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CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



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Hearing Date: 7/13-16/99
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-99-143

APPLICANTS: Dan Sayer

PROJECT LOCATION: 150 W. Avenida San Antonio, San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a new 2610 square foot, 3 story, 25 foot high, single family residence with an attached 650 square foot, 3 car garage. Minor grading of 109 cubic yards of cut and 37 cubic yards of fill is also proposed.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission **approve** the proposed development with special conditions requiring recordation of a future development deed restriction, conformance with geotechnical recommendations, landscaping, drainage and irrigation plans. The site is located on Lobos Marinos Canyon, one of seven coastal canyons in San Clemente identified as containing environmentally sensitive habitat. The proposed development conforms to the canyon setback policies in the certified LUP.

LOCAL APPROVALS RECEIVED: Approval in concept from the planning department of the City of San Clemente

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

RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. **Approval with Conditions**

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

II. **Standard Conditions:**

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

Prior to the issuance of the Coastal Development Permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that Coastal Commission permit 5-99-143 is for the proposed development only and that any future additions or improvements to the property, including but not limited to, installation of hardscape improvements, grading, vegetation removal, landscaping and structural improvements not permitted in this permit, shall require a coastal development permit or permit amendment from the Coastal Commission or its successor agency.

The document 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 Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Conformance with Geotechnical Recommendations

A. All final project plans, including foundations, grading, irrigation, and drainage plans, shall be consistent with all recommendations contained in the report by Peter and Associates dated March 29, 1999 and the follow-up letter dated May 19, 1999. Prior to 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 project 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. Landscape Plan

Prior to issuance of the coastal development permit, the applicant shall submit landscape plan, subject to the review and approval of the Executive Director. The plan shall be prepared by a licensed landscape professional. The plan shall incorporate the following criteria:

- (a) the rear yard shall be planted and maintained to encourage and enhance adjacent canyon vegetation and minimize erosion. To minimize the need for irrigation and screen or soften the visual impact of development all rear yard landscaping shall consist of native, drought resistant plants. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) The applicant shall submit a list of plants to be placed in the rear yard adjacent to the canyon. Rear yard planting shall be of native plant species indigenous to the area using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within 90 days and shall be repeated, if necessary, to provide such coverage.

The permittee shall undertake development in accordance with the approved final landscape plan. Any proposed changes to the approved final landscape plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Drainage and Irrigation Plans

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, drainage and irrigation plans. The drainage plan shall cover the entire site and shall indicate that the front portion of the lot will include a pipe drainage system which will be outletted to the street, and that roof gutters and downspouts will be provided for the entire house and will be directly connected to the pipe drainage system to be outletted to the street. The irrigation plan shall indicate that: 1) the front yard irrigation shall be automatic using low precipitation rate heads; 2) rear yard irrigation shall be drip with all equipment on-grade; and, 3) the system shall be zoned to accommodate the different water requirements of the plants with regard to solar exposure.

The drainage and irrigation plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the report by Peter and Associates dated March 29, 1999 and the follow-up letter dated May 19, 1999.

The permittee shall undertake development in accordance with the approved final drainage and irrigation plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct a new 2610 square foot, 3 story, 25 foot high, single family residence with an attached 650 square foot, 3 car garage. Minor grading of 109 cubic yards of cut and 37 cubic yards of fill is also proposed to create level building pads.

The proposed development is located on Lobos Marinos Canyon, which is identified in the City of San Clemente certified Land Use Plan as one of seven environmentally sensitive coastal canyon habitat areas. The surrounding development consists of low density single-family residences. The project site is located inland, approximately one mile from the beach. The project site is a vacant lot.

B. Geologic Stability

Section 30253 of the Coastal Act states:

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.

A Preliminary Geotechnical Investigation was prepared for the proposed development by Peter and Associates, dated March 29, 1999. In addition, a response letter to Commission staff questions was prepared by Peter and Associates on May 19, 1999. Included as part of the geotechnical investigation were on-site reconnaissance, subsurface exploration, soil sampling, laboratory testing, and engineering analysis. The report included an appendix entitled "Maintenance Guidelines for Homeowners."

