

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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*TU 25a*

Filed: February 1, 1999  
49<sup>th</sup> Day: March 22, 1999  
180<sup>th</sup> Day: Waived  
270<sup>th</sup> day: September 14, 1999  
Staff: SFR-LB  
Staff Report: June 24, 1999  
Hearing Date: July 13-16, 1999  
Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

**APPLICATION NUMBER: 5-84-188-A5**

**APPLICANT:** California Department of Parks and Recreation  
Irvine Community Development Company

**AGENTS:** Mike Tope, California Department of Parks and Recreation  
Roberta Marshall, Irvine Community Development Company

**PROJECT LOCATION:** Pelican Point, Crystal Cove State Park, County of Orange

**DESCRIPTION OF PROPOSED AMENDMENT (5-84-188-A5):**

Reconfigure existing fencing by the Pelican Hill Golf Club's 12<sup>th</sup> fairway for the protection of the pedestrians utilizing a public trail in Crystal Cove State Park. The existing hazard protection fence is approximately 380 feet long. Modifications include the relocation of 80 linear feet of hazard safety fencing, the replacement of 70 linear feet of wrought iron fencing with hazard safety fencing, the relocation of two 18" x 18" temporary signs warning the public of the flying golf ball hazard, and painting the fencing a dark green. The proposed hazard fencing would total approximately 450 linear feet.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission **APPROVE** the proposed amendment if conditioned to camouflage the fence to minimize adverse visual impacts on the grounds that the proposed development does not pose a significant adverse visual impacts to a highly scenic area adjacent to the beach. Recently, the golf course moved the 12<sup>th</sup> green closer to the State Park boundary, creating the need for additional protective fencing. The California Department of Parks and Recreation and Irvine Community Development Company are applying for a permit amendment for the fencing, in order to protect the health and safety of park visitors who are at risk from errant golf balls. The resulting fence will be 70 feet longer than the existing fence. The issue before the Commission is whether this additional fencing should be allowed in a portion of a highly scenic park located on a natural bluff overlooking the Pacific Ocean since it would affect views along the coast and inland from the beach below.

**DESCRIPTION OF PROJECT ORIGINALLY APPROVED (5-84-188):**

Subdivision of 25.8 acres into 48 lots with 70,000 cubic yards of grading, construction of necessary infrastructure, guard gates and landscaping on the inland portion of Pacific Coast Highway north of the intersection of Irvine Cove Drive and Pacific Coast Highway in the City of Laguna Beach. In addition, off-site improvements include a site for a 425,000 gallon reservoir, a fuel modification zone on state park land, acceleration and deceleration lanes on Pacific Coast Highway, and other modification to the existing entry way in North Irvine Cove. Special conditions imposed related to: public access improvements and dedication, acknowledgment and waiver of future objection, public trust, geologic stability, archaeological resources, landscape plan, and further construction on the project site.

**FIRST AMENDMENT REQUEST (5-84-188-A1):**

Construction of a guard house, 400,000 gallon reservoir, walls and landscaping in the 48-lot subdivision on the inland portion of Pacific Coast Highway north of the intersection of Irvine Cove Drive and Pacific Coast Highway in the City of Laguna Beach.

**SECOND AMENDMENT REQUEST (5-84-188-A2):**

In place of constructing an access stairway, improve the Crystal Cove parking lot and beach access. In place of day use facility at Moro Canyon, improve three interior camp sites.

**THIRD AMENDMENT REQUEST (5-84-188-A3):**

Amend the previously approved permit to include construction of single-family residences on individual lots.

**FOURTH AMENDMENT REQUEST (5-84-188-A4):**

Installation of a 7 foot high wrought iron fence along the Irvine Company/State Park boundary within the Cameo del Mar blufftop trail easement, and installation of a hazard protection device within and on top of the blufftop trail easement to protect pedestrians from errant golf balls. The staff report for this amendment is attached as Exhibit 7.

**LIST OF EXHIBITS**

1. Location Map
2. Crystal Cove State Boundary
3. Donated Property
4. Fencing Proposal
5. Fence Graphic
6. Project Description
7. Staff report to 5-84-188-A4

**SUBSTANTIVE FILE DOCUMENTS:**

1. Crystal Cove State Park Certified Public Works Plan, 5-4-82.
2. Coastal Development Permits 5-84-188 and Amendments 1-4
3. Newport Coast Local Coastal Program, Second Amendment

**PROCEDURAL NOTE:** Section 13166 of Title 14 of the California Code of Regulations provides for the referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*
- 3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

In this case, the Executive Director has determined that the proposed amendment is a material change that would affect the conditions previously required for the protection of coastal access and visual resources. Therefore, pursuant to Section 13166(a)(3) of the Commission's regulations, the Executive Director is referring this application to the Commission. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material.

## **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

### **I. APPROVAL WITH CONDITIONS**

The Commission hereby **APPROVES** the amendment to coastal development permit 5-84-188, subject to the conditions below, for the proposed development, located between the nearest public roadway and the shoreline, on the grounds that the development will be in conformity with the provisions of the Newport Coast Local Coastal Program and the public recreation and public access policies of Chapter 3 of the California Coastal Act of 1976, 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. Prior Conditions**

Unless specifically altered by this amendment, all regular and special conditions attached to coastal development permit 5-84-188 and its amendments remain in effect.

#### **2. Colorization of Fence**

To minimize the visual impact of the hazard fencing, the applicant shall submit for the review and approval of the Executive Director, a range of color samples approximating the colors of the coastal bluff. The Department of Parks and Recreation, in consultation with the Executive Director, shall then select from this color palate the colors to be used in painting the fence. The fence shall be painted as approved by the Executive Director. The approved color of the fence shall be maintained by painting.

#### **3. Fence Removal (Southern Portion)**

The eighty (80) feet of arched fencing to be removed from the southern portion of the fence shall be removed before the one-hundred fifty (150) foot extension of the arched fencing to the north is constructed.

### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

#### **A. PROJECT LOCATION AND DESCRIPTION**

The proposed development consists of the reconfiguration of existing fencing by the Pelican Hill Golf Club's 12<sup>th</sup> fairway for the protection of the pedestrians utilizing a public trail in Crystal Cove State Park (Exhibits 1,2, and 4). The existing hazard protection fence is approximately 380 feet long. Modifications include the relocation of 80 linear feet of hazard safety fencing, the replacement of 70 linear feet of wrought iron fencing with hazard safety fencing, the relocation of two 18" x 18" temporary signs warning the public of the flying golf ball hazard, and painting the fencing a dark green. The proposed hazard fencing would total approximately 450 linear feet.

The new tubular steel fencing is 11 feet high and is covered with mesh along the inland side and top to protect pedestrians from golf balls. The fencing is open on

the coastal side. The "U" shaped tubular poles are placed every 3.5 to 4 feet. (Exhibits 4 and 5)

The proposed development is located in Crystal Cove State park in an unincorporated portion of the County of Orange between the communities of Corona del Mar to the north and Laguna Beach to the South (see Exhibit 1). The project is between the first public road and the sea.

To the east of Crystal Cove State Park is Pacific Coast Highway and inland from that the Newport Coast planned residential community. The pedestrian trail is situated in the northernmost portion of Crystal Cove State Park adjacent to the Cameo Shores subdivision (see Exhibit 3) a private community. The pedestrian trail leads north from the beach access ramp at Pelican Point, along the coastal bluff to the overlook point separating Big Treasure Cove and Little Treasure Cove. To the east of the trail is the 12<sup>th</sup> hole of the Pelican Hill golf course and inland from that a custom home residential community.

## **B. PROJECT HISTORY**

Permit 5-84-188 (Irvine Company) involved the subdivision of 25.8 acres into 48 lots for single-family residences with 70,000 cubic yards of grading, construction of infrastructure, and other improvements at Irvine Cove. The Irvine Cove subdivision approved under 5-84-188 is located inland of and abuts the Pacific Coast Highway at the southern end of Crystal Cove State Park. The development was not located between the sea and the first public road.

Prospective homeowners of the inland portion of Irvine Cove (5-84-188) were to be allowed access to the coast through the coastal portion of Irvine Cove. The proposed development was considered inconsistent with Coastal Act Sections 30211 and 30212 because a new subdivision was being proposed which included an access agreement to a private beach that excluded the general public. As an alternative to providing access to and across the beach at Irvine Cove, the applicant (Irvine Co.) proposed to dedicate and improve a trail and vista point seaward of the Cameo Shores subdivision and a stairway to the cove beach below the point.

The Commission accepted the offer of alternative access, stating in the staff report for 5-84-188:

*The dedication of easements adjacent to Crystal Cove State Park and the improvement of trails, vista point, stairways, day use facilities and landscaping for parking areas would provide significant benefits for the public and allow*

*wider public enjoyment of existing parklands as soon as possible.*

The Commission also found that when the Cameo del Mar subdivision came before the Commission no further access dedications would be required to satisfy the access requirements of the Coastal Act.

Since the approval of the original subdivision there have been 4 amendments. Amendments 1-3 are not related to the blufftop trail that is the subject of this amendment. Amendment 4 and the currently proposed amendment 5 are related to the bluff top trail. A brief description of the previous amendments is included at the beginning of this staff report. Amendment 4 is discussed below. Amendment 5 as the proposed project is discussed in the Project Description section.

**5-84-188-A4:** The original permit underlying this amendment and requiring the trail easement and improvement was issued in 1986. However, the property on which the trail is located was not granted in fee ownership to State Parks until 1992. Though constructed the trail was not opened to the public until 1993 when Commission staff initiated an investigation into why the trail had not been opened to the public. The trail had been constructed with golf course protective fencing already in place and a gate that prohibited entry.

When the Irvine Company constructed the trail they also constructed a connector trail between the main beach access road and the easement. It was at this junction of the two trails that a gate was installed. When the State Parks accepted the trail in 1992 the gate came with it. However, the gate and other improvements were outside of project area that was the subject of 5-84-188-A4 and was consequently considered in a companion permit, 5-93-289 for development which included a wrought iron fence, an access ramp, temporary fencing, gate and revegetation.

The Commission asserted jurisdiction over the protective fencing proposed in 5-84-188-A4 since it involved development within the trail area required by CDP 5-84-188 (Exhibit 7). The after-the-fact development approved in 5-84-188-A4 included the wrought iron fence and the pedestrian protection fencing. In approving 5-84-188-A4 the Commission imposed several special conditions, including selecting the color of the protective fencing, condition compliance and timing of completion of work. The California Department of Parks and Recreation and the Executive Director determined that the color of the fencing was acceptable and the permit was subsequently issued. A copy of this staff report is included as Exhibit 7.

**C. Standard of Review**

The proposed development is located within Crystal Cove State Park on its border with the Pelican Hill Golf Course. The proposed development would affect a trail area originally required by the Commission in CDP 5-84-188. Though the proposed development is in Crystal Cove State Park the standard of review for the proposed development is the Newport Coast Local Coastal Program rather than the Crystal Cove Public Works Plan for the reasons discussed below.

The proposed development will be occurring within a sliver of land that was originally owned by the Irvine Company and part of the golf course (Exhibit 3, lot 57). The Crystal Cove State Parks Public Works Plan was approved by the Commission on April 22, 1982 and the land at that time was not owned by State Parks nor was it part of Crystal Cove State Park. The project site was granted to the California Department of Parks and Recreation in January 1992 (Exhibit 3, and Exhibit 7 the attached staff report for 5-84-188-A4). The proposed development would affect a trail area originally required by the Commission through CDP 5-84-188. Consequently, even though this area now has a certified Local Coastal Program, the Commission will process this amendment since the Commission retains jurisdiction over permits it originally issues. Though the land was granted to the California Department of Parks and Recreation, the Crystal Cove Public Works Plan was not amended to reflect this property transfer. The California Department of Parks and Recreation considers the land to be a part of Crystal Cove State Park.

