

**CALIFORNIA COASTAL COMMISSION**

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 Staff: MV-LB  
 Staff Report: 5/20/99  
 Hearing Date: 6/8-11/99  
 Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-99-054  
**APPLICANT:** Hyunsook Lee  
**AGENT:** Marshall Innins  
**PROJECT LOCATION:** 348 W. Paseo de Cristobal, San Clemente, Orange County

**PROJECT DESCRIPTION:** Demolition of existing single family residence and garage and construction of a new 4,719 square foot, two story, 25 foot high single family residence with an attached, 610 square foot, 3 car, garage. Proposed appurtenant structures include pool, spa, and hardscape. Grading consisting of 1,050 cubic yards of cut is also proposed.

Lot Area: 11,343  
 Building Coverage: 3,353  
 Pavement Coverage: 2,530  
 Landscape Coverage: 5,460  
 Parking Spaces: 3 spaces  
 Zoning: RL 7du/ac  
 Ht above final grade: 25 feet

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of San Clemente

**SUBSTANTIVE FILE DOCUMENTS:** City of San Clemente certified Land Use Plan

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed development subject to three special conditions. The recommended special conditions are: 1) An assumption of Risk Deed Restriction due to the presence of an ancient landslide on-site; 2) Incorporation of the Geotechnical Consultant's recommendations regarding the project; and 3) Identification of the location of the disposal site for the excess cut material.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. APPROVAL WITH CONDITIONS**

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

**II. STANDARD CONDITIONS:**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date 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. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

#### 1. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide; (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 hazards.
- 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 incorporating all of the above terms of this condition. The deed restriction shall include a legal description 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.

#### 2. Conformance of Design and Construction Plans to Geotechnical Report Geologic Hazard

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the Recommendations Section of the Preliminary Geotechnical Investigation prepared by Scot P. Farquhar, Inc. and dated March 8, 1999. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- 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.

#### 3. Location of Disposal Site

Prior to the issuance of a coastal development permit, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the excess cut material resulting from the proposed project. Disposal shall occur at the approved disposal site. If the disposal site is located within the coastal zone a coastal development permit or an amendment to this permit shall be required before disposal can take place.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. Project Description and Location**

The applicant proposes to demolish an existing single family residence and garage and construct a new 4,719 square foot, two story, 25 foot high single family residence with an attached, 610 square foot, 3 car, garage (see exhibit 3). Proposed appurtenant structures include pool, spa, and hardscape. Grading consisting of 1050 cubic yards of cut is also proposed. The location of the disposal site is unknown at this time. Special condition 3 requires that the applicant identify the location of the disposal site prior to issuance of the coastal development permit. Special condition 3 also requires that if the disposal site is located within the coastal zone, an amendment to this permit or a new coastal development permit is required.

The subject site is not located between the sea and the first public road paralleling the sea nor is it adjacent to a coastal canyon. The subject lot fronts on the landward side of West Paseo de Cristobal (see exhibit B). Seaward of Paseo de Cristobal, the land slopes downward to railroad tracks and the beach beyond. The proposed development is located in the City of San Clemente which has a certified Land Use Plan, but as yet no certified Implementation Plan. The certified land use designation at the subject site is Residential Low Density (RL). The proposed development is consistent with the certified land use designation at the subject site.

The nearest public access to the beach in this area is located at the T-Street access point. The T-Street (so called due to its proximity to Trafalgar Lane) access is located at West Paseo de Cristobal, less than one block from the subject site. The T-Street access consists of a pedestrian railroad overpass and stairs to the beach below.

**B. Hazard**

Section 30253 of the Coastal Act states, in pertinent 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 construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The subject lot fronts 50 +/- feet along West Paseo de Cristobal and extends northeasterly 167 to 179 feet up to the 92 +/- foot wide rear property boundary along Vista Marina. The site consists of a relatively gentle, southwesterly-descending natural slope, that has been partially modified by grading of the streets and construction of the existing residence. Overall

relief across the site is 35 +/- feet. The existing development takes access from Paseo de Cristobal. The proposed development would take access off Vista Marina.