The subject site is a vacant lot bounded on the south by an existing residential structure, on the north by a vacant lot, and on the west by the canyon. The site is relatively flat in the front, and slightly sloping in the rear. The lot elevation at street level is approximately 165 feet and descends to approximately 143 feet at the rear of the lot (adjacent to the canyon) over a distance of approximately 120 feet. The front portion of the lot is covered by low grass with some debris (asphalt concrete chunks

and large rocks). High bushes exist along the slightly sloping rear portion of the lot. The geotechnical investigation found no evidence of major distress in a fence on the adjacent property, nor on the exterior walls of the adjacent house.

The geotechnical investigation concluded that construction of the proposed single family residence is geotechnically feasible. The geotechnical investigation states that the site is underlain by earth material having a low expansion potential and no evidence of slope creep/failure was observed. However, the geotechnical consultant does recommend that footings located adjacent to a descending slope or within a slope creep zone should be deepened below the area at which a creep zone could occur. The geotechnical consultant recommends that any improvement (such as the rear deck) which is to be located on or near the rear sloping area have footings set back a minimum of 8 feet measured horizontally from the slope face to the outside edge of the footing bottom. Although the geotechnical investigation finds that the potential adverse effects caused by slope creep would not be severe, the setback is recommended as a conservative approach.

The geotechnical investigation states that construction of the proposed residence is feasible provided the recommendations contained in the geotechnical investigation are adhered to. The geotechnical report includes recommendations regarding site preparation and grading, building foundation design guidelines, placement of slabs, landscaping and drainage and footing setbacks from the rear slope.

Appendix C of the geotechnical report includes guidelines for property maintenance. In particular the guidelines discuss the maintenance of drains and gutters, adequate provision for taking runoff to the street and cautions against doing any substantive work on the slope without consulting a geotechnical consultant. The final paragraph of the guidelines states:

Hillside lot owners should not let conditions on their property create a problem for their neighbors. Cooperation with neighbors could prevent problems, promote slope stability, adequate drainage, proper maintenance, and also increase the aesthetic attractiveness of the community.

The report also includes recommendations regarding drainage. The recommendations suggest that irrigation should be kept to a minimum, that the site should be graded so that surface water flows away from structures and into a drainage system, and encourages the use of area drains to facilitate surface drainage and prevent ponding and slope saturation.

It is standard procedure for the Commission to include a special condition requiring the consulting geotechnical expert to review the development plans to ensure conformance with their recommendations. The geotechnical investigation prepared for the proposed project includes recommendations regarding the structural elements

of the residence, such as foundations, as well as drainage, landscaping and maintenance of the property. A special condition that requires the geotechnical expert to review the grading and foundation plans to ensure that the recommendations of the geotechnical consultant contained in the geotechnical investigation are incorporated into the design of the project is being imposed. Only as conditioned can the proposed development be found consistent with Section 30253 of the Coastal Act regarding stability and minimization of risk.

The geotechnical consultant has indicated (in the geotechnical letter dated May 19, 1999) that the front (flat) portion of the lot will include a pipe drainage system which will be outletted to the street. In addition, roof gutters and downspouts will be provided for the entire house and will be directly connected to the pipe drainage system to be outletted to the street. For the rear sloping portion of the lot, surface water will sheet-flow as is presently occurring. The geotechnical letter notes that the rear slope is relatively flat (with a gradient of approximately 3.5:1) and will be properly landscaped with ground-cover plants. Based on this, the geotechnical consultant finds adverse impacts of sheet flow to be insignificant.

