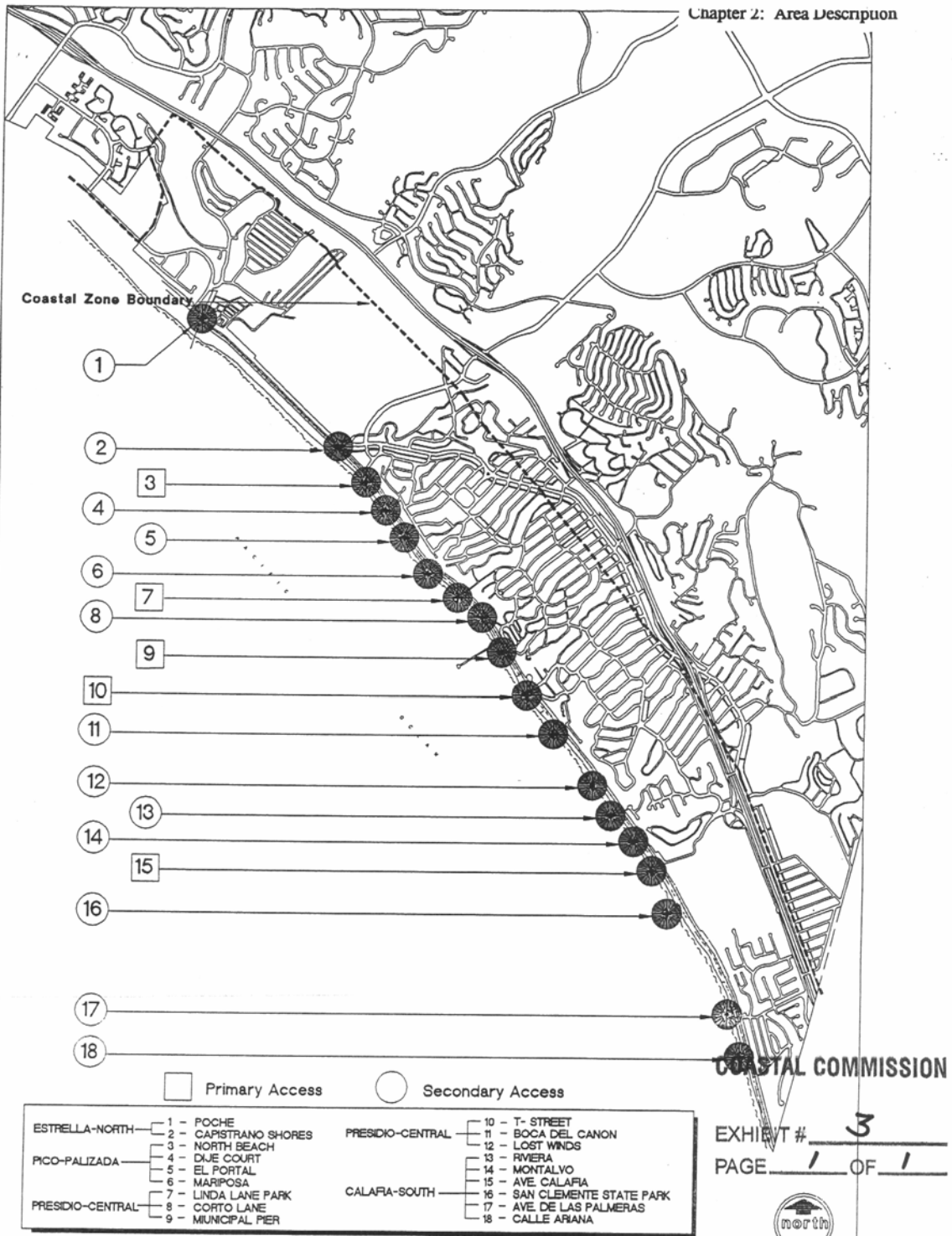


FIGURE 2-5



**CITY OF SAN CLEMENTE  
 COASTAL ACCESS POINTS**

**RECEIVED**  
 South Coast Region

SEP 17 2009

CALIFORNIA  
 COASTAL COMMISSION

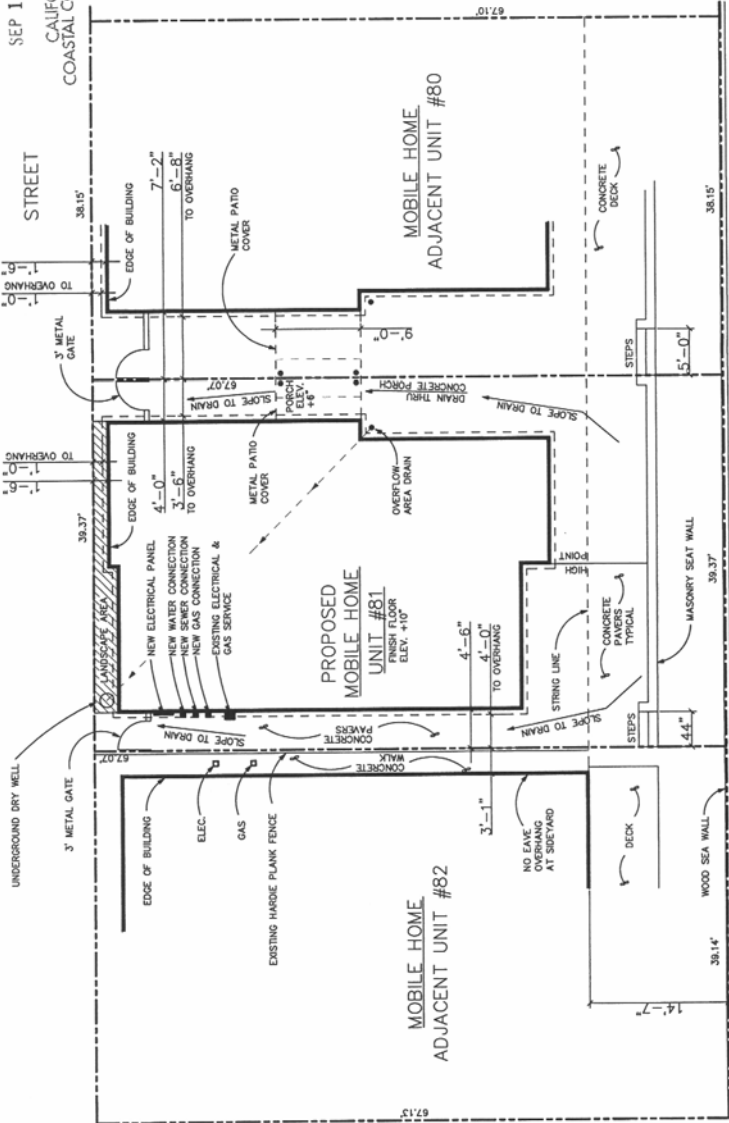
PARK APPROVAL  
 SIGNATURE: *Frederick E. Hitchcock Jr.* DATE: 9/17/09  
 PRINT NAME: *Frederick E. Hitchcock Jr.*

- NOTES:
1. ANY PATIO STRUCTURE, FENCE GATES AND DECKING LOCATED WITHIN THE 3'-6" SIDE AND SETBACK IS REQUIRED TO BE CONSTRUCTED OF NON-COMBUSTIBLE MATERIALS.
  2. ALL LANDSCAPING TO BE DROUGHT TOLERANT, NON-EVASIVE NATIVE PLANTING MATERIAL.
  3. SITE DRAINAGE TO SHEET FLOW TOWARDS THE STREET.
  4. ALL AREA DRAINS TO BE DIRECTED TO AN UNDERGROUND DRYWELL APPROPRIATELY SIZED FOR ON SITE INFILTRATION.
  5. ALL CONCRETE PAVERS TO BE NO HIGHER IN GRADE THAN 8" ABOVE STREET ELEVATION.

California Coastal Commission  
 South Coast Region  
 42700 Highway 101, Suite 200  
 Carlsbad, CA 92008  
 Permit No. **5-09-180**

By: \_\_\_\_\_  
 Effective Date: \_\_\_\_\_

0' 5' 10' 20'  
 SCALE: 1" = 10'-0"



OWNER INFORMATION UNIT #81  
 FREDERICK E. HITCHCOCK, JR. TRUSTEE OF  
 1999 FAMILY TRUST  
 AS RESTATED ON MARCH 21, 2008  
 SIGNATURE: *Frederick E. Hitchcock Jr.*  
 PRINT NAME: FREDERICK E. HITCHCOCK, JR.