The unincorporated area surrounding Crystal Cove State Park has a certified LCP. The LUP was originally certified by the Commission on January 19, 1982. The LCP was certified on January 14, 1988 as the Irvine Coast LCP. On January 21, 1997 the Commission certified an amendment which also changed the name of the LCP area to the Newport Coast LCP. This LCP only excludes from its administration Planning Area 17 (The portion of Crystal Cove State Park governed by the Crystal Cove State Park Public Works Plan). The Newport Coast Local Coastal Program was not amended to reflect the property transfer discussed above nor did it exclude this property from the LCP along with other portions of Crystal Cove State Park. Therefore, the standard of review for the proposed development will be the Newport Coast Local Coastal Program.

Additionally, Section 30604(c) of the Coastal Act states any development between the nearest public road and the sea shall include specific findings that the development is in conformity with the public access and public recreation policies of Chapter 3. This proposed development is between the first public road and the sea (Pacific Ocean).

#### D. Visual Resources

The Newport Coast LCP notes that it's coastline consists of 3.5 miles of meandering shoreline which offers a variety of scenic views, recreational opportunities, and marine habitat. The coastline contains both sandy beaches and rocky shores. Most of the shelf between Pacific Coast Highway and the ocean is now part of Crystal Cove State Park which has significant coastal access and recreational opportunities. Exhibit C of the Newport Coast LCP identifies the area of the trail subject to this permit amendment as visually significant. The Newport Coast LCP requires that visual qualities be preserved and enhanced especially in the area between Pacific Coast Highway and the Pacific Ocean.

The Crystal Cove Public Works Plan (PWP) notes that the Pelican Point coastal strip is a highly scenic area due to the natural quality of the beach, the coastal bluff, and the presence of native vegetation. The PWP goes on to note that the park's natural landscapes and open space provide a contrast from the heavily urbanized lands which surround it. Man-made features, if allowed, would significantly reduce the park's esthetic quality. The Newport Coast LCP identifies this area as visually significant.

The proposed development is located within Planning Area 9 of the Newport Coast Local Coastal Program. Though Planning Area 9 is designated for residential development, the residential policies of Chapter 4 of the Newport Coast LCP allow the golf course to extend into Planning Area 9. Furthermore, the Newport Coast LCP required a bluff top trail be constructed. This trail has been constructed and it is on this trail that the protective fence is installed. The fence is visible from a variety of public locations including the beach below.

The golf course land use policies are located in Chapter 4 of the Newport Coast LCP. According to the LCP, the golf course is a public course requiring that at least 50% of all golf course play be reserved for visitors. Permitted uses in the Land Use portion include incidental and accessory recreation facilities. Chapter 6 of the Newport Coast LCP contains the implementation program which specifies the types of incidental and accessory recreation facilities allowed. Regulation E.5.a states: *"Hazard fences for golf courses may be installed where necessary to protect buildings, vehicles, and persons (no height limit)."* Though, the fencing may be permitted, the Newport Coast LCP also identifies this area as visually significant in Exhibit C of the LCP and that views of the Ocean should be preserved.

The applicants are now proposing to extend the protective fence 150 feet to the north and to remove 80 feet of existing fencing from the south end to resolve the

issue of protecting pedestrians on the public coastal trail from errant golf balls. The net effect is that the fence will be lengthened by 70 linear feet. According to a letter from the Irvine Company (Dated May 28, 1999, Exhibit 6, *note*: Exhibit 6 references a graphic that contains colors, this graphic has been reproduced as Exhibit 4 and has been modified to show the changes in black and white.) the fence needs to be lengthened 150 feet to the north due to the redesign of the 12<sup>th</sup> green. The 12<sup>th</sup> green was too difficult for the average player and needed to be re-designed to make it more playable. According to Director of the Pelican Hill Golf Club a series of changes were made to make it more playable. These included 1) eliminating back tees, 2) adding vegetation, 3) eliminating the middle bunker, 4) adding "bail out" areas so that players who could not reach the green from the tee would have a safe place to aim their balls, and 5) extending the amount of turf and green so that players would have a greater chance of reaching the green. Additionally, the design of the 12<sup>th</sup> green has also been constrained by both the park which is on the seaward side of the 12<sup>th</sup> green and the private residential development which is immediately inland of the 12<sup>th</sup> green.

Though the golf course has been redesigned since it opened in 1991 to improve playability, golf course personnel and State Parks personnel noted that errant golf balls were falling in areas not covered by the protective fence. Consequently the Department of Parks and Recreation and the Irvine Company applied for an extension of the fence which would respond to the pattern of errant golf balls to provide protection to the users of the public trail. Though the fence is being extended to the north, the Golf Course operator also determined that the southerly 80 feet of fencing was no longer needed and proposed that it be eliminated.

In approving the original fence (5-84-188-A4) the Commission found that the hazard protection fence did not block views from the trail to the ocean because the wire mesh did not completely cover the overhang (Exhibit 5). Views to the ocean consequently were not blocked from the public trail. Though the views are not blocked, they are interrupted periodically by the aluminum poles supporting the overhanging structure. Though the protective fencing does not block views, the Commission recognized that is a highly visible structure which and must be conditioned to blend in with the surrounding terrain to lessen its visual impact.

The proposed extension of the fence to the north raises two concerns with its visual impact. First, the additional protective fencing will result in fence that is 70 linear feet longer than the existing hazard protection fence. The existing fence is approximately 380 feet long and the resulting fence will be 450 feet long. Second, the fence is visible from a variety of locations including the beach below because of its lack of camouflaging color. Since the fence was originally constructed the paint has faded which has increased the visibility of the fence.

With regards to the first concern; the total length of the fence is being extended by 70 feet because a redesign of the 12<sup>th</sup> green resulted in golf balls impacting the pedestrian trail. This 70 foot total extension is based on extending the fence 150 feet to the north and removing the southerly 80 feet of fence. Based on the observations of golf course personnel and State Parks personnel, the arched hazard protection fence will be extended by approximately 150 feet to the north as shown in Exhibit 4 (This is the exhibit referenced by Exhibit 6 which included a graphic containing colors, this graphic has been reproduced as Exhibit 4 and has been modified to show the changes in black and white) to protect the pedestrians on the trail. A longer fence, even though it would be for the protection of the pedestrians on the public trail, will lessen the visual quality of the visitor's visit to the park. The additional man made feature thus discourages public access since enjoyment of the site would be diminished.

To minimize this adverse impact, the applicant evaluated the changes in the flight of errant golf balls and determined that 80 feet of existing arched fencing could be removed and has proposed this. Removal of this unnecessary fencing will eliminate some of the adverse visual impact of extending the fence 150 feet to the north. Furthermore, this additional extension will not be as visible as the existing fence from certain areas, such as the beach. To illustrate, there is a berm on the seaward side of the trail which would block views of the extended fence from the beach below. Views from the trail would not be significantly impacted as the seaward portion of the fence is open (Exhibit 5). In addition, the fence is an allowable use under the Newport Coast LCP since the fence provides hazard protection for users of the public trail while still allowing the public to use the golf course, which is another form of recreational amenity. To partially offset the adverse impact of lengthening the fence to the north, the applicant has proposed the removal of 80 feet of existing fencing at the south end. Additionally, the visual impact of the fence (when viewed from the beach) will be minimized since a portion of the fence will be behind a berm which is located on the seaward side of the trail.

With regards to the second concern; the fence raises a visual impact concern due to the lack of camouflaging color for the existing fence and the need to appropriately camouflage the new fencing to minimize the adverse visual impact of the fence. To minimize the adverse impact of a structure in naturally scenic areas such as public parks, the Commission typically requires that the structure be painted to match the color and texture of the adjacent terrain. The applicant has proposed to paint the fence a dark green. This color may be acceptable, however, neither Commission staff nor staff from the California Department of Parks and Recreation have had an opportunity to evaluate the proposed color along with a range of color samples approximating the colors of the coastal bluff.

Therefore, the Commission is imposing a special condition to require that the Irvine Company submit to the Executive Director and the Department of Parks and Recreation a color scheme which will camouflage the fence to minimize its adverse visual impact. Further, to assure that the fencing maintains its camouflaging color the Commission is requiring that the fence be repainted as required to minimize its adverse visual impacts. Finally, the Commission is imposing a special condition to require the applicant to remove the southerly eighty feet of arched fence before installing the northerly one-hundred and fifty feet of arched fence to assure that this unnecessary fencing is removed. Only as conditioned, does the Commission find that the fence is consistent with the Newport Coast LCP regarding the protection of visual resources.

#### **E. Public Access and Recreation**

The project site is on the seaward side of Pacific Coast Highway which is the first public road immediately inland of Pacific Ocean. Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed development is located between the sea and the nearest public road.

The proposed development is located within Crystal Cove State Park on an existing public trail providing both lateral and vertical access to the Pacific Ocean. Crystal Cove State Park is an approximately 2,800 acre public park providing visitors to the coast with numerous recreational opportunities. The proposed development will not change the use nor intensity of use of the site. The proposed development, as conditioned, will not result in any adverse impacts to existing public access or recreation in the area. Therefore, the Commission finds that the project is consistent with the public access and recreation policies of the Coastal Act.

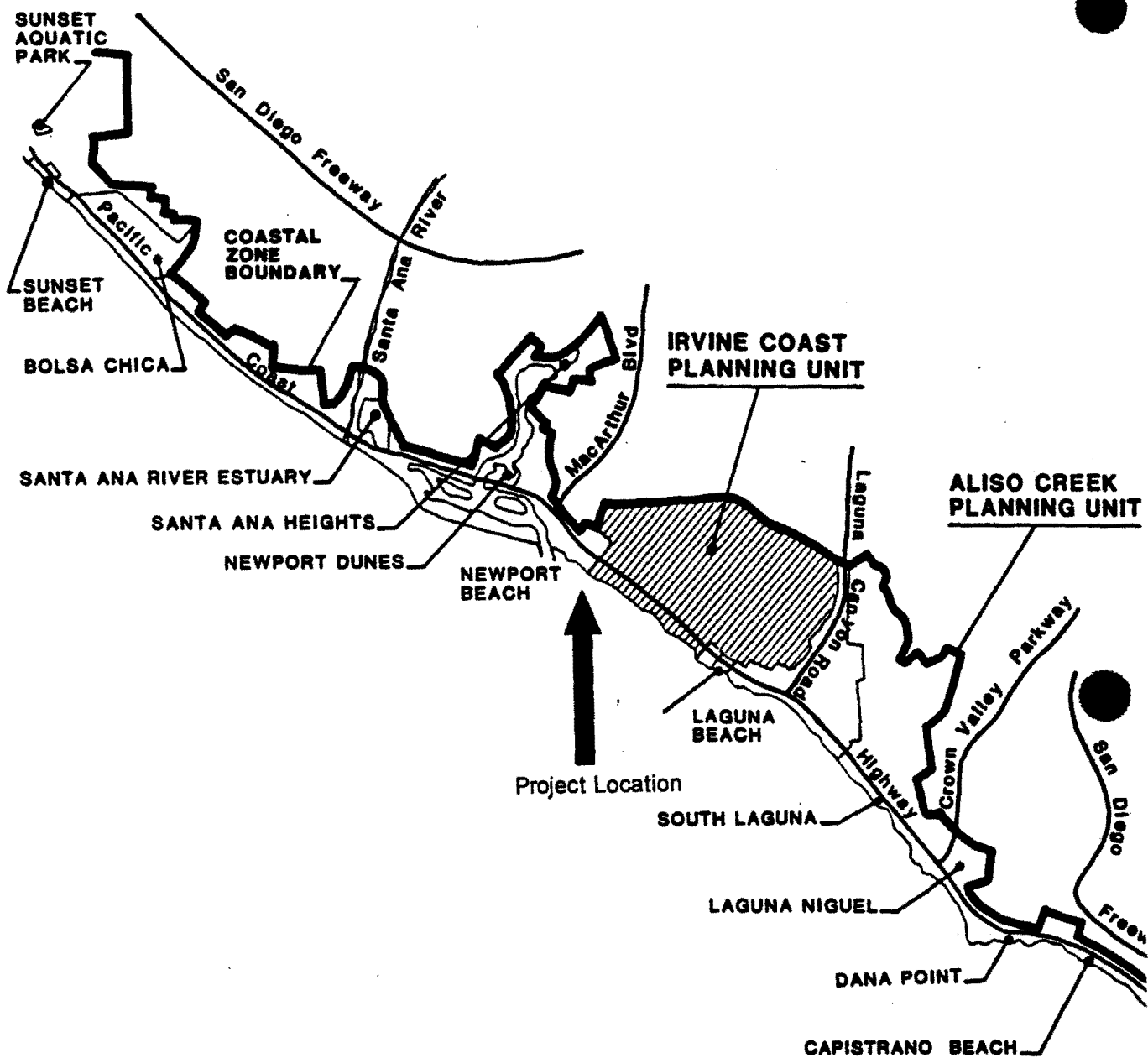
#### **F. California Environmental Quality Act**