The geotechnical investigation finds that proper drainage and irrigation of the site is necessary to assure stability and decrease hazard. The geotechnical investigation states that irrigation should be minimized and that drainage from the front portion of the lot should be directed to the street. Due to the low slope of the rear portion of the lot and provided it is appropriately landscaped, the geotechnical investigation finds that surface water sheet flow over the rear portion of the lot will not have a significant adverse impact. In order to assure that irrigation and drainage are appropriately implemented, a special condition is being imposed which requires that drainage and irrigation plans be submitted and that development occur consistent with those plans. In addition the plans are required to be reviewed by the geotechnical consultant to insure that the recommendations contained in the geotechnical investigation are incorporated into the proposed project's drainage and irrigation. Only as conditioned can the proposed development be found consistent with Section 30253 of the Coastal Act regarding stability and minimization of risk.

The proposed residence is set back 30% of the lot depth from the rear (canyon side) property line, and is set back 17 feet from the primary vegetation line. These setbacks are consistent with the geotechnical recommendations and certified LUP requirements. Landscaping in the front and rear of the site has been kept to a minimum. The proposed rear yard landscaping consists primarily of retaining existing Lemonade Berry (*Rhus integrifolia*) and planting Iva hayesiana (a California native plant material available from Tree of Life Nursery, San Juan Capistrano). Lawns require considerable irrigation, often to the detriment of slope stability. However, no lawn area is proposed in the rear portion of the lot.

The proposed landscaping plan also addresses irrigation and states: "Front yard irrigation shall be automatic using low precipitation rate heads. Rear yard irrigation shall be drip with all equipment on-grade. The system shall be zoned to accommodate the different water requirements of the plants with regard to solar exposure." Thus the amount of irrigation will be minimized and will be limited to the amount needed based on type and location of plants.

The geotechnical investigation indicates that low water use plantings on the rear portion of the site will enhance site stability and minimize erosion. The applicant has submitted an acceptable landscape plan that meets this requirement. Installation of the landscaping as proposed is critical in assuring that the proposed development will not adversely impact site stability nor increase risk. Therefore it is necessary to apply a special condition that requires the landscaping to be carried out as proposed. Therefore as conditioned for a landscape plan, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act.

Finally, a special condition requiring that the applicant comply with a future development deed restriction is required. The future development deed restriction requires that any future development, including installation of hardscape, grading, vegetation removal, landscaping and structural improvements, would require approval a coastal development permit or permit amendment from the Coastal Commission or its successor agency. This special condition is necessary to ensure that future development on the site does not occur which could potentially cause adverse impacts on the geologic stability.

C. Environmentally Sensitive Habitat Area

Section 30240(a) of the Coastal Act states:

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

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

San Clemente's certified land use plan discusses the importance of coastal canyons and states:

In most cases, coastal canyons are designated for natural open space, which limits potential development and helps to ensure preservation.

Policy VII.12 of the certified LUP states:

Encourage activities which improve the natural biological value, integrity and corridor function of the coastal canyons through vegetation restoration, control of alien plants and animals, and landscape buffering.

Policy XV.13 of the certified LUP states:

The removal of native vegetation and the introduction of non-native vegetation in the canyons shall be minimized. The use of native plant species in and adjacent to the canyons shall be encouraged.

The policy in the certified LUP concerning setbacks on coastal canyons is found in Chapter 3, Section 302 G, policy VII.15, and states:

New development shall not encroach into coastal canyons and shall be set back either:

- a. a minimum of 30% of the depth of the lot, and not less than 15 feet from the canyon edge; or
- b. a minimum of 30% of the depth of the lot, and set back from the line of native vegetation (not less than 15 feet from coastal sage scrub vegetation or not less than 50 feet from riparian vegetation); or
- c. in accordance with house and deck/patio stringlines drawn between the nearest corners of the adjacent structures.

The development setback shall be established depending on site characteristics.