The site is presently developed with an older one-story house, located at the southwesterly portion of the site, and an attached garage. The existing development is proposed to be demolished and completely removed. The adjacent properties are developed with single family residences.

A site specific Preliminary Geotechnical Investigation was prepared for the proposed development by Scot P. Farquhar, Inc. and is dated March 8, 1999. The Geotechnical Investigation identifies an ancient landslide at the subject site. Regarding the on-site ancient landslide, the Geotechnical Investigation states:

The results of our stability analysis indicate a factor of safety for the site of about 1.5 or greater. Design of the proposed caissons to penetrate the landslide debris and have 10 feet of embedment into undisturbed, approved bedrock strata will serve to enhance overall stability and provide a factor of safety acceptable by current standards for construction.

Future gross bedrock stability of the site is therefore anticipated because of the site's acceptable safety factor, and the proposed caisson improvements that will enhance site stability at the proposed building area, assuming the recommendations of this report are implemented in design, construction and maintenance.

Regarding site stability, the Geotechnical Investigation further states:

The fill, terrace deposits, and landslide debris are prone to potential surficial instability in the form of localized expansion and settlement, as well as readjustments within the landslide mass. The potential for surficial instability and associated structural distress will be reduced by supporting foundation elements in undisturbed, approved bedrock strata.

The applicant is proposing to support the proposed development on caissons which will extend 10 feet into competent bedrock. Regarding the use of caissons, the Geotechnical Investigation concludes:

The potential for long-term slope instability in the form of expansion, settlement and adjustment within the ancient landslide mass should be reduced by the proposed caissons, and is not anticipated to substantially effect the proposed caisson-embedded improvements.

The Preliminary Geotechnical Investigation addresses the feasibility of the proposed development at the subject site. The Geotechnical Investigation concludes:

The proposed development as described above and depicted on Plates 1 and 2 is considered geotechnically feasible, and the proposed development is not anticipated to impact adjoining properties provided the recommendations of this report are incorporated in design, construction and maintenance of the subject site.

The Geotechnical Investigation finds that although there are some unfavorable on-site conditions, such as the ancient landslide, these factors can be reduced such that they do not preclude development of the site. The Geotechnical Investigation makes recommendations which would result in an acceptable level of safety at the subject site for the proposed development. Specifically, recommendations identified by the consultant regarding the proposed project include recommendations addressing general site preparation and grading, general foundation and design, caisson design, conventional retaining wall design, temporary excavations, slabs on grade, swimming pool design, swimming pool subdrainage system, driveway slab and hardscape design, gravity block hardscape wall design, cement type, utility trench backfill, seismic design, and finished grade and surface drainage.

Thus, geologic risk will be minimized and geologic stability will be assured as required by Section 30253 of the Coastal Act only if the recommendations contained in the Geotechnical Investigation are incorporated into the design, construction, and maintenance of the proposed development. Therefore, as a condition of approval, the geotechnical consultant's recommendations, as described in the Preliminary Geotechnical Investigation prepared for the subject site by Scot P. Farquhar, Inc. dated March 8, 1999, shall be incorporated into the design, construction, and maintenance of the site. Further, the applicant shall submit evidence, for the review and approval of the Executive Director, that these recommendations have been incorporated into the project.

With the incorporation of the Geotechnical consultant's recommendations into the design of the project, risks are minimized. Nevertheless, the presence of the ancient landslide on-site exposes the site to greater than average risk. Special Condition 1 is an assumption of risk condition. Although adherence to the geotechnical recommendations will minimize the risk of damage from geologic instability, the risk is not eliminated entirely. Therefore, the standard waiver of liability condition has been attached through Special Condition No. 1. By this means, the applicant is notified that the residence is being built in an area that is potentially subject to landslide that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. Finally, recordation of the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity for liability.

Therefore, as conditioned to incorporate the geotechnical consultant's recommendations into the design of the project and to record an assumption of risk deed restriction, the proposed development is consistent with Section 30253 of the Coastal Act.