Section 13096 of the Commission's 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 project is located in an existing park. The proposed development has been conditioned to assure that the project will not have a significant adverse impact on coastal resources and has been conditioned to reduce the visual impacts of the fence. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

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## LOCATION MAP

### The Irvine Coast Local Coastal Program

<b>EXHIBIT No. 1</b>
Application Number: <b>5-84-188-A5</b>
Location Map
California Coastal Commission

# EXISTING CONDITIONS



NO SCALE

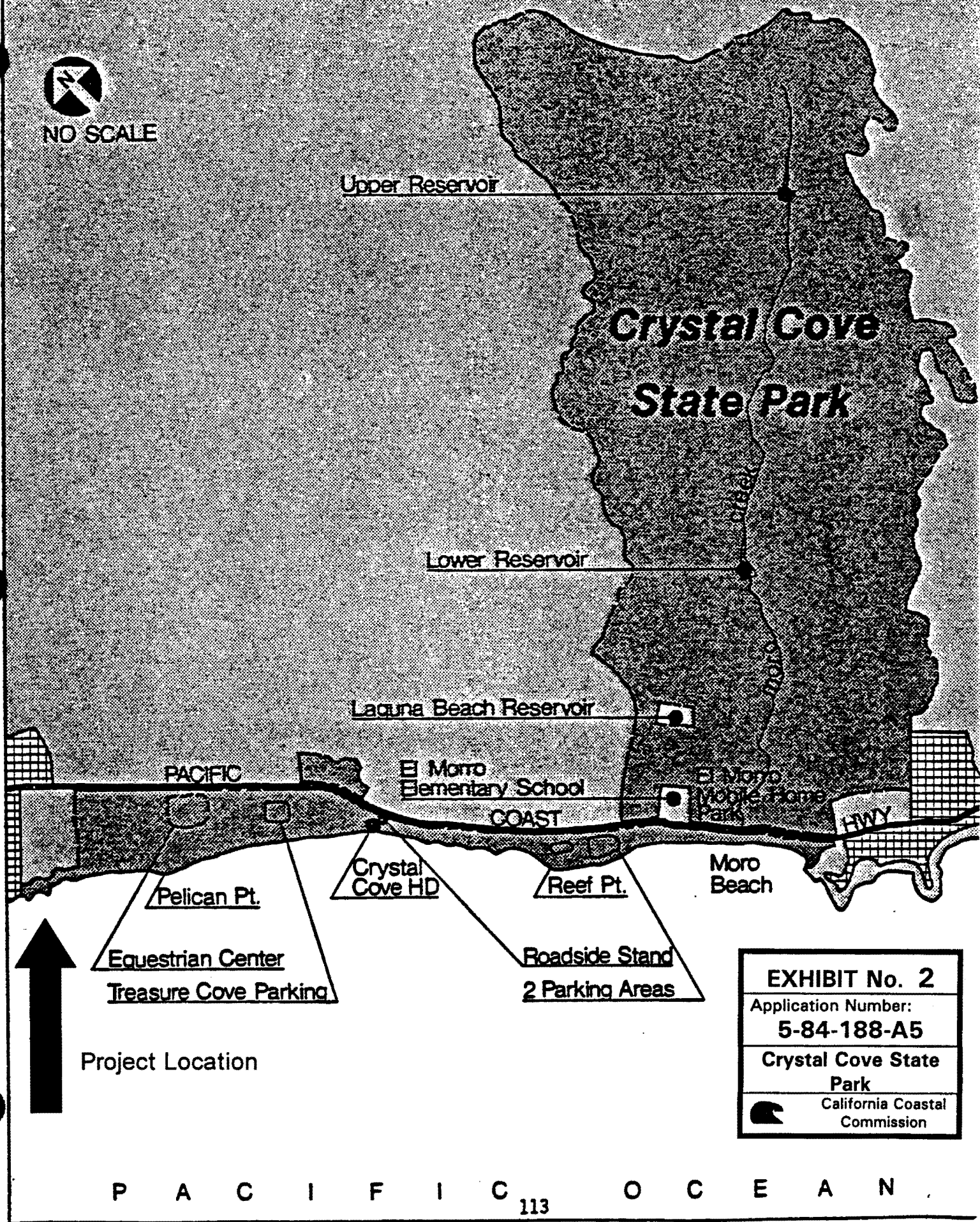


EXHIBIT No. 2

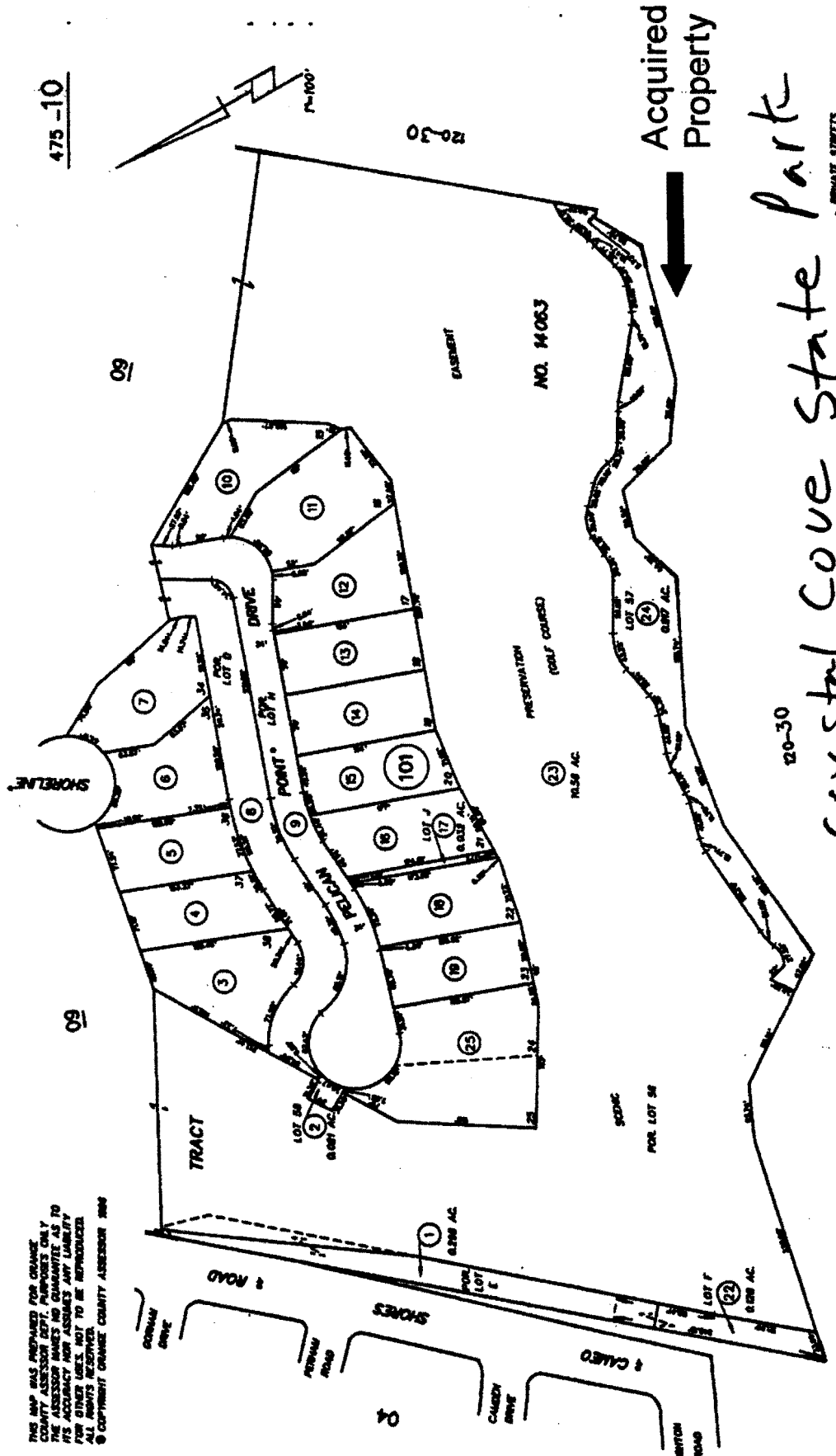
Application Number:

5-84-188-A5

Crystal Cove State  
Park



California Coastal  
Commission



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Cameo Shores Subdivision

Acquired Property

Crystal Cove State Park

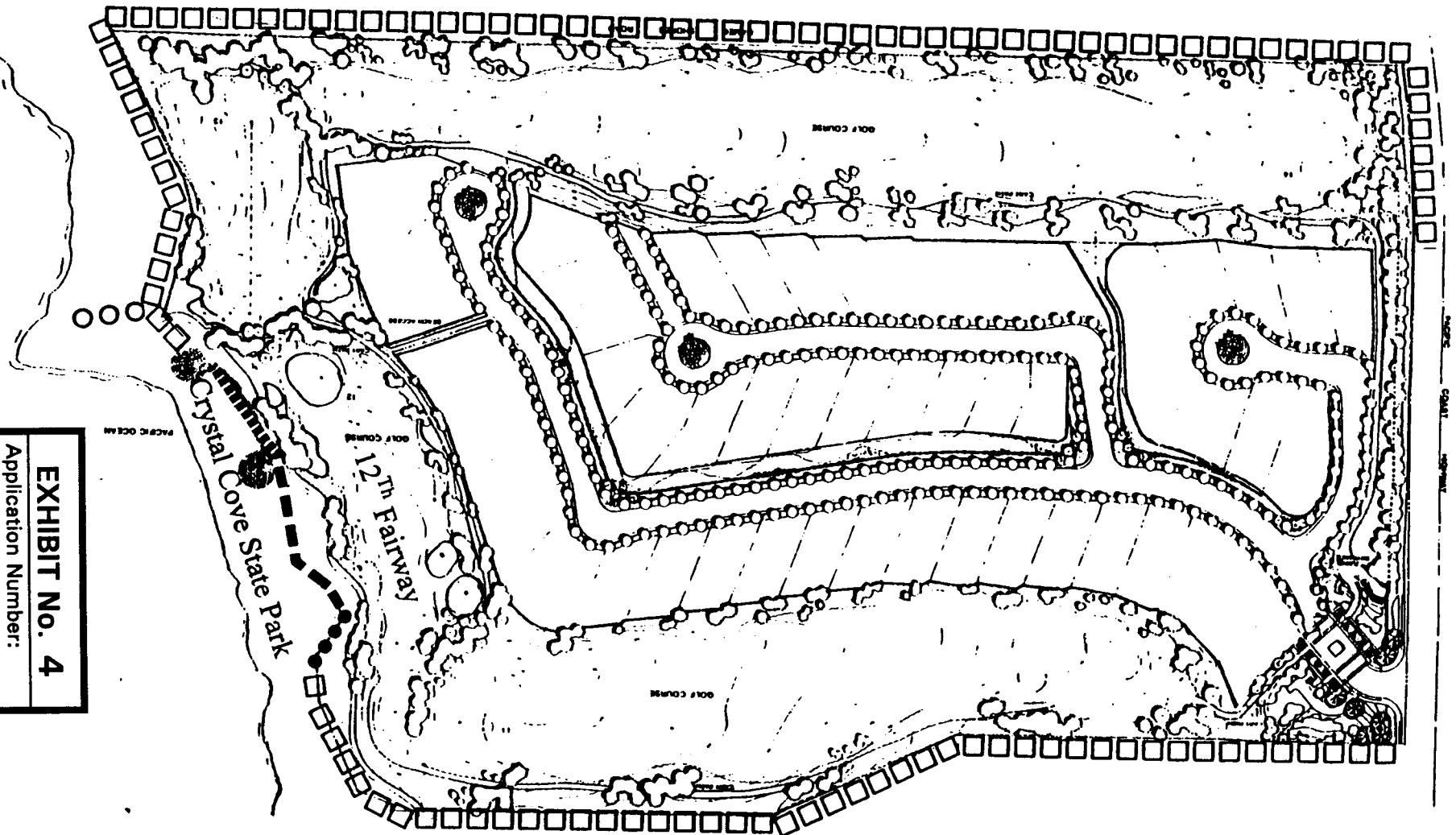
ASSESSOR'S MAP  
BOOK 475 PAGE 10  
COUNTY OF ORANGE






NOTE - ASSESSOR'S BLOCK &  
PARCEL NUMBERS  
SHOWN IN CIRCLES

TRACT NO. 14063 M.M. 870-23 TO 29 AC.

<b>EXHIBIT No. 3</b>
Application Number: <b>5-84-188-A5</b>
Property Donated to <b>Crystal Cove Park</b>
California Coastal Commission

<b>EXHIBIT No. 4</b>
Application Number: <b>5-84-188-A5</b>
<b>Fencing Proposal</b>
California Coastal Commission



-  Existing 6 Foot High Wrought Iron Fence
-  Existing 10 Foot High Hazard Protection Fence
-  Proposed Elimination of the Hazard Protection Fence and Replacement with the Wrought Iron Fence (80 Linear Feet)
-  Proposed Elimination of the Wrought Iron Fence and Replacement with the Hazard Protection Fence (150 Linear Feet)
-  Existing Chain Link Fence



Temporary Sign

PROPOSED  
SOUTH COAST  
JUN 11 1999  
CALIFORNIA  
COASTAL COMMISSION  
Application No. 5-84-188A  
May 1999

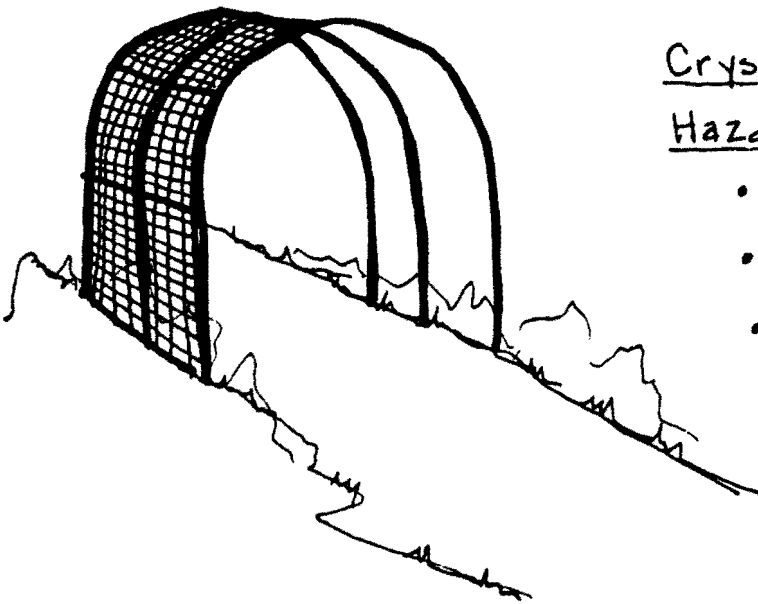
**RECEIVED**  
South Coast Region

JUN 11 1999

CALIFORNIA  
COASTAL COMMISSION

Crystal Cove State Park  
Hazard Protection Fence

- 11 ft high to top of arch
- 10 ft wide at base
- galvanized pipe frame
- mesh fence on inland side of frame
- open air on ocean side of frame



Permit 5-84-188A4

**EXHIBIT No. 5**

Application Number:

**5-84-188-A5**

**Graphic of Hazard  
Fence**




California Coastal  
Commission



## IRVINE COMMUNITY DEVELOPMENT COMPANY

May 28, 1999

Mr. Stephen Rynas, AICP  
Supervisor, Regulation and Planning  
Orange County Area – California Coastal Commission  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4302

<b>EXHIBIT No. 6</b>
Application Number: <b>5-84-188-A5</b>
<b>Project Description</b>
 California Coastal Commission

Re: Permit Amendment No. 5-84-188 A4

Dear Stephen:

Thank you and Deborah Lee for taking the time out of your busy schedules to meet with representations of California Department of Parks and Recreation (CDPR), The Pelican Hill Golf Club, Paone Callahan McHolm & Winston and me regarding the proposed fence extension within Crystal Cove State Park. As a result of our meeting, we would like to modify our proposed amendment to Permit No. 5-84-188-A4 to read as follows:

1. Eliminate approximately 80 linear feet of hazard safety fencing that lies between the Pelican Hill Golf Club's 12<sup>th</sup> Fairway and the Crystal Cove State Park beach access trail. The existing hazard protection fencing is a ten-foot high (arched) galvanized steel pipe fence with chain link mesh on the golf course side and the top of the arch. Replace the hazard safety fencing with 80 linear feet of 6' high tubular steel fencing painted dark green to match the rest of the golf course fencing. (See attached map).
2. Replace 150 feet of existing tubular steel fencing with approximately 150 linear feet of hazard protection fencing. The new hazard protection fence will lie between the west end of the existing hazard protection fence and the beach access gate on the Pelican Hill Golf Club. (See the attached map).
3. Relocate two 18'x 18' temporary signs from the Pelican Hill Golf Course property onto the State Park property. These signs will be relocated so that they will be more visible for pedestrians utilizing the beach access trail. The signs will be in place temporally until the hazard protection fence is extended. (See the attached map).

These signs will read:



As we discussed in the field, the Pelican Hill Golf Club operators and Fazio Golf Course Architects believe that the proposed modifications to the golf course/trail fencing are necessary to maximize the protection for pedestrians utilizing the beach access trail.

The golf course designers have been analyzing the playability of the golf course since it opened in 1991. Many revisions have been made throughout the course to improve the playability of the course and to protect the adjacent land uses from errant golf balls.

In the case of the 12<sup>th</sup> fairway, the golf course operators noticed from the opening of the course that the hole was too difficult for the average golfer. As noted by Rob Ford Director of Golf for the Pelican Hill Golf Club, over the course of the last few years a series of changes have been incrementally made to the 12<sup>th</sup> fairway to make it more playable, including: (1) eliminating the use of the back tees; (2) adding vegetation to the course to help golfers "aim" for the green; (3) eliminating the middle bunker; (4) adding a "bail-out" area so that players who could not reach the green from the tee would have a safe place to land their balls; and (5) extending the amount of turf and green so that players will have a greater chance of reaching the green without having to shank the ball out of the bunker or shrubby vegetation.

Many of the improvements that the Pelican Hill Golf Course has implemented have resulted from the observations of the golf course staff and designer. Most of their observations have not been documented, but they did take a survey of golf shots that is attached to illustrate that this fairway has had playability problems over time. (See attached survey data).

In addition, Sean Moe, LifeGuard Supervisor with the CDPH, has indicated that he has personally seen people scavenging through the bushes adjacent to the beach access trail on a daily basis. These individuals are emerging from the bushes with "pockets full of golf balls". Mr. Moe estimates that there are probably 10 – 20 golf balls landing upon that area everyday. Mr. Moe has not, however, kept any written documentation of his observations.

As you know, the 12<sup>th</sup> fairway is constrained by the State park property and existing residential homes on either side. This has placed a constraint on the ability of the golf

course designers to move the hole. However, the golf course designers did study an alternative to the current alignment of the 12<sup>th</sup> fairway. Specifically, the golf course designers considered shortening the length of the hole. However, this alternative turned out to be impossible because the 12<sup>th</sup> fairway also serves as a detention basin that protects the ocean bluffs from erosion. The golf course engineer's stated that any attempt to shortened the hole would reduce the capacity of the detention basin and that was not acceptable from a hydrology perspective.

Both the operators of the Pelican Hill Golf Club and the CDPR believe that by reducing the length of the hazard protection fencing on the east end of the fence and adding hazard protection fencing on the west end it will greatly improve the safety of the beach access trail. From an aesthetic stand point, the proposed hazard protection fencing extension is located, for the most part, behind a berm that is covered with Coastal Sage Shrub. Therefore the new hazard fencing will not be highly visible from the beach and the fenced area that will now be converted to tubular steel fencing will be greatly improved.

In conclusion, we believe that the proposed modifications to the fencing adjacent to the golf course and beach access trail will further the Coastal Commission's goals of providing *safe beach access* for pedestrians utilizing the trail and of *providing public recreational opportunities* within the public golf course that is a part of the Irvine Coast Local Coastal Plan.

We appreciate the Commissions consideration of our request.

If you have any questions, please call me at (949) 720-2293.