ADJACENT OWNER APPROVAL UNIT #82  
 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_

ADJACENT OWNER APPROVAL UNIT #80  
 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 PRINT NAME: FREDERICK E. HITCHCOCK, JR.

The development as proposed is appropriate for the City of San Clemente in concept. This is a preliminary approval and does not grant the recipient any development rights. When approved by the California Coastal Commission, the City will then process the plans for permits. Please check with other City departments and divisions to ensure full compliance with all City codes, standards and requirements.

*Frederick E. Hitchcock Jr.*  
 City Planner  
 Date: 9/17/09  
 For New Unit West City Keys

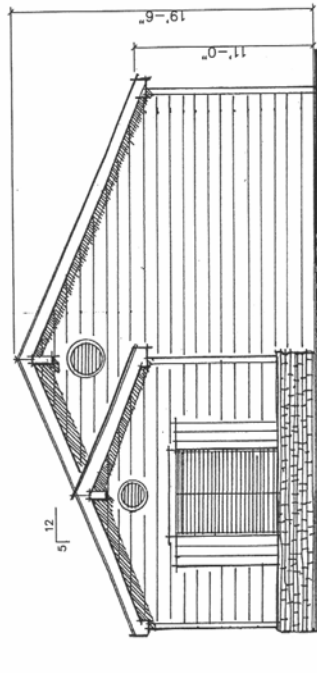
**COASTAL COMMISSION**

EXHIBIT # 4  
 PAGE 1 OF 4

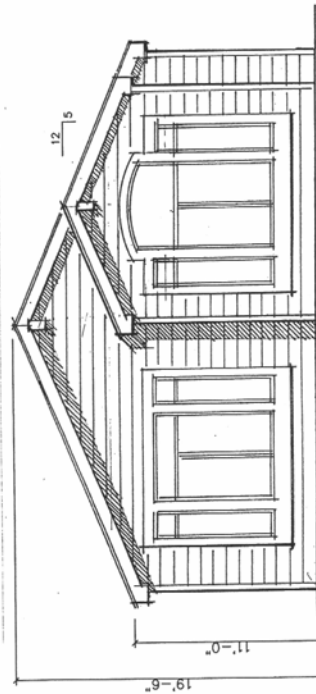
JOB ADDRESS:  
 1800 NORTH EL CAMINO REAL #81  
 SAN CLEMENTE, CALIFORNIA

LOT SPECIFICATIONS UNIT #81  
 LOT AREA: 2,636 SQ.FT.  
 NEW HOME AREA: 1,345 SQ.FT.  
 LOT COVERAGE: 51%

OLD HOME AREA: 1,248 SQ.FT.  
 NEW HOME AREA: 1,345 SQ.FT.  
 DIFFERENCE: +97 SQ.FT.



**BEACH ELEVATION**  
 SCALE: 1/4"=1'-0"



**STREET ELEVATION**  
 SCALE: 1/4"=1'-0"

The development as proposed is preliminary to the City of San Clemente in concept. This is preliminary approval and does not grant or reject any development rights. When approved by the California Coastal Commission, the City will then process the plans for permits. Please check with other City departments and divisions to ensure full compliance with all codes, standards and requirements.