The proposed development is located on Lobos Marinos Canyon, one of seven coastal canyons designated as Environmentally Sensitive Habitat Area in the certified LUP. Regarding the Coastal Canyons the City's certified LUP states:

"The coastal bluffs and canyons potentially contain important natural habitat. ... No rare or endangered plants or animals have been reported to exist within the coastal canyon habitat of San Clemente. ... Distressed riparian and coastal sage scrub habitat areas are present in the coastal canyons. There are no permanent water courses found within them; the principal source of water is runoff from excessive residential irrigation.

San Clemente's coastal canyons represent remnants of what was once a much larger habitat zone. Most of the City's coastal canyons (the only exception being the canyons located in Marblehead Coastal) are surrounded by residential development. The canyons have been cut off from larger habitat areas since the 1930's.' This isolation has

degraded the coastal canyon flora and fauna through the introduction of invasive plants and elimination of large predators. The introduction of domestic dogs and cats from the surrounding urban areas impacts native bird, small mammal, and reptile populations. Despite these impacts, indicator species of Coastal Sage Scrub and Coastal Bluff Scrub plant communities are present. The primary environmental value of these habitat areas is that they are becoming less and less common within urbanized portions of the coast."

Lobos Marinos Canyon is located in the southern part of the City of San Clemente. The proposed development is consistent with LUP canyon setback policy "b" above, which requires that proposed development be set back a minimum of 30% of the depth of the lot from the rear (canyon side) property line and 15 feet from the primary vegetation line. The structure is set back a minimum of 17 feet from the line of primary vegetation in accordance with the certified LUP requirements. Landscaping in the front and rear of the site has been kept to a minimum. The proposed rear yard landscaping consists primarily of retaining existing Lemonade Berry (*Rhus integrifolia*) and planting Iva hayesiana (a California native plant material available from Tree of Life Nursery, San Juan Capistrano). No lawn area is proposed in the rear portion of the lot.

The rear portion of the lot abuts the coastal canyon. Landscaping in this area is critical to enhancing the canyon habitat. If non-natives are established in the rear yard they could grow to displace the struggling native habitat which does exist in the canyon. Invasion by non-native planting would further degrade existing canyon habitat. Degradation of the canyon habitat would be inconsistent with Section 30240's requirement that development adjacent to environmentally sensitive habitat areas (ESHAs) prevent impacts which would significantly degrade those areas and that development be compatible with the continuance of those habitat areas. For these reasons it is critical that native plants be established in the rear yard portion of the subject site.

The applicant has submitted a landscape plan which indicates that native plants will be used in the rear yard portion of the project. Installation of the landscaping as proposed is critical in assuring that the proposed development will not adversely impact the adjacent ESHA. Therefore it is necessary to apply a special condition that requires the landscaping to be carried out as proposed. Therefore as conditioned for a landscape plan, the Commission finds that the proposed project is consistent with Section 30240 of the Coastal Act.

The findings in this section of the staff report also support the future development and adherence to geotechnical recommendations special conditions. Lobos Marinos Canyon is identified as containing environmentally sensitive habitat area. The future development special condition ensures that no development, including landscaping, vegetation removal or grading could take place which would adversely impact the existing native vegetation in the canyon. The future development special condition is designed to enhance and protect native vegetation in Lobos Marinos Canyon. Therefore, as conditioned, the Commission finds that

the proposed development is consistent with Section 30240 of the Coastal Act and the coastal canyon protection policies of the certified LUP.

D. 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 City did not accept the suggested modifications within six months and therefore the Commission's approval of the IP portion of the LCP is no longer effective. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding enhancement of native vegetation, and geological stability. 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).

