

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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TU 259

Filed: June 16, 1999
49th Day: August 4, 1999
180th Day: December 13, 1999
Staff: KFS-LB ~~B~~
Staff Report: June 24, 1999
Hearing Date: July 13-16, 1999
Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT**

APPLICATION NUMBER: 5-96-006-A1

APPLICANT: Capital Pacific Holdings I, LLC

AGENT: Culbertson, Adams & Associates

PROJECT LOCATION: Northwest of the existing fire station at the intersection of Niguel road and Stonehill Drive, east and south of the existing Links at Monarch Beach golf course in the City of Dana Point, County of Orange.

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 14,030 square foot, two-level, 31'6" high golf clubhouse (including golf cart storage, dining facilities, office and locker room areas, and pro-shop retail sales areas) plus deck and staging areas, putting green, and 203 parking spaces (100 permanent, 103 temporary) and an Irrevocable Offer of Dedication between the City of Dana Point and Monarch Bay Resort Incorporated which will ensure public access from Niguel Road to the proposed development.

DESCRIPTION OF AMENDMENT: Demolish the existing 103-space temporary parking lot, and construct a new 103-space temporary parking lot in a different location.

LOCAL APPROVALS RECEIVED: City of Dana Point approval-in-concept dated May 25, 1999.

SUBSTANTIVE FILE DOCUMENTS: Coastal development permit files 5-96-006, 5-92-168, 5-92-168-A, 5-92-168-A3, 5-92-188, 5-92-188-A, P-79-5539.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed coastal development permit amendment with special conditions. The major issue of this staff report includes maintenance of public access to the golf clubhouse and golf course by retaining adequate parking. In addition, the proposed project requires a change to the language of a previously imposed special condition and the document recorded subsequent to that condition. Special condition one requires the applicant to update recorded documents to reflect the proposed relocation of the temporary parking lot, special condition two requires the replacement temporary parking lot to be operational and open to the public prior to closure and demolition of the existing temporary parking lot, and special condition three establishes that all prior conditions imposed by coastal development permit 5-96-006 not specifically altered by this amendment remain in effect.

PROCEDURAL NOTE**1. Coastal Development Permit Amendments**

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.

2. Standard of Review

The local coastal program ("LCP") for this area of the City of Dana Point was effectively certified on November 5, 1997. The Commission, in certifying the LCP, found the LCP to be in conformity with and adequate to carry out the Coastal Act. Although, review of amendments to coastal development permits approved by the Commission is not delegated to the local government after certification of the LCP, pursuant to section 30604(b) of the Coastal Act, the Commission must act on requests to amend the subject permit utilizing the standards of the certified LCP.

STAFF NOTE:

The proposed development will result in the relocation of a temporary parking lot required by special condition one of CDP 5-96-006. The proposed development will require a change to an exhibit referenced in a recorded deed restriction. Therefore, since the amendment affects a condition required for the purpose of protecting coastal access, the Executive Director has determined that the proposed amendment is a material change to coastal development permit 5-96-006.

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 5-96-006, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of the City of Dana Point certified local coastal program 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. DEED RESTRICTION

Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction to run with the land, in a form and content approved by the Executive Director, which provides the following:

a. Parking

All parking spaces in the proposed permanent parking lot (as shown in Exhibit 4 of the staff report dated February 23, 1996 for CDP 5-96-006) and temporary parking lot (as shown in Exhibit 3 of the staff report dated June 24, 1999 for CDP 5-96-006-A1) for the golf clubhouse shall be made available to the general public at all times said parking lots are open for use. Said parking lots shall be open for use, subject to reasonable hours, as long as the golf course operates. The temporary parking lot shall remain in operation and existence until such time as a replacement parking lot is approved by the Coastal Commission. The hourly parking fee or maximum daily fee, for use by the general public, shall not be greater than the hourly or maximum daily fee charged at the nearest State beach parking facility. There shall be no reduction in the number of parking spaces in either the proposed permanent or temporary parking lots as long as the golf clubhouse continues to operate. No parking spaces in the permanent parking lot (as shown in Exhibit 4 of the staff report dated February 23, 1996 for CDP 5-96-006) and temporary parking lot (as shown in Exhibit 3 of the staff report dated June 24, 1999 for CDP 5-96-006-A1) shall be designated for the exclusive use of any development.