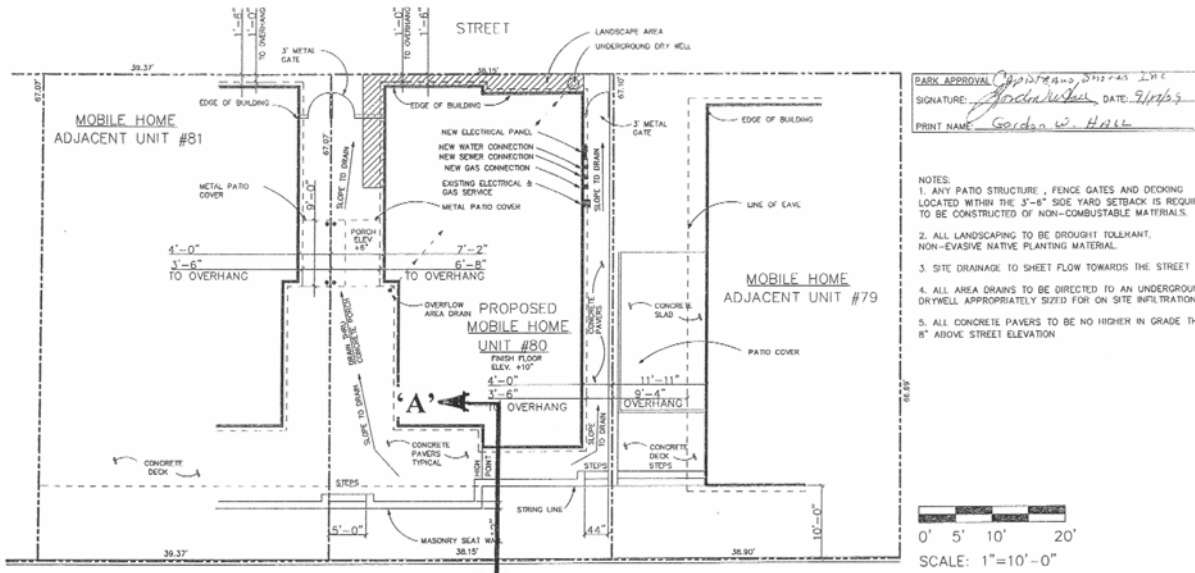
*SD* \_\_\_\_\_ Date 9/17/09  
 City Planner

JOB ADDRESS: 1800 NORTH EL CAMINO REAL #81 SAN CLEMENTE, CALIFORNIA	LOT SPECIFICATIONS UNIT #81
LOT AREA: 2,636 SQ.FT.	NEW HOME AREA: 1,345 SQ.FT.
LOT COVERAGE: 51%	OLD HOME AREA: 1,248 SQ.FT.
	NEW HOME AREA: 1,345 SQ.FT.
	DIFFERENCE: +97 SQ.FT.

**COASTAL COMMISSION**

EXHIBIT # 4  
 PAGE 2 OF 4





**JOB ADDRESS:**  
 1800 NORTH EL CAMINO REAL #80  
 SAN CLEMENTE, CALIFORNIA

**LOT SPECIFICATIONS UNIT #80**  
 LOT AREA: 2,550 SQ.FT.  
 NEW HOME AREA: 1,256 SQ.FT.  
 LOT COVERAGE: 49%

**OLD HOME AREA: 1,440 SQ.FT.**  
**NEW HOME AREA: 1,256 SQ.FT.**  
**DIFFERENCE: -184 SQ.FT.**

The development as depicted is within the jurisdiction of San Clemente in Orange County, California and is subject to the jurisdiction of the Coastal Commission. The City of San Clemente is not responsible for the accuracy of the information provided herein. For New Unit meeting logs