E. 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.

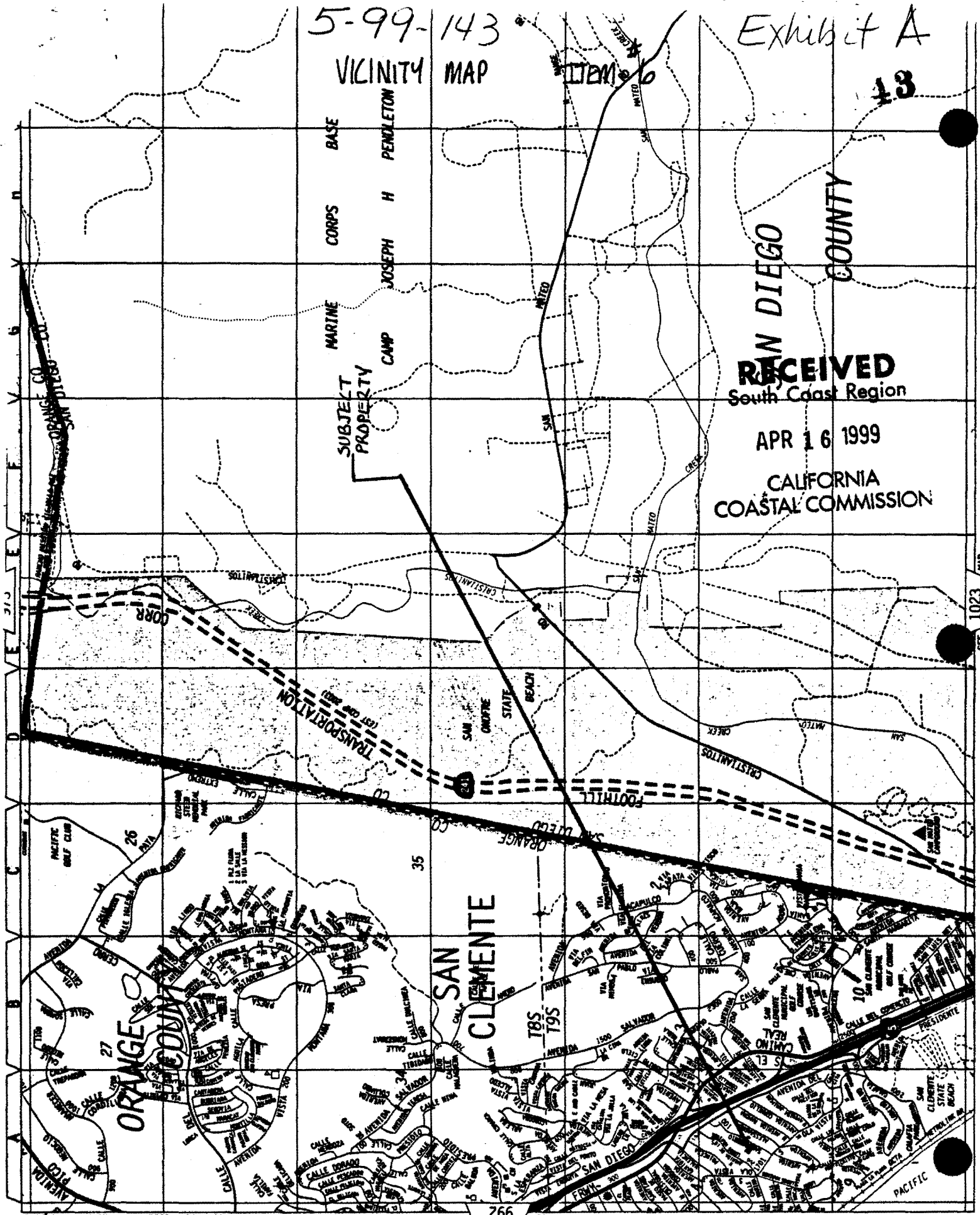
The proposed project has been conditioned in order to be found consistent with the geologic hazards and environmentally sensitive habitat policies of the Coastal Act. Mitigation measures; special conditions requiring conformance with geologic recommendations, drainage, irrigation, and landscaping plans, and future development deed restriction, will minimize all adverse effects. As conditioned there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which 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.