b. Public Recreation

- i. The golf course shall be open to the public on a daily fee basis as well as to golf club members.
- ii. At least 50% of the starts must be reserved for the general public non-golf club members. If general public non-golf club member starts are not reserved within 24 hours of start time, they may be reserved by golf club members.
- iii. Of the total starts reserved for the general public non-golf members, no more than 50% (which equals 25% of the total available starts) may be reserved for guests or others associated with any hotel approved on the property subject to P-79-5539. Further, should hotel guests not fully reserve the 25% of available start time slots, the general public non-golf club members will be able to reserve up to 50% of the available time slots up to twenty-four hours or more in advance.
- iv. As long as golf club memberships are not offered and the golf course operates entirely as a public golf course, hotel guests or others associated with any hotel approved on the property subject to P-79-5539 may reserve up to 50% of the available starts twenty-four hours or more in advance.
- v. As used herein and in the required deed restriction, the terms "public", "members of the public", "non-members", and "non-golf club members" shall mean the public at large including, guests of and person associated with any hotel on the property subject to permit P-79-5539 as long as the guests of any hotel or others associated with any hotel are also not golf club members.
- vi. At the time the hotel approved under 5-92-168 becomes operational or at the time private memberships are offered for the golf course (whichever occurs first), the applicant shall initiate attendance monitoring of the public, hotel guests, and private golf club members. Monitoring shall be for reservations made twenty-four hours or more in advance. Monitoring records shall be maintained by the applicant and shall be available for Executive Director review should the need arise to evaluate condition compliance.

c. Public Use of Common Areas/Meeting Rooms

- i. Public access for non-members shall be maintained to all common areas of the proposed development. The deed restriction shall include an exhibit illustrating those common areas to be maintained open to the general public. Said areas shall include, but not be limited to, the lobby, dining facilities, landscaped grounds and walkways.
- ii. All meeting rooms of the proposed development shall be made available for rental by the general public.

d. Future Development

Coastal Development Permit 5-96-006 authorizes only the development described and conditioned herein. Any future development as defined in Section 30106 of the Coastal Act, except as expressly exempted by Section 30610 of the Coastal Act, shall require an amendment to this permit or a new coastal development permit 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.

2. REQUIREMENT TO ENSURE UNINTERRUPTED PUBLIC ACCESS TO ALL REQUIRED PARKING SPACES

The existing temporary parking lot shall not be closed or removed until the proposed replacement temporary parking lot has been constructed, is operational and is open to the public for use.

3. PRIOR CONDITIONS

Unless specifically altered by this amendment, all regular and special conditions attached to coastal development permit 5-96-006 remain in effect.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION, BACKGROUND, AND AMENDED PROJECT DESCRIPTION

The applicant is proposing to relocate an existing temporary parking lot which services the golf clubhouse and Links at Monarch Beach golf course located on the Monarch Bay Resort hotel site in the City of Dana Point, County of Orange (Exhibit 1 and 2).

Coastal development permit 5-96-006 approved the construction of a 14,030 square foot, two-level, 31'6" high golf clubhouse (including golf cart storage, dining facilities, office and locker room areas, and pro-shop retail sales areas) plus deck and staging areas, putting green, 203 parking spaces (100 permanent, 103 temporary), and an Irrevocable Offer of Dedication between the City of Dana Point and Monarch Bay Resort Incorporated to ensure public access from Niguel Road to the golf course and clubhouse (Exhibit 4). Coastal development permit 5-96-006 was approved by the Commission at the same time as coastal development permit amendments 5-92-188A and 5-92-168A which relocated the golf clubhouse from a site (5-92-188) on the northwest side of Salt Creek to the grounds of the Monarch Bay Resort hotel site (5-92-168). Coastal development permit 5-96-006 was processed as a separate permit, rather than as an amendment to 5-92-168, to allow construction of the golf clubhouse to go forward in advance of construction of the hotel (5-92-168).

Each of these permits (5-96-006, 5-92-168, 5-92-188, among others) is subsequent to a "master" permit, P-79-5539, approved by the Commission in 1979, which conceptually approved recreational, visitor serving, and residential development in the Monarch Beach area of the City of Dana Point. These permits were processed prior to the Commission's effective certification of the City of Dana Point LCP for the Monarch Beach area on November 5, 1997. Therefore, the Commission retains authority over these permits for the purposes of condition compliance and amendment. Since the area is now certified, the standard of review is the certified LCP.