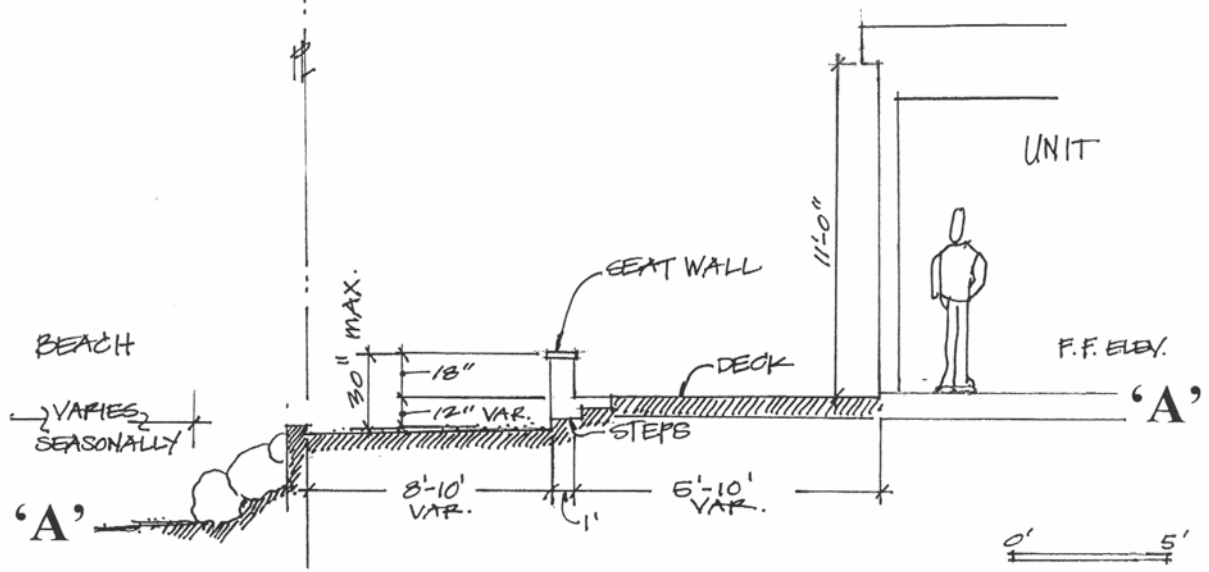
9/17/09

**OWNER INFORMATION UNIT #80:**  
 FREDERICK E. HITCHCOCK JR. TRUSTEE OF  
 FREDERICK E. HITCHCOCK JR.  
 1999 FAMILY TRUST  
 AS RESTATED ON MARCH 21, 2008

SIGNATURE: Frederick E. Hitchcock Jr.  
 PRINT NAME: FREDERICK E. HITCHCOCK JR.

**ADJACENT OWNER APPROVAL UNIT #81**  
 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 PRINT NAME: FREDERICK E. HITCHCOCK JR.

**ADJACENT OWNER APPROVAL UNIT #79**  
 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_



**Section 'A'-'A' at Deck/Seat Wall**  
**for Units 80 and 81**

**COASTAL COMMISSION**

EXHIBIT # 4  
 PAGE 3 OF 4

DATE	
TIME	
BY	
APP'D	

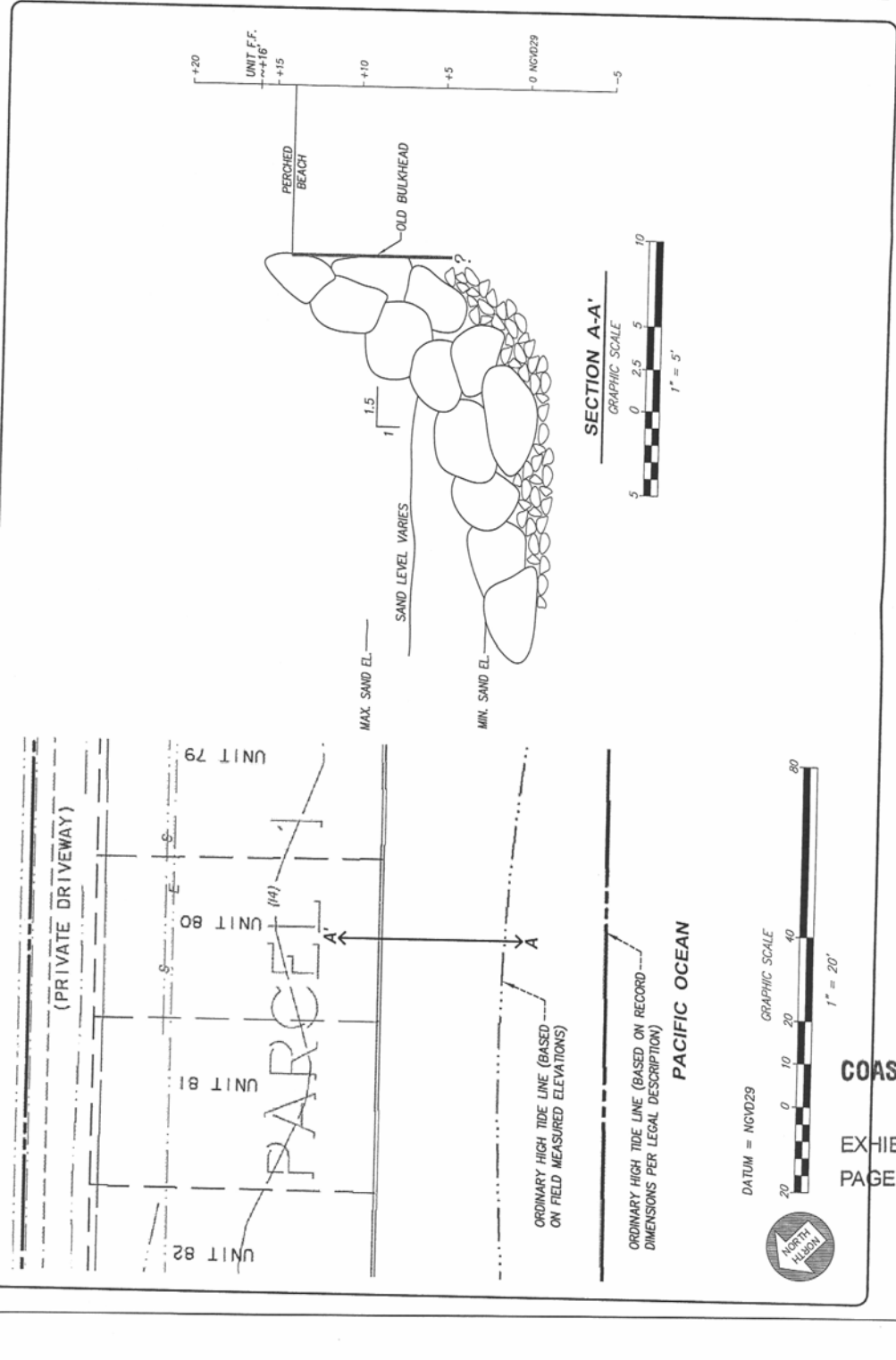
DRAFTING BY: SCHEMMLING  
 (760) 414-2078