Sincerely,



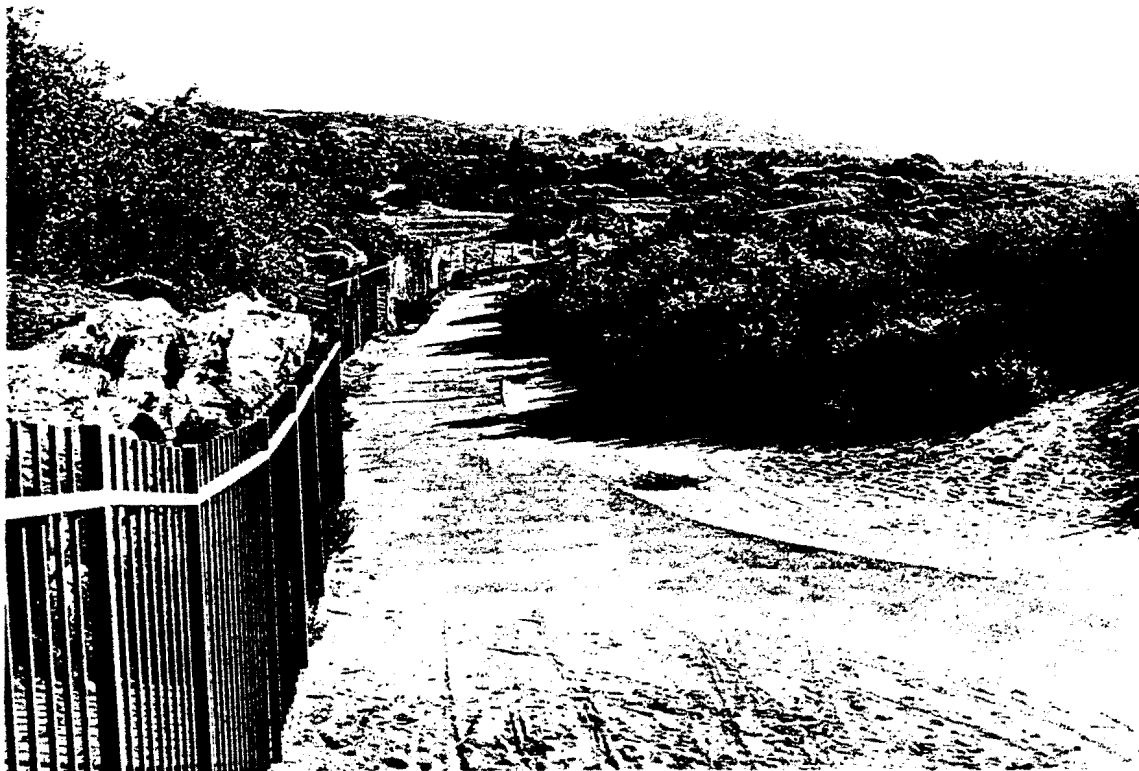
Roberta R. Marshall  
Vice President  
Attachments

Cc: Mike Tope, (w/attachments)  
Susan Hori, (w/attachments)  
Rob Ford, ( w/attachments)



View of the proposed project from the tee of the 13<sup>th</sup> fairway of the Pelican Hill Golf Club. Red arrow illustrates the location of the proposed extension of the hazard protection fence. (Note that the tubular steel fence has been removed in this location. It has been replaced with a temporary chain link fence that will remain in place until the Coastal Permit has been finalized.)

The blue arrows illustrate the length of hazard protection fence that will be removed and replaced with tubular steel fencing.

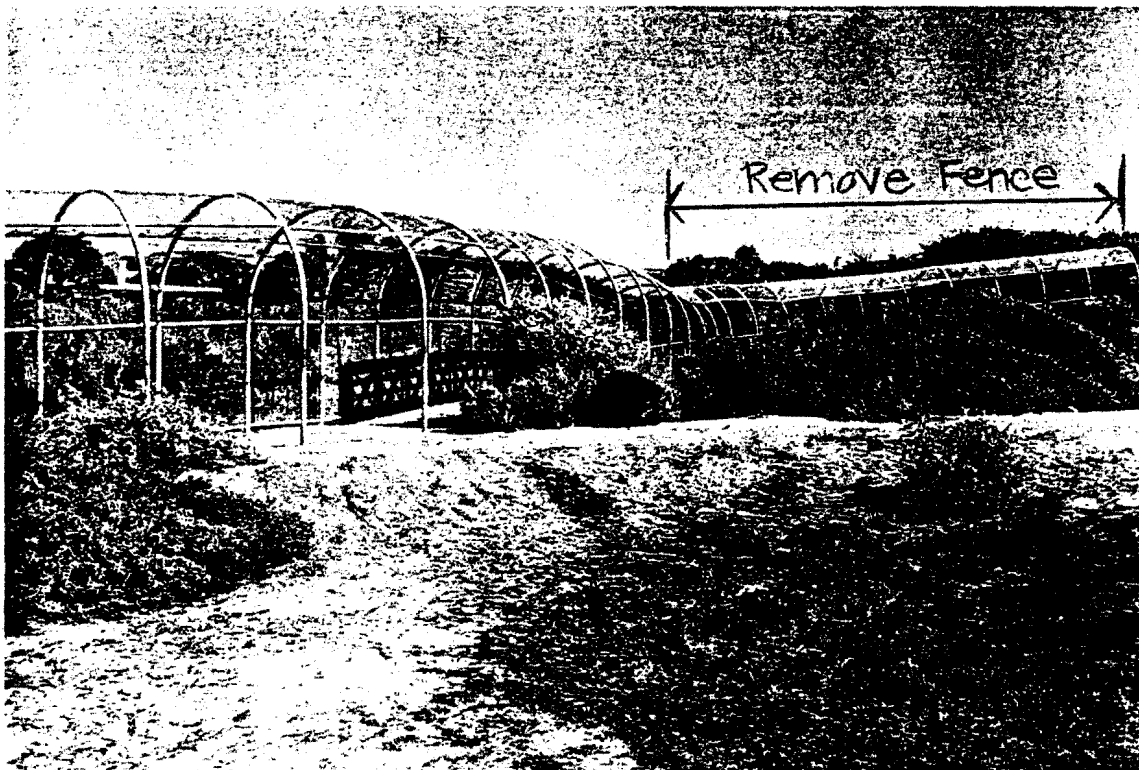


View of the hazard safety fence extension from the beach access trail. In this location, the beach access trail is behind a berm that is covered with coastal sage scrub vegetation. This will help to minimize its visual impact from the beach.



View of the hazard safety fence extension from the beach. The red arrow indicates approximate location of hazard fence extension. The portion of the hazard safety fence that will be deleted and replaced by tubular steel fencing is just to the right of this photograph.

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Red arrow indicates the length of hazard protection fence that will be removed and replaced by a tubular steel fence.

CDP 5-84-188-A5

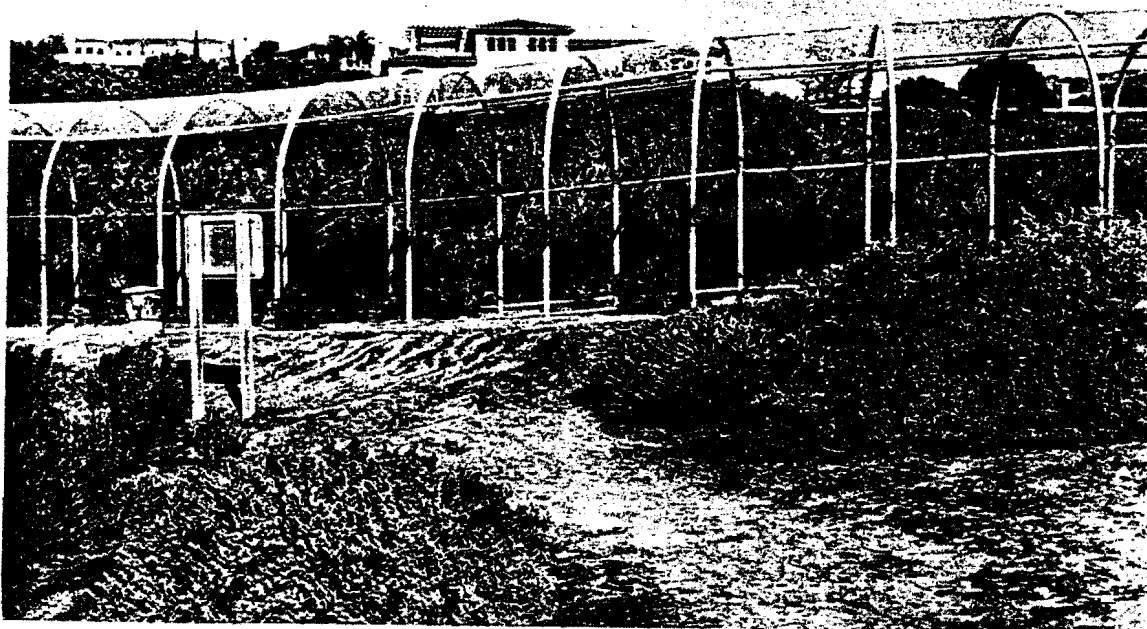


View from the beach towards the existing hazard protection fence. The proposed project would extend the hazard protection (arched) fence 150' to the left. The red arrow illustrates the approximate location of the end of the proposed fence. Proposed hazard fence deletion not visible from this vantagepoint.



View of the existing hazard protection fence from a point adjacent to the beach stairs. The proposed project would extend the hazard protection fence to the location of the red arrow. The proposed hazard safety fence deletion is just to the right of this picture.

CDP 5-84-188-A5



Close up view of the existing hazard protection fence.  
It is 11 feet tall at it's highest point and 10 feet wide at the base.

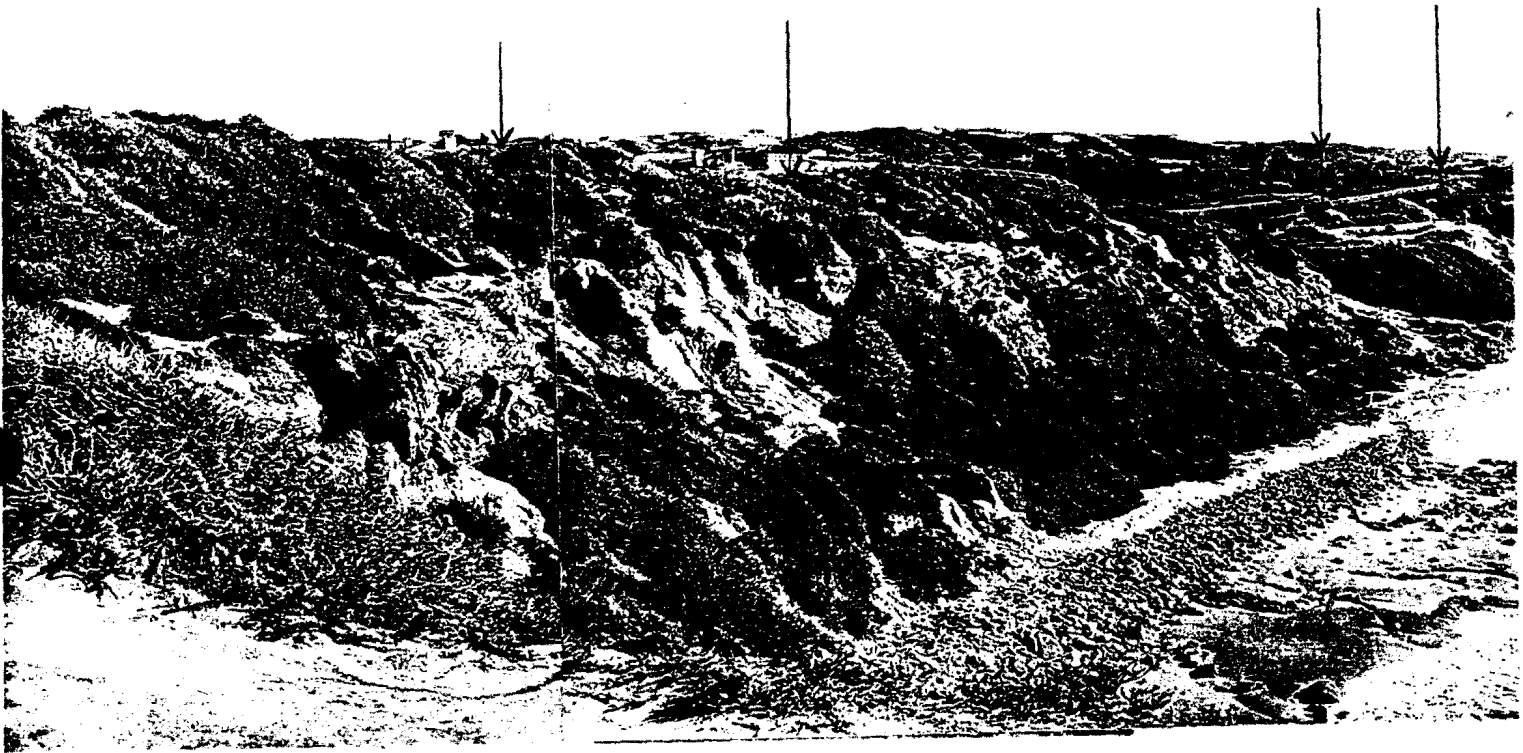


View of the existing hazard protection fence from the beach access trail. Proposed project would extend the hazard protection fence to the location of the red arrow. (150' LF) Photo also shows a close up of the type of tubular steel fence which this project will replace.