5-99-143

VICINITY MAP

Exhibit A

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South Coast Region

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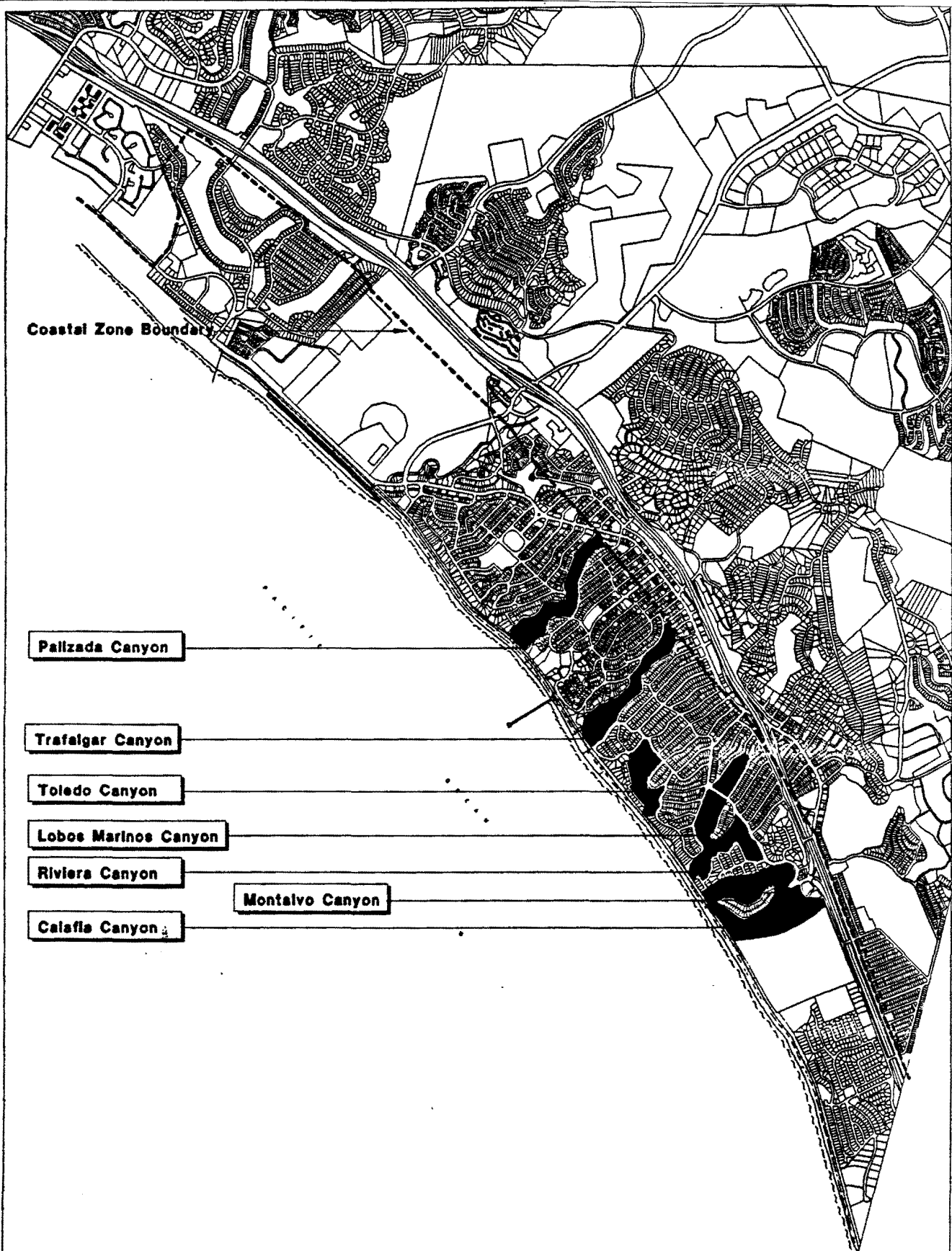