Geoscientific  
 5741 Palmer Way, Carlsbad, CA 92010  
 760-439-3155  
 Geological - Geologic - Coastal - Environmental

**Capistrano Shores  
 Units 80 and 81**  
 W.O. 55951

PROJECT NO.	11A02/09
DATE	
SCALE	S1



**Request for Waiver of Coastal Development Permit**

Application No.: 5-09-179 (Unit #80) and,

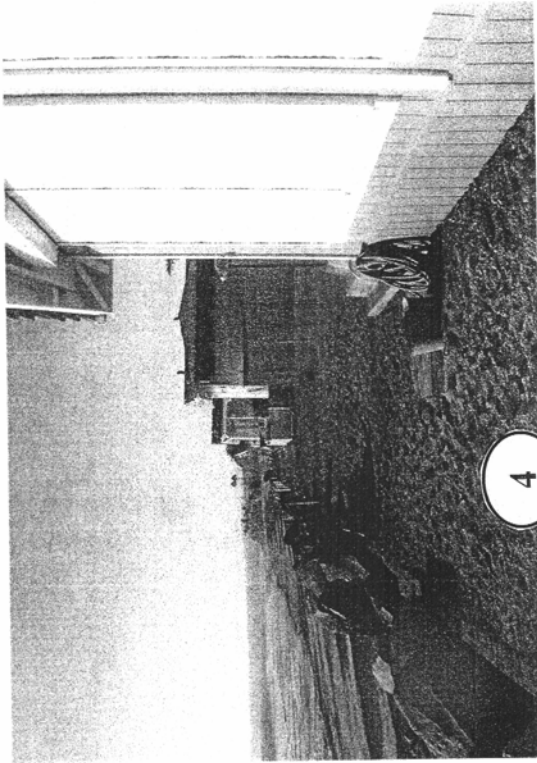
Application No.: 5-09-180 (Unit #81)