Special condition one of coastal development permit 5-96-006 requires that 203 parking spaces be provided as long as the golf clubhouse continues to operate. These parking spaces were required by the Commission to support, on-site, uses associated with the clubhouse and golf course. This special condition also requires that the temporary lot remain in operation until a permanent parking lot is approved by the Coastal Commission. Since the existing temporary 103 space parking lot is located in the footprint of the hotel approved by coastal development permit 5-92-168, and the applicant intends to go forward at this time with constructing the hotel, the applicant is proposing to demolish the existing temporary parking

lot and construct a new 103 space temporary parking lot south of the clubhouse and west of the golf course. The proposed location for the new temporary parking lot is in an area presently permitted by coastal development permit 5-92-168 for construction of residences and a small part of the hotel grounds. As conditioned by the special conditions of 5-92-168, construction of the residences is not proceeding at this time. Therefore, the proposed location for the new temporary parking lot will not interfere with current construction plans. Meanwhile, no permanent location for the 103 space temporary parking lot has been identified. At some point in time, a permanent location for the temporary parking lot must be identified according to special condition one of 5-96-006. The applicant has stated they are working on this issue, but no final plans have been made.

The proposed development requires an amendment to coastal development permit 5-96-006 in order to authorize the relocation of the temporary 103 space parking lot as well as to authorize an update to an exhibit referenced in a document recorded pursuant to special condition one of coastal development permit 5-96-006. No language in the other special conditions of coastal development permit 5-96-006 are affected by the proposed development, therefore, special condition three establishes that previously imposed special conditions not modified by this amendment remain in effect.

B. PUBLIC ACCESS/RECREATION

Policy 1.8 of the Land Use Element of the certified LCP states:

The location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, providing non-automobile circulation within the development, providing adequate parking facilities or providing substitute means of serving coastal development with public transportation, and assuring the potential for public transit for high intensity uses. (Coastal Act/30252)

Policy 3.3 of the Land Use Element of the certified LCP states:

Priority should be given to those projects that provide for coastal recreational opportunities for the public. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible provided. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible (Coastal Act/30213, 30222, 30223)

Policy 3.5 of the Land Use Element of the certified LCP states:

Public facilities including parking areas or facilities shall, wherever appropriate and feasible, be distributed throughout the coastal zone area to mitigate against the impacts, social and otherwise, of overcrowding and overuse by the public of any single area. (Coastal Act/30212.5)

Policy 4.3 of the Land Use Element of the certified LCP states:

Public access, which shall be conspicuously posted, and public recreational opportunities, shall be provided to the maximum extent feasible for all the people to the coastal zone area and shoreline consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Coastal Act/30210)

The access policies of the Coastal Act and the certified Dana Point local coastal program (LCP) require the protection of public access to the beach. When a private development does not provide adequate on-site parking, patrons of that development must use off-site public

parking spaces which would otherwise be available to the public including visitors to the coastal zone. This results in significant adverse impacts upon coastal access. Therefore, an adequate quantity of on-site parking spaces sufficient to meet the demands of the development ensures that public parking spaces and public access are not adversely affected by the proposed development.

The applicant is proposing to relocate the existing 103-space temporary parking lot to another temporary location in the near vicinity of the existing golf clubhouse and golf course (Exhibit 3). The Commission previously found that 203 parking spaces would be adequate to support on-site parking for the uses at the golf course and clubhouse. There is no proposed change in the quantity of existing parking spaces. In addition, there is no substantial change in the location of the temporary parking lot with respect to the location of the golf clubhouse and golf course. However, the proposed relocated 103 space parking lot is temporary and would not be located in a position consistent with the documents recorded as part of the deed restriction required by special condition one of coastal development permit 5-96-006. Therefore, special condition one of this amendment requires the applicant to update the documents recorded pursuant to the special conditions of 5-96-006 to reflect the revised temporary parking lot location. In addition, in order to ensure that all parking spaces remain open to the public at all times, special condition two requires that the proposed replacement temporary parking lot be constructed and open to the public for use prior to the demolition of the existing temporary parking lot. Therefore, as conditioned, the Commission finds the proposed development consistent with the access policies of the certified Dana Point Local Coastal Program.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