### **C. 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 which conforms with 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 IP portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development

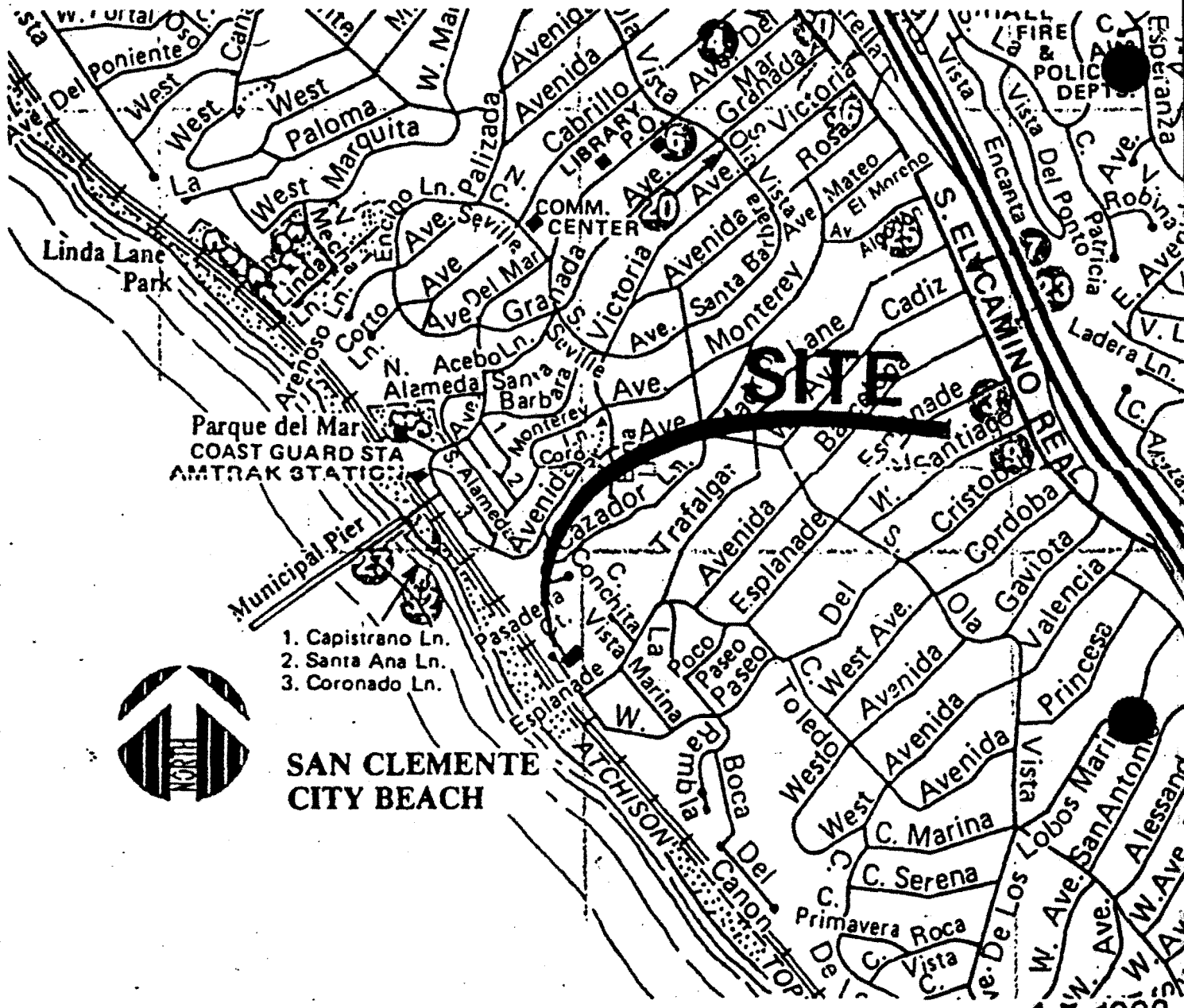
will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**D. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 hazards policy of the Coastal Act. Mitigation measures, special conditions requiring, conformance with geotechnical recommendations, and recordation of an assumption of risk deed restriction, will minimize all adverse effects. As conditioned, there are no feasible alternatives or feasible mitigation measures which would substantially lessen any significant adverse effect which the activity may have on the environment. The project as conditioned is the least environmentally damaging alternative. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