**SITE PHOTO  
INDEX MAP**

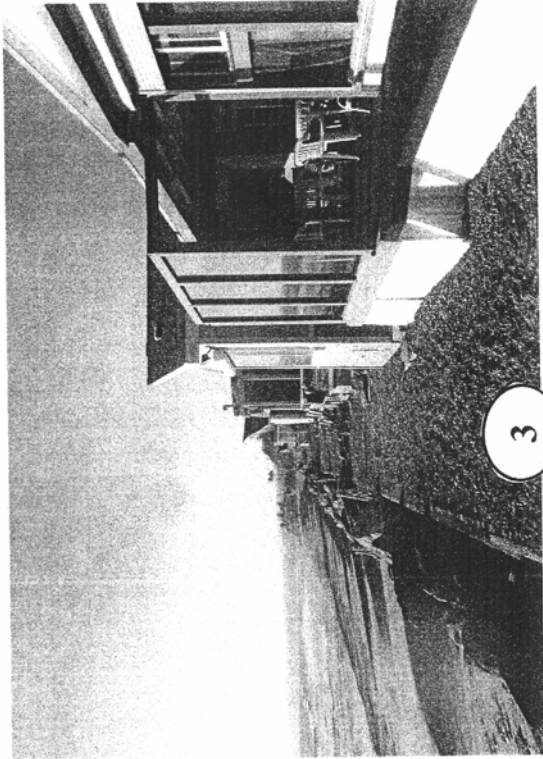


**COASTAL COMMISSION**

EXHIBIT # 5  
PAGE 1 OF 3



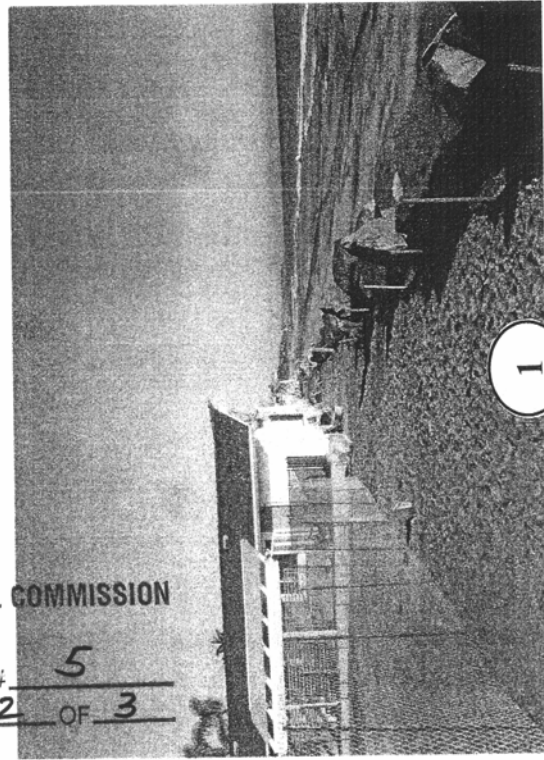
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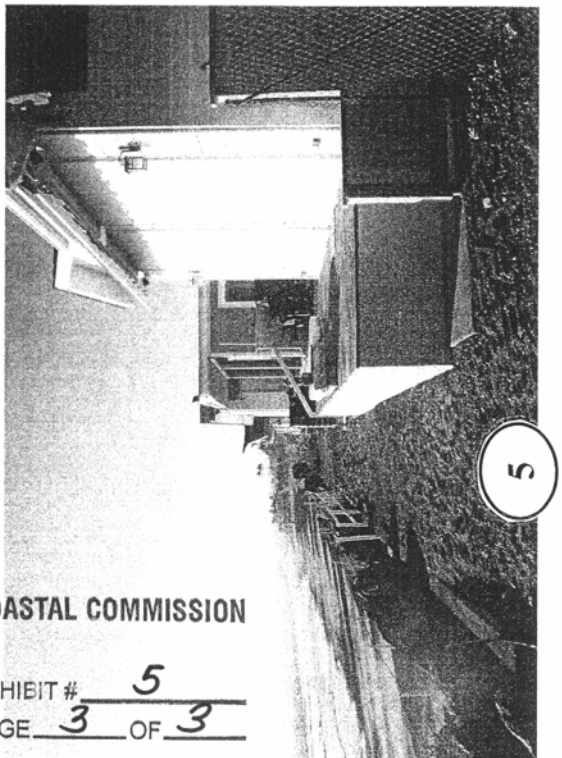
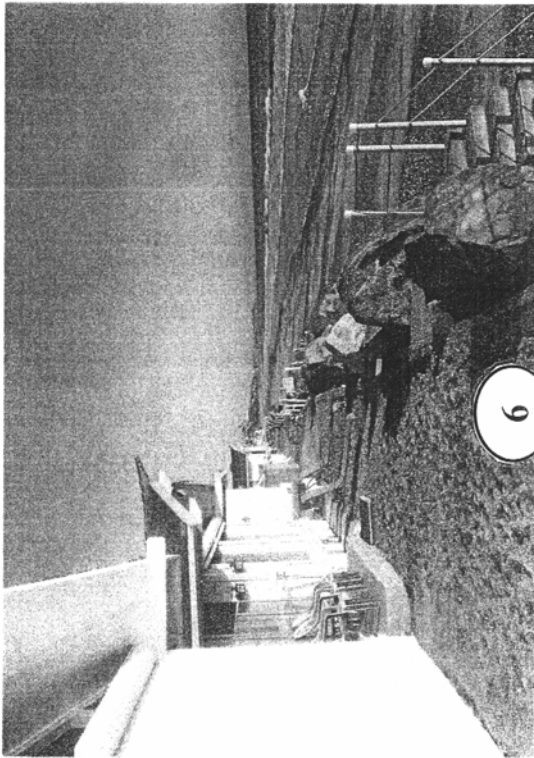