The blue arrows illustrate the length of hazard protection fence that will be removed and replaced with tubular steel fencing.

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View of the proposed project from the bluff top trailhead. Hazard fence extension is shown between the red arrows and hazard fence removal and replacement with tubular steel fencing is shown between the blue arrows.

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P.O. BOX 1450

LONG BEACH, CA 90802-4416

(310) 590-5071

11-16-93  
19a

COMMISSION ACTION  
Approved as Recommended  
Approved as Recommended  
Approved with Changes  
Other

Filed: 09-02-93

49th Day: 10-21-93

180th Day: 03-01-94

Staff: RMR/LB

Staff Report: Oct. 27, 1993

Hearing Date: Nov. 16-19, 1993

Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO. 5-84-188A4

APPLICANT: California Department of Parks &amp; Recreation AGENT: None

PROJECT LOCATION: Crystal Cove State Park, County of Orange

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Subdivision of 25.8 acres into 48 lots with 70,000 cubic yards of grading, construction of necessary infrastructure, guard gates and landscaping. In addition, off-site improvements include a site for a 425,000 gallon reservoir, a fuel modification zone on state park land, acceleration and deceleration lanes on Pacific Coast Highway, and other modification to the existing entry way in North Irvine Cove. Special conditions were: public access improvements and dedication, acknowledgment and waiver of future objection, public trust, geologic stability, archaeological resources, landscape plan, and further construction on the project site.

CDP 5-84-188A1: Construction of a guard house, 400,000 gallon reservoir, wall and landscaping in the 48-lot subdivision.

CDP 5-84-188A2: In place of constructing an access stairway, improve the Crystal Cove parking lot and beach access. In place of day use facility at Moro Canyon, improve three interior camp sites.

CDP 5-84-188A3: Amend the previously approved permit to include construction of single-family residences on individual lots.

DESCRIPTION OF AMENDMENT: Installation of a 7 foot high wrought iron fence along the Irvine Company/State Park boundary within the Cameo del Mar bluff top trail easement, and installation of a hazard protection device within and on top of the bluff top trail easement to protect pedestrians from errant golf balls.

## LOCAL APPROVALS RECEIVED:

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits 5-84-188, 5-84-188A, 5-84-188A2, 5-84-188A3, the Irvine Coast Local Coastal Program, Crystal Cove State Park General Plan

**EXHIBIT No. 7**

Application Number:

**5-84-188-A5**

Staff Report for

**5-84-188-A4**California Coastal  
Commission

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166. In this case, the amendment request is referred to the Commission because the Executive Director determined that the proposed amendment is a material change which affects coastal access.

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STAFF NOTE:

The proposed development included in this amendment pertains solely to development within the trail easement approved by the Commission in CDP 5-84-188. The wrought iron fence and hazard protection device were not included in the final plans submitted to the Commission by the applicant, and therefore, have been constructed without benefit of a coastal development permit within the easement area. State Parks is now the landowner of the trail easement and has been designated by the Irvine Co. (the original permittee) as the agent to amend 5-84-188.

In 1986 the Commission issued a permit to the Irvine Company. As part of that permit the Irvine Company was required to submit a public access plan that included the grant of an easement along a bluff. This trail gave the public access to a viewpoint overlooking Little Treasure Cove to the north and Big Treasure Cove to the south. The permit requiring the trail was issued in 1986, however, the trail easement was not accepted by State Parks until 1991, and not recorded until 1992. Although the trail has been constructed for several years, it is still not open to the public. When the Irvine Company constructed the trail, they also installed a fence along the inland side of the trail to separate the trail from the golf course.

When the Irvine Company constructed the trail in the easement they also constructed a connector trail between the main beach access road and the easement. It was at this junction of the two trails that a gate was installed to keep pedestrians off the path during construction. When the State Parks accepted the trail in 1991 the gate came with it. However, the gate is outside of the easement area and not a part of this permit. This gate and other improvements are outside the easement area and are addressed in a companion permit, 5-93-289 for development which includes a wrought iron fence, an access ramp, temporary fencing, gate, and revegetation.

This amendment involves development in a trail approved in CDP 5-84-188 (Irvine Company). Because the wrought iron fence and hazard protection structure were not included in the original plans signed off on by South Coast

Staff as required by Condition 1, this development took place inconsistent with the Commission's approval and requires an amendment to the previously issued Coastal Development Permit.

The trail, along with other unrelated improvements to Crystal Cove State Park facilities, was offered as off-site mitigation for the subdivision development of the North Irvine Cove area. The trail easement offered as a part of the proposed project description and conditioned by the permit approval, but was not conditioned to be executed and recorded with the Coastal Commission. Although the permit was issued in 1986, the trail easement was not accepted by the State Parks until 1991; and, although constructed, is still not open to the public.

In 1988 the Commission approved the Irvine Coast Local Coastal Program which includes the land on which the subject trail is located. There is a Public Works Plan for Crystal Cove State Park. The trail was established pursuant to a coastal development permit condition, and because the development includes improvements inconsistent with that permit, the Commission retains jurisdiction over this development as an amendment to the previously approved permit. However, because the Commission certified the Local Coastal Program for the area containing the easement, the standard of review of this amendment are the policies in the certified LCP.

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#### SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions relating to the color of the hazard protective device, condition compliance and timing of completion of work.

#### STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

##### I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, an amendment to a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the certified local coastal program, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

##### II. 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. Color of Hazard Protection Structure

Within 90 days of Commission action the applicant shall submit for the review and approval of the Executive Director, a range of color samples approximating the colors at the coastal bluff. The Department of Parks and Recreation, in consultation with the Executive Director, shall then select from this color palette colors to be used in painting the supports of the hazard protection device.

#### 2. Condition Compliance

All requirements specified in condition 1 must be met within 90 days of Commission action. Failure to comply with the requirements within the time period specified, or within such additional time as may be granted by the Executive Director for good cause, will result in the nullification of this permit.

#### 3. Timing of Completion of Work

The applicant shall complete the painting of the hazard protection device as specified in Special Condition 1 within one year of issuance of this permit. Failure to comply with the requirements within the time period specified, or within such additional time as may be granted by the Executive Director for good cause, will result in the nullification of this permit.

#### IV. Findings and Declarations

##### A. Project Description

The proposed development consists of installation of a 7 foot high wrought iron fence along the Irvine Company/State Park boundary inland of a bluff top trail, and installation of a hazard protection device along a portion of the inland side and top of the bluff top trail easement to protect pedestrians from errant golf balls. This permit amendment applies solely to the improvements contained in the trail easement. Related improvements, including the beach access staircase, gate, temporary fencing and revegetation, are addressed in a companion permit, 5-93-289.

Crystal Cove State Park is situated on the seaward side of Pacific Coast Highway between the cities of Laguna Beach to the south and Newport Beach to the north. The trail easement is located in the northern part of the State Park adjacent to the Cameo Shores Community (see Exhibit 1).

The trail has been constructed and traverses the bluff top from Big Treasure Cove to Little Treasure Cove at Pelican Point. Inland and adjacent to the trail is a portion of the Pelican Hills golf course (see Exhibit 2).

##### B. Project History

Permit 5-84-188 (Irvine Company) involved subdivision of 25.8 acres into 48 lots for single-family residences with 70,000 cubic yards of grading, construction of infrastructure, and other improvements at Irvine Cove. A copy of the permit is attached as Exhibit 7. The Irvine Cove subdivision is located inland of and abuts the Pacific Coast Highway at the southern end of Crystal Cove State Park (see Exhibit 3). The development was not located between the sea and the first public road.

Prospective homeowners of the North Irvine Cove Development (5-84-188) were to be allowed access to Irvine Cove through the existing Irvine Cove development. The proposed development was considered inconsistent with Coastal Act Sections 30210 and 30212 because a new subdivision was being proposed which included an access agreement to a private beach that excluded the public. As an alternative to providing access to and across the beach at Irvine Cove, the applicant (Irvine Co.) proposed the following as part of the project description:

1. provide scientific access to the Irvine Cove for marine research by scientists, ... and a \$100,000 endowment for research.
2. Dedicate and improve a trail and vista point seaward of the Cameo Shores subdivision from a lateral access from the northern end of Crystal Cove State Park and a stairway to the cove beach below the point. (emphasis added)
3. Provide an access easement to the Department of Parks and Recreation bringing people to the State Park parking lot in Moro Canyon and develop trails and a day use facility in Moro Canyon.
4. Provide funds to landscape two parking lots on the coast side of Pacific Coast Highway at Sand Canyon and Pelican Hills Rd.

The Commission accepted the offer of alternative access, stating in the staff report for 5-84-188:

The dedication of easements adjacent to Crystal Cove State Park and the improvement of trails, vista point, stairways, day use facilities and landscaping for parking areas would provide significant benefits for the public and allow wider public enjoyment of existing parklands as soon as possible. (emphasis added)

Further, the Commission notes that consistent with the certified LUP for this area, the bluff top access dedications in front of the Cameo del Mar subdivision (a future project, not yet before the Commission) would be required when the subdivision is approved.

The Commission finds that with this early dedication and improvement, that when Cameo del Mar is reviewed for consistency with the Coastal Act and the certified LUP, the Commission or County will be able to find that "adequate access exists nearby" for purposes of Section 30212, such that no other dedication for public access and recreation purposes will be required to satisfy this section of the Act and the LUP policies which implement it. The Commission finds that the dedications and improvements proposed by the applicant will fully offset the impacts of this project on public access and recreation, including traffic impacts.

The special condition requiring the trail can be found in this staff report in section "C" Public Access and also in the Revised Findings Staff report included as Exhibit 7. The trail was planned to traverse the bluff top from a portion of Big Treasure Cove to a viewpoint overlooking, but not accessing, Little Treasure Cove. No part of the development in this easement was intended to allow pedestrian access to Little Treasure Cove.

#### C. Permit Amendment Jurisdiction

The Local Coastal Program of the Irvine Coast was certified on 1/14/88, two years after CDP 5-84-188 was issued. Representatives of the Irvine Company contend that because CDP 5-84-188 had been issued, any further improvements relating to the easement were covered by the Local Coastal Program approved by the Commission or the Orange County Coastal Development Permits handled by the Commission on appeal. Pursuant to approval of the certified LCP, the County of Orange approved CDP 89-27P for Tentative Tract Map 14063 (Exhibit 4). This tract map shows that the trail easement is indicated as lot 57 within the boundary of the Cameo del Mar subdivision. The Irvine Company asserts that the wrought iron fence and hazard protection fence are allowable uses under the LCP, and coastal development permit 89-27P (County of Orange).