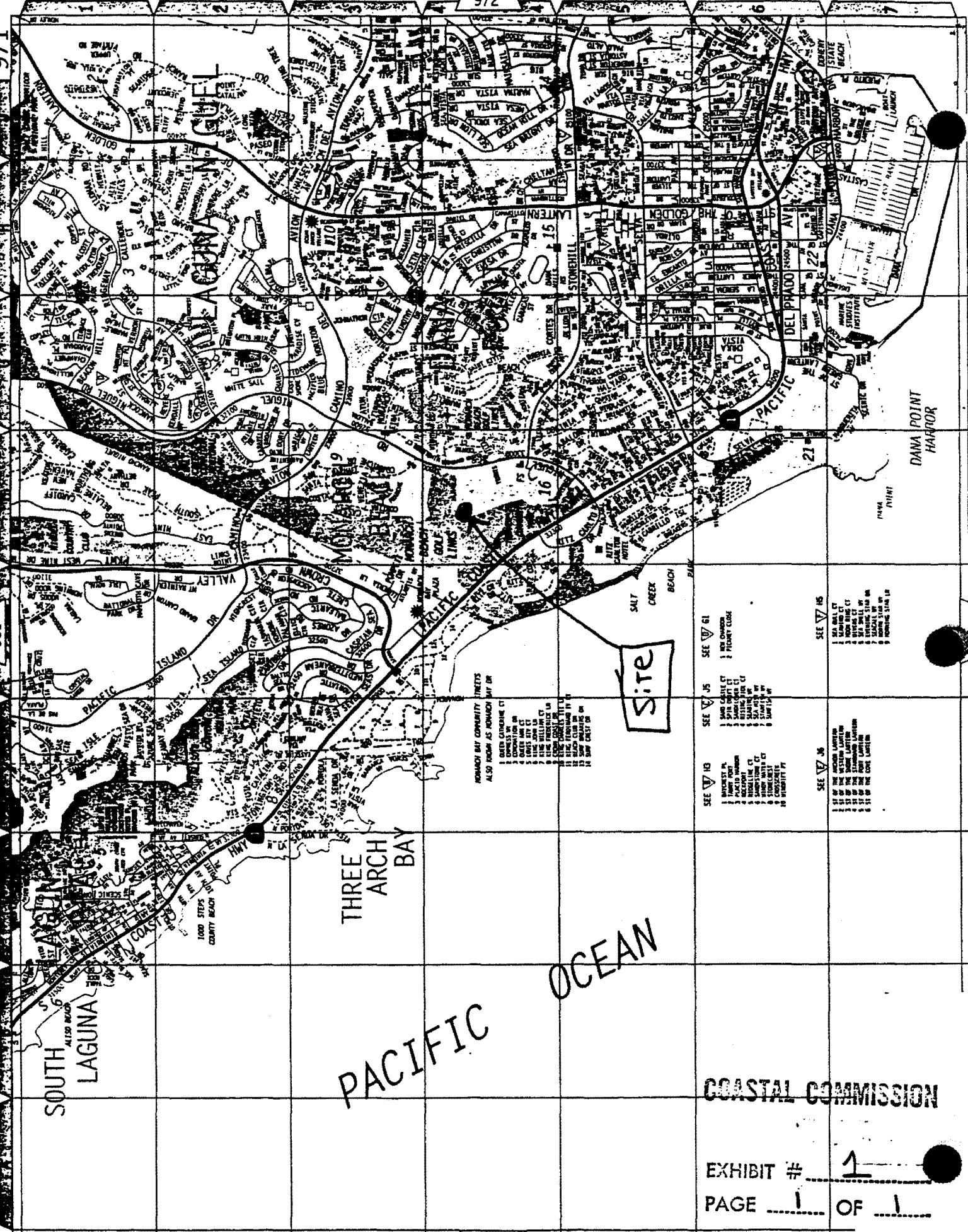
The proposed project is located in an urban area. All infrastructure necessary to serve the site exist in the area. As conditioned, the proposed project has been found consistent with the Dana Point Certified Local Coastal Program. Newly and previously imposed special conditions will minimize any impacts to less than significant levels.

As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and is consistent with CEQA and the policies of the City of Dana Point local coastal program.