FIGURE 2-1

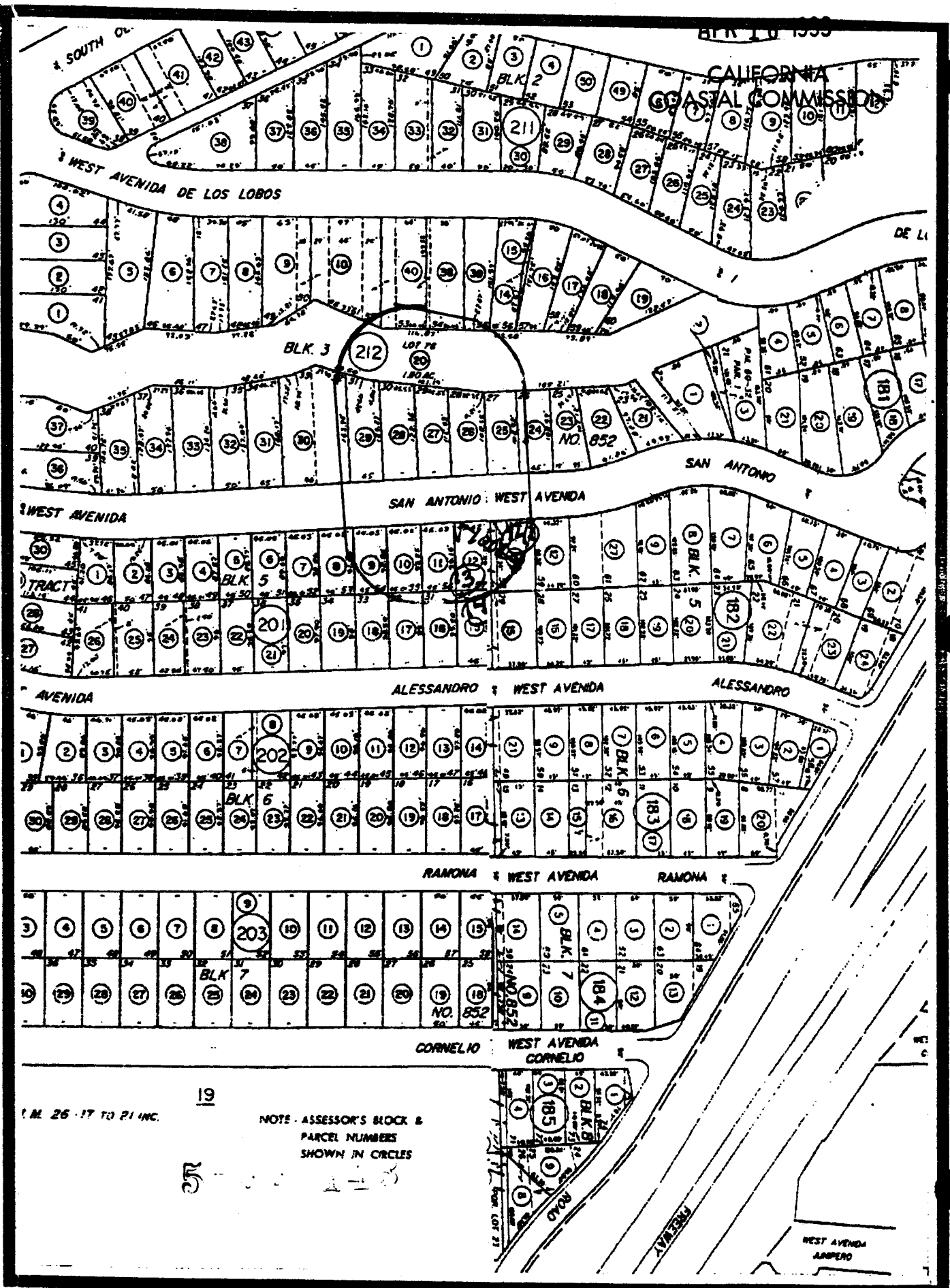


CITY OF SAN CLEMENTE
COASTAL CANYONS/ ENVIRONMENTALLY SENSITIVE HABITAT AREAS