The trail easement was approved by the Commission in special condition one of Coastal Development Permit 5-84-188. Trail easement plans submitted by the applicant and signed by Commission staff do not show any fencing whatsoever (see Exhibit 6).

Submittal of trail plans was not a condition of permit 5-84-188, however, file 5-84-188 contains signed and approved plans for the bluff top trail dated 9/22/88 (see Exhibit 6). The signed plans do not include either hazard protective structures nor a wrought iron fence. The signed plans include the

10 foot wide pedestrian bridge and the trail location as it exists today. The trail ends at Vista Point, but there are no proposed improvements shown there. In addition, the plans show the trail abutting pads inland of the trail.

It is clear from the LCP documents that the area in which the easement is located is now governed by the LCP. The trail easement was conditioned in CDP5-84-188 and that improvements to that easement inconsistent with its approval fall under the jurisdiction of the Commission as an amendment. The standard governing the Commission's review of this amendment is the certified LCP, except that the Commission must also find the proposed development consistent with Chapter 3 access policies because the development is located between the first public road and the sea..

D. LCP Consistency

The following LCP policies are relevant:

On page 4 of CDP 89-27P, section 7 (1) there is a reference to hazard fencing.

(1) Hazard fences for golf courses will be installed where necessary to protect buildings, vehicles, and persons (no height limitation).

Section 10 (a, c, & d) on page 6 refer to the trail.

a. The construction of a bluff trail to meet Coastal Commission requirements, inland of the 50 year bluff retreat line, plus the proposed golf fairway of approximately 250 feet and a 20 foot building setback protects all residential structures from the possible effects of bluff erosion.

c. In addition to the existing bluff top trail, grading, landscaping and related improvements are required to protect adjacent development, repair bluff slopes, and improve bluff stability (LCP I-4-D-3-c).

d. A bluff top trail has been constructed connecting with Crystal Cove State Park and offered for dedication in fee to the California Department of Parks and Recreation (LCP I-4-D-3-d).

Page II-3.11 of the LCP contains this statement:

17. Trail Requirement for Planning Area 9: New development in PA 9 will provide an area for a bluff top public trail which connects to Crystal Cove State Park, in a manner capable of accommodating the trail improvements required as a condition of Coastal Development Permit No. 5-84-188 issued by the California Coastal Commission on November 27, 1984. It will complement a trail system similarly located within the State Park.

On page II-6.4 the LCP includes this statement:

a. Hazard fences for golf courses may be installed where necessary to protect buildings, vehicles, and persons (no height limitation).

The proposed development of a wrought iron fence and hazard protective device is located on a bluff top pedestrian trail in Crystal Cove State Park. The trail traverses the bluff top from Big Treasure Cove to a point overlooking both Big and Little Treasure Cove. The beach cove below the view promontory to the south is a popular area because of the irregular rock formations, tide pools and sea caves. Additionally, the easement is an offshoot of a major coastal access point.

The hazard protection device does not block views from the trail to the ocean, because the wire mesh does not completely cover the overhang. Views to the ocean are not blocked, but are interrupted periodically by the aluminum poles supporting the overhang structure. The golf course is inland of the trail. The green for a golf course hole is located just inland and adjacent to the trail. The fairway trends towards the trail and dog-legs to the right parallel with the trail uphill towards the green tee. The hazard protection device is designed to protect pedestrians from long fairway shots and errant approach shots from the fairway to the green.

The view promontory separating Little Treasure Cove from Big Treasure Cove is not impacted by either the wrought iron fence or the hazard protection structure. The wrought iron fence is located at the inland boundary of the trail with the golf course property and does not adversely impact coastal access or views.

Although the hazard protection device does not block views to and from the coast, it is a highly visible structure, the color of which does not blend in with the existing environment. Several policies in the LCP pertain to views from the beach to the inland areas and from PCH to the beach. The last paragraph of section I-1.6 of the certified LCP states:

The golf course/greenbelt complement the State Park and extend open space uses into the inland side of PCH, thereby preserving views of the coastal ridges from PCH and Crystal Cove State Park, and views toward the ocean from Pelican Hill Road.

Additionally, section I-2.8 of the LCP discusses visual quality. The LCP identifies visually significant lands and primary public views in the context of section 30251 of the Coastal Act. Section 30251 of the Coastal Act requires that new development be sited and designed to protect views to and along the ocean and scenic coastal areas. The easement area is both adjacent to the ocean and is a scenic coastal area in the certified LCP. An exhibit in the LCP identifies all coastal bluff areas as visually significant lands.

The hazard protection device is painted black and is visible from the viewpoint and portions of the beach at Big Treasure Cove. Black is not a predominant color at the beach and coastal bluffs. The native vegetation is predominantly shades of green and the soils are light brown. As proposed, the construction of a hazard protection device painted black presents adverse visual impacts from the beach. In order to minimize the visual impact of the hazard protection device, the Commission finds that the applicant shall repaint it a color which blends in with the existing color palette. Only as conditioned does the Commission find that the proposed development conforms with the visual quality policies of the certified LCP.

**E. Public Access**

Section 30604(c) of the Coastal Act states:

Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

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:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Special condition 1 of permit 5-84-188 (revised findings) states:

Prior to transmittal of the permit the applicant shall develop and submit a specific program and schedule to provide the park improvements and dedication of easements in Crystal Cove State Park and fronting the Cameo Del Mar subdivision as generally described in the applicants submission to the Commission. The program and schedule shall be consistent with the provisions and standards of the State Park public works plan and shall be approved in writing by the Executive Director. The improvement and dedication program shall be fully implemented within two years following the transmittal of the permit unless the Executive Director extends this time limit for good cause. (emphasis added)

A work program and schedule was submitted to staff in February 1985. CDP 5-84-188 was approved by the Commission on 11/27/84, and the CDP was issued

on April 16, 1985. The estimated time of completion of the Cameo del Mar trail, as per the submitted work schedule was February 1, 1987. The 5-84-188 file contains a letter from Coastal Commission staff to Mr. Bernard Maniscalco of the Irvine Co. dated Sept. 22, 1986, stating that staff had reviewed and found the plans for the bluff top trail at Pelican Point to satisfy special condition no. 1 of CDP 5-84-188.

The Irvine Company was not conditioned in 5-84-188 to execute and record a trail easement with the Commission's legal staff. Although legal counsel for the Commission did state that this was advisable in a March, 1985 letter to the Irvine Company following receipt of the work program, there was no special condition requiring this. The 5-84-188 permit was mailed to the applicant on 4/16/85.

The State Department of Parks and Recreation submitted a gift deed recordation of the trail easement recorded on January 15, 1992. In this document the Irvine Company granted to the State of California the real property described as lot 57 of Tract no. 14063. Section D on page 2 of the legal document reads:

- D. Protection Trellis Easement. An easement for the continued placement, overhang, maintenance, repair, removal and replacement of the errant golf ball protection trellis presently located on the adjoining property and the property and for the placement, maintenance, removal and replacement of landscaping, if any, which may attach to and grow on said trellis.

The certificate of acceptance of the property, including the wrought iron fence and hazard protection device by the State Parks was signed on 11/8/91, and the quitclaim deed was recorded on 1/15/92.

Staff has been working closely with State Parks to get the trail open to the public. There is currently a gate across the trail in State Parks land south of the boundary of planning area 9. State Parks say they inherited the gate when the trail was constructed and kept it there because they had liability and safety concerns over the trail easement section in planning area 9. These concerns included an unauthorized access ramp off of the trail easement and unauthorized access from the viewpoint at the terminus of the trail to Little Treasure Cove. State Parks staff was also concerned about the destruction of resources at Little Treasure Cove.

The proposed development included in this amendment pertains solely to the trail easement approved by the Commission in CDP 5-84-188. This includes the wrought iron fence at the easment boundary with the golf course, and the hazard protection device.

Section 13166 of the California Code of Regulations states that applications for amendments shall be rejected if the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit. The proposed improvements in this amendment are intended to protect pedestrians and would not lessen or avoid the intended effect of a conditioned permit. Permit 5-84-188 was conditioned for the applicant to submit a work program establishing a bluff top trail easement in Crystal Cove State Park. The easement has been established, dedicated and built. The trail exists and is accessible from the beach up an unauthorized ramp. There is a gate across the trail where it branches from the primary coastal access point in this area. The gate is not a part of this permit because it is not in the easement.

The wrought iron fence and hazard protection device would not impede the ability of the public to use the trail easement for recreational purposes. The purpose of the wrought iron fence is to separate the golf course from the trail and State Parks Land. The purpose of the hazard protection device is to protect pedestrians from being hit by golf balls. Additionally, the hazard protection device, consisting of aluminum poles with a wire mesh covering, does not block the view of the public from the trail to the ocean.

Therefore, the Commission finds that the proposed amendment does not lessen the intent of permit 5-84-188 and conforms with the Chapter 3 access and recreation policies of the Coastal Act.

#### F. Unpermitted Development

Without benefit of a coastal development permit, the applicant constructed a wrought iron fence and hazard protection device in a trail easement on a coastal bluff. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred; nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

#### G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application 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)(i) 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 impact which the activity may have on the environment.

As proposed, the construction of a hazard protection device painted black presents adverse visual impacts from the beach. There are feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. One identified mitigation measure is to paint the hazard protection device a color which blends in with the existing soils and vegetation. Consequently, the Commission has conditioned the applicant to paint the hazard protection device structure a color which blends in with the environment.

As conditioned the proposed project would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