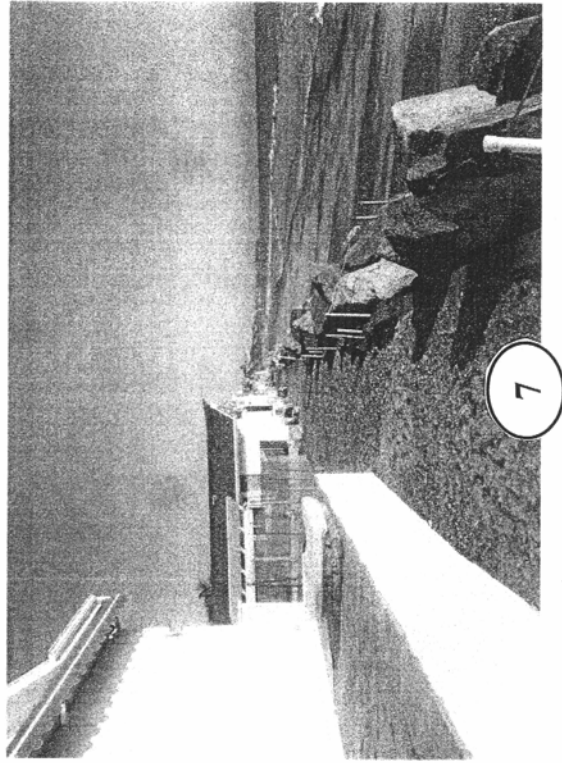
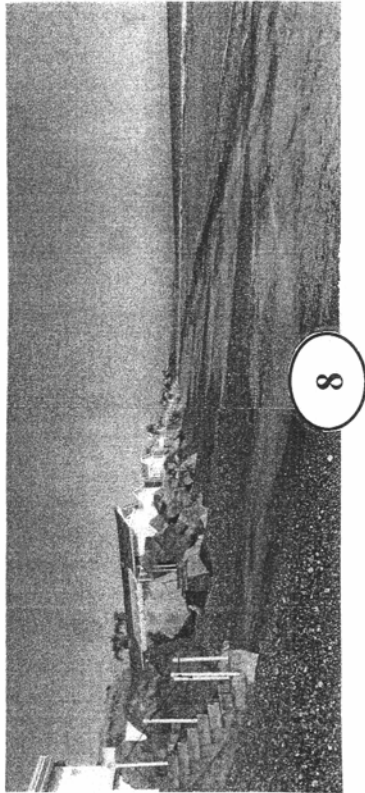
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1

COASTAL COMMISSION

EXHIBIT # 5  
PAGE 2 OF 3



COASTAL COMMISSION

EXHIBIT # 5  
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