# VICINITY MAP



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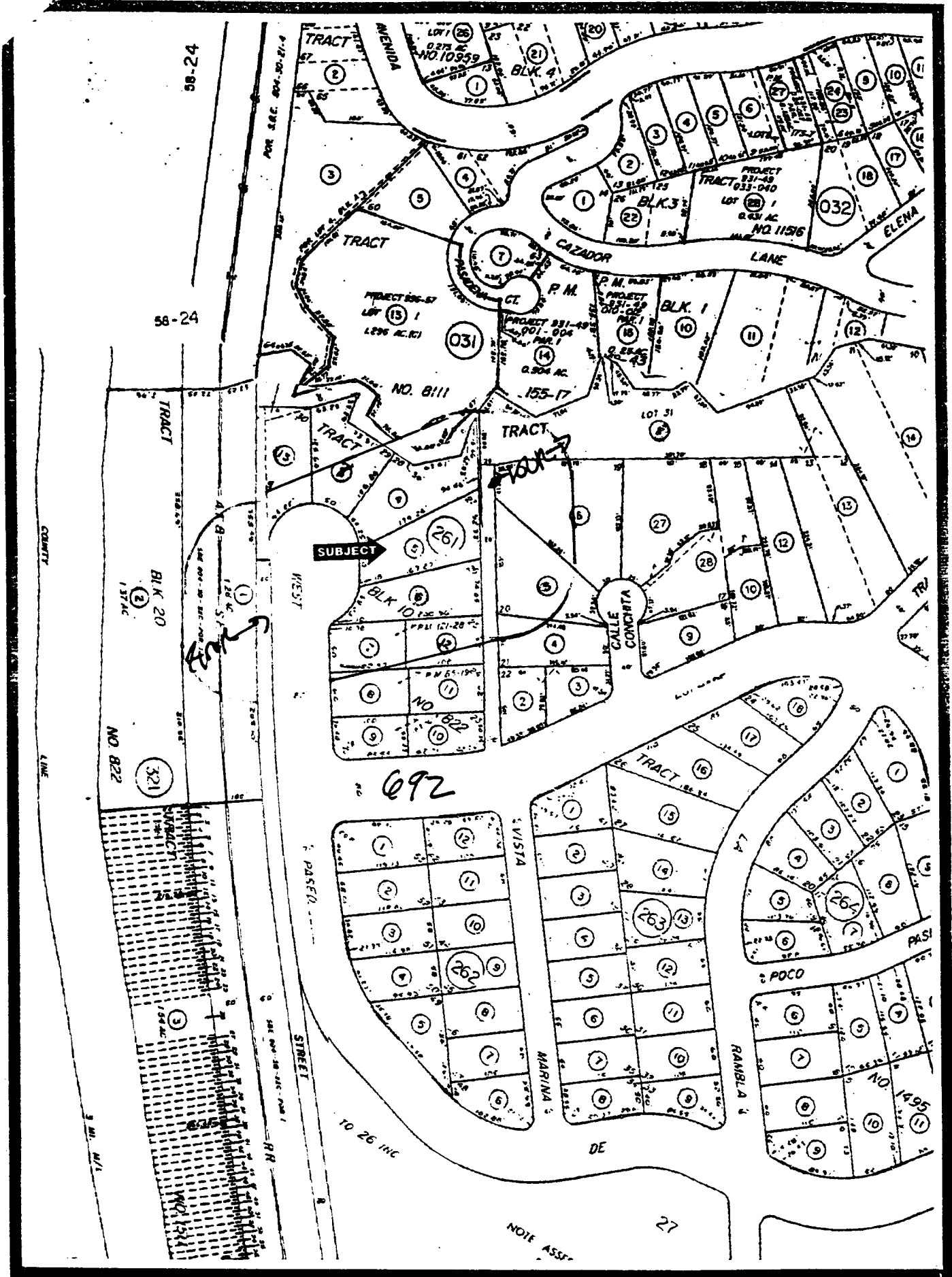
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5-99-05  
Exhibit A