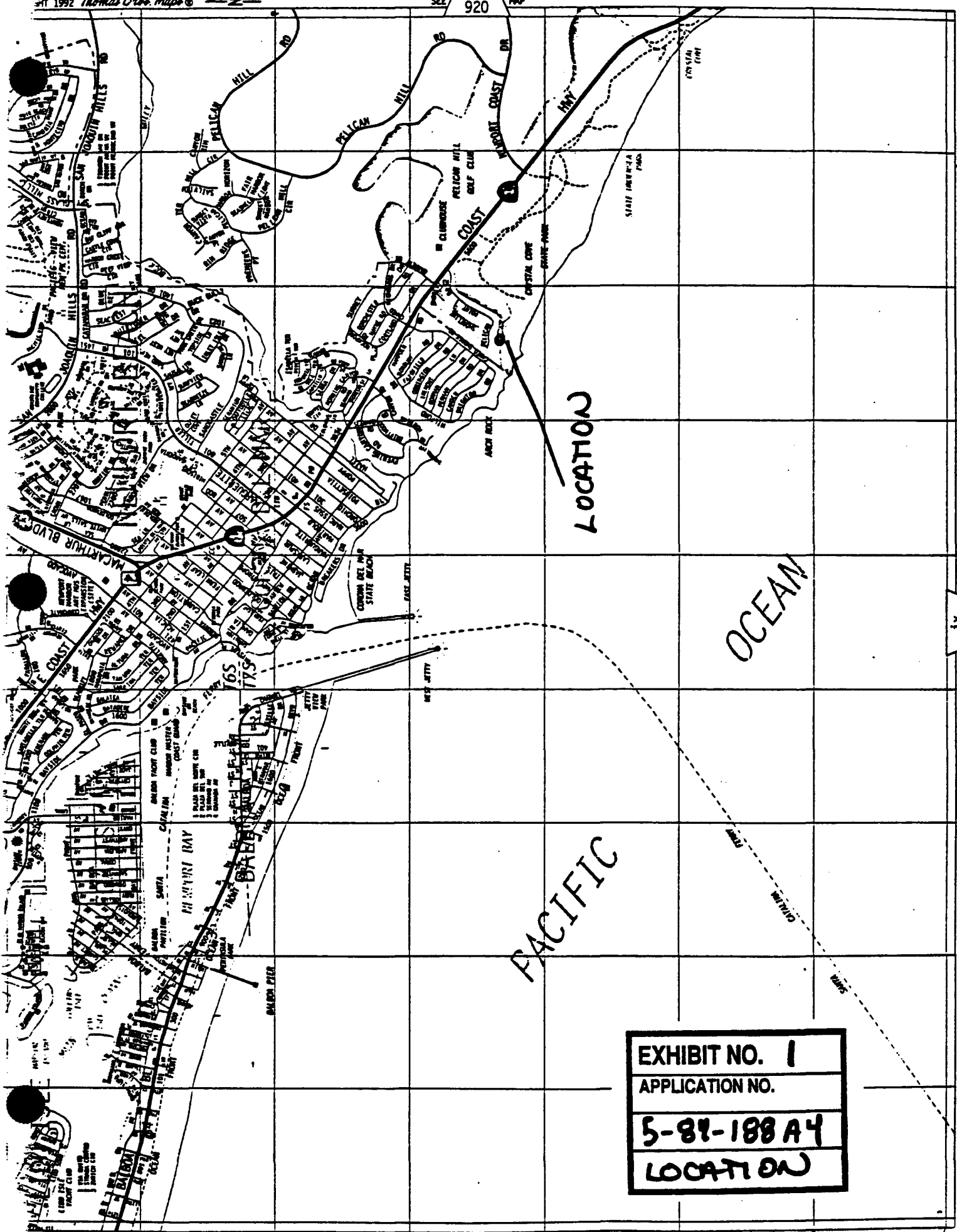


EXHIBIT NO. 1
APPLICATION NO.
5-89-188A4
LOCATION

PACIFIC COAST HWY

CRYSTAL COVE  
STATE PARK

PELICAN  
HILLS  
GOLF

14

111

FENCE

FENCE

ETII HAZARD PROTECT

— WROUGHT IRON FENCE

RECEIVED

SEP 2 1993

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

EXHIBIT NO.

APPLICATION NO.

5-84-188A4

SITE PLAN

Crystal Cove State Park

5-84-188 SITE

R-1  
Vacant

Emerald Bay  
Residential

Irvine Cove R-1  
Residential

LEGEND

R-1 RESIDENTIAL LOW DENSITY

EXHIBIT NO. 3

APPLICATION NO.

5-84-188A4

IRVINE COVE

EXISTING ZONING AND LAND USE  
TENTATIVE TRACT 11619  
City of Laguna Beach

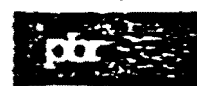
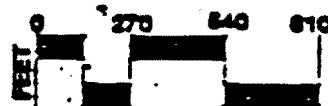
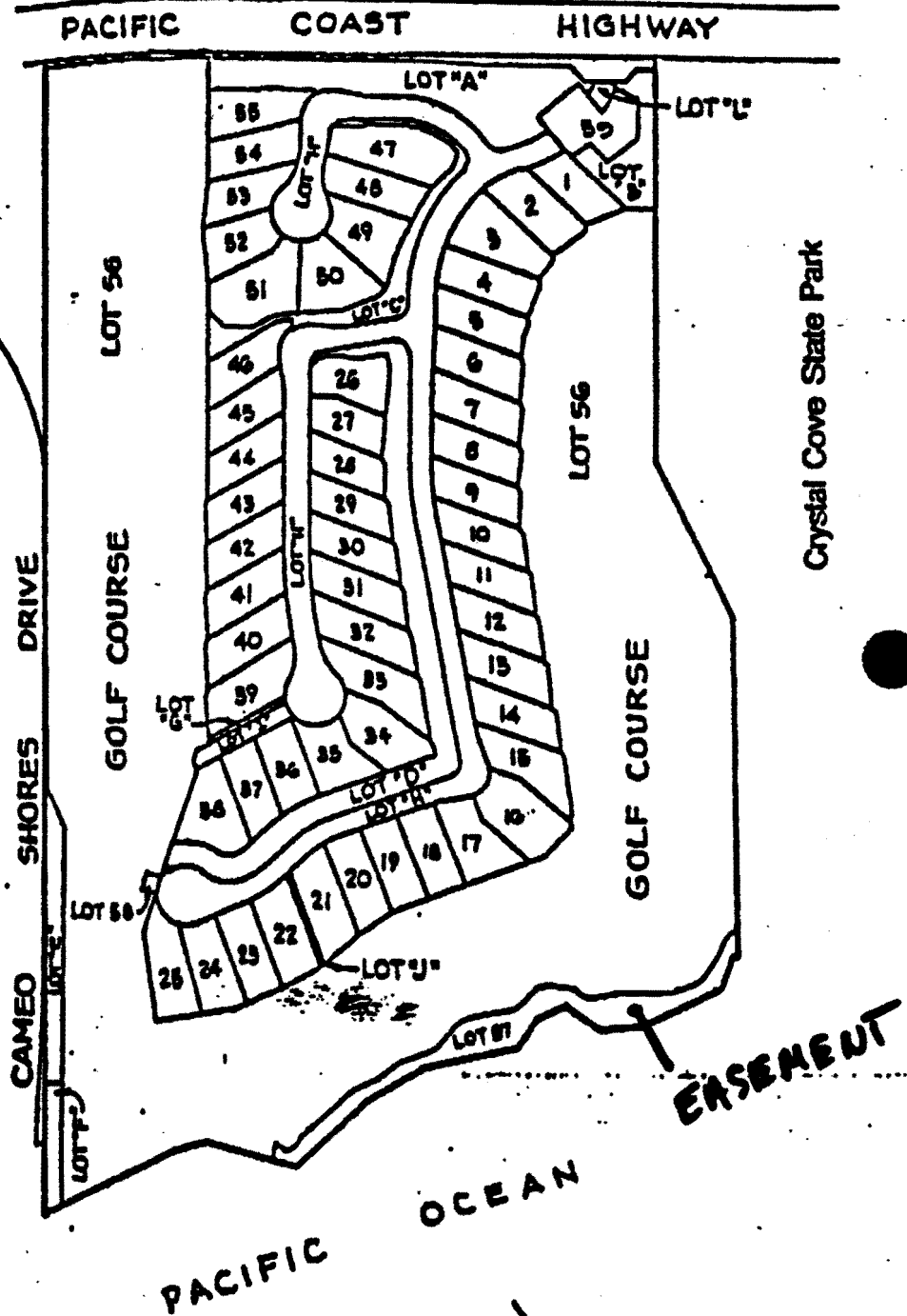


EXHIBIT 4

TRACT 14063

5-92-431

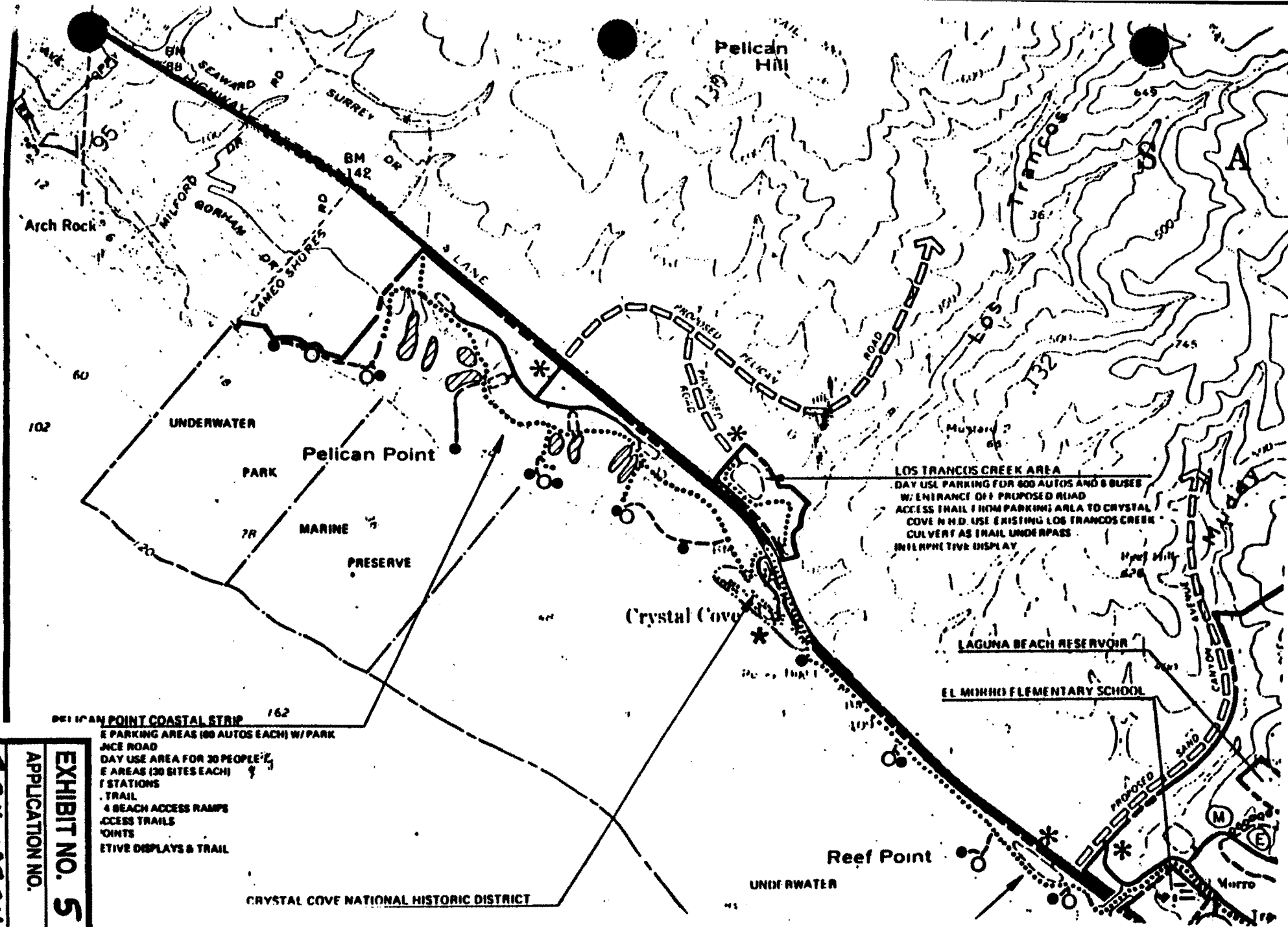
Cameo Community



Crystal Cove State Park

EXHIBIT NO. 11  
APPLICATION NO.  
5-84-18844  
TRACT MAP

**EXHIBIT NO. 5**  
**APPLICATION NO.**  
**5-84-18844**  
**PARK MAP**



**PELICAN POINT COASTAL STRIP**  
 162  
 102  
 7R  
 UNDERWATER  
 PARK  
 Pelican Point  
 MARINE  
 PRESERVE  
 Crystal Cove  
 Reef Point  
 UNDERWATER  
 CRYSTAL COVE NATIONAL HISTORIC DISTRICT

**LOS TRANCOS CREEK AREA**  
 DAY USE PARKING FOR 600 AUTOS AND 6 BUSES  
 W/ ENTRANCE OFF PROPOSED ROAD  
 ACCESS TRAIL FROM PARKING AREA TO CRYSTAL  
 COVE N.H.D. USE EXISTING LOS TRANCOS CREEK  
 CULVERT AS TRAIL UNDERPASS  
 INTERPRETIVE DISPLAY

**LAGUNA BEACH RESERVOIR**  
**EL MINH ELEMENTARY SCHOOL**