5-99-143

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Site Plan
5-99-143

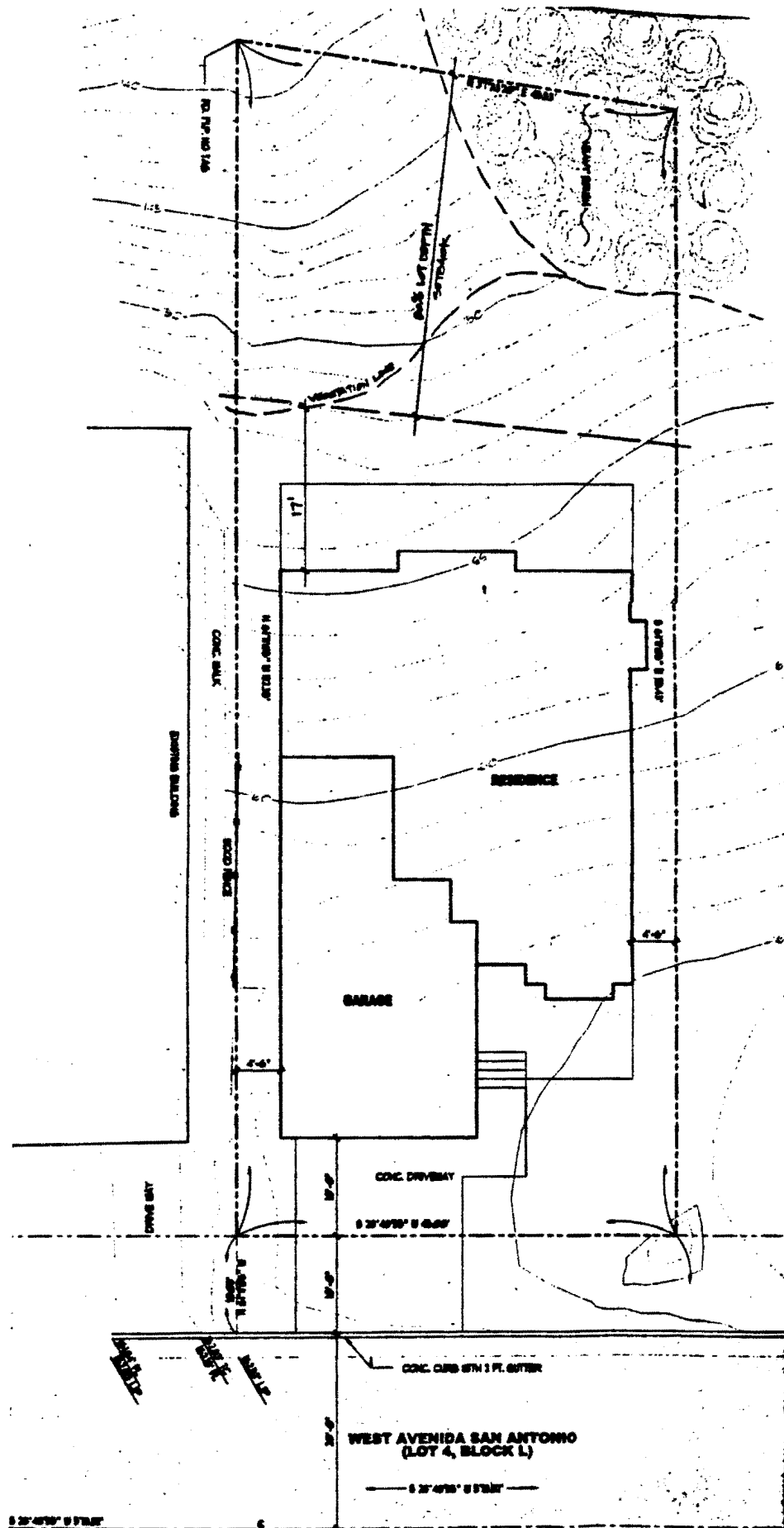


Exhibit D