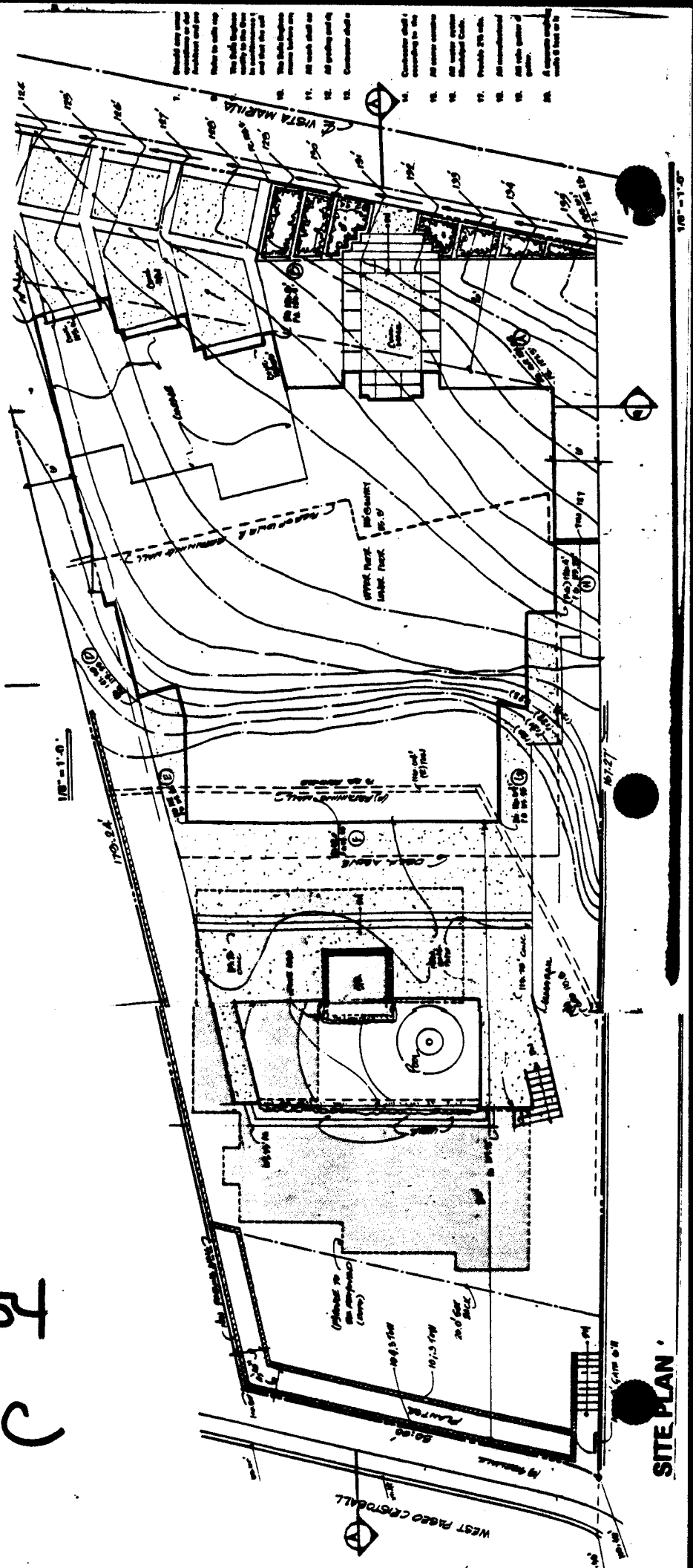


**Ownership Map**

5-99-054

Exhibit B.

5-99-054  
Exhibit C



5-99-054  
 Exhibit D