971

SEE 951 MAP

SEE 951 MAP



PACIFIC OCEAN

THREE ARCH BAY

SOUTH LAGUNA

DANA POINT HARBOR

COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1

THIS MAP WAS PREPARED FOR CHAMBER COUNTY
ASSASSIN 1971. PLEASE NOTE: THE ASS-
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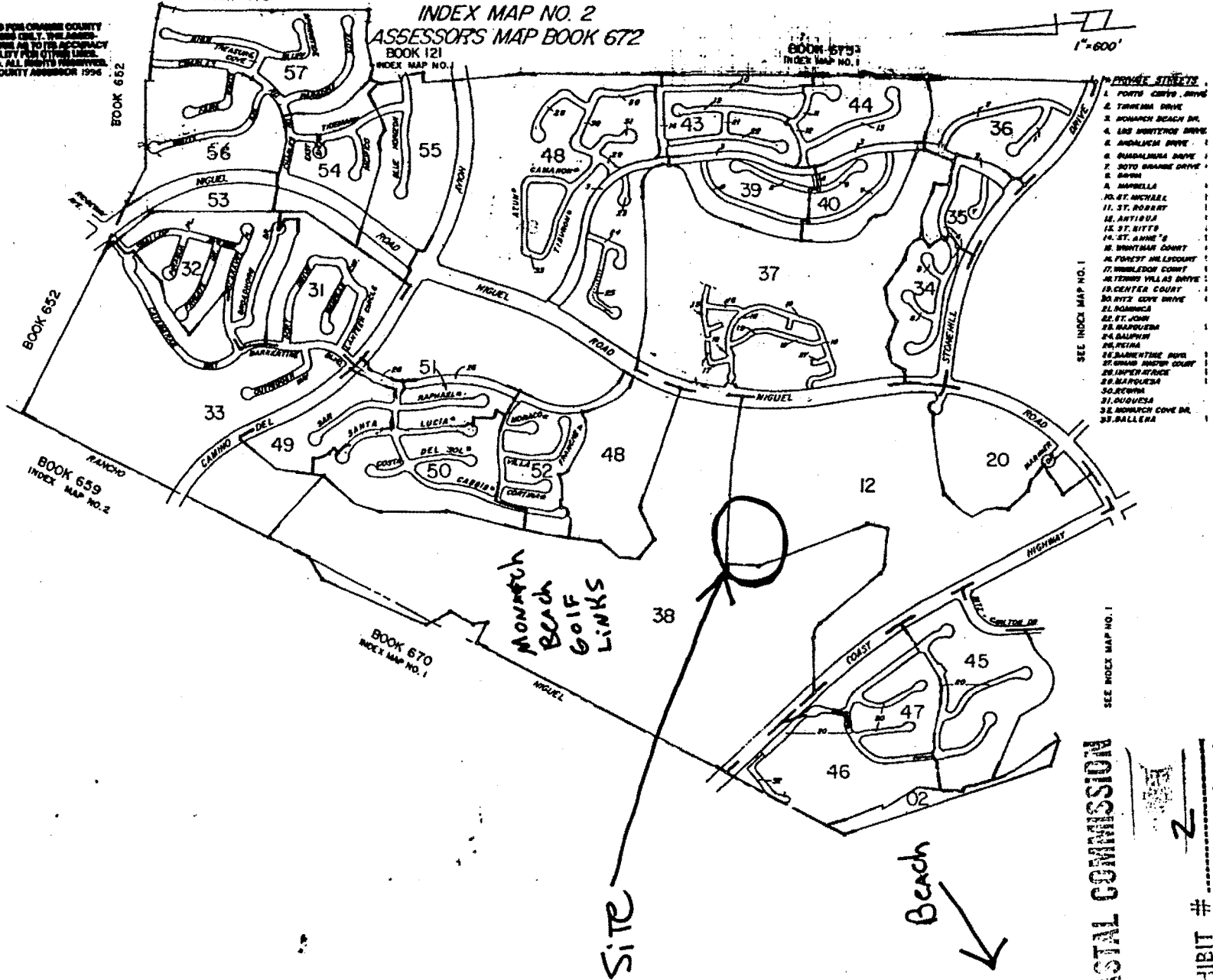
BOOK 673

INDEX MAP NO. 2
ASSESSOR'S MAP BOOK 672

BOOK 673
INDEX MAP NO. 1

67200.01

1"=600'



- PRIVATE STREETS
- 1. PORTO CORTO DRIVE
 - 2. TARRAMA DRIVE
 - 3. MONARCH BEACH DR.
 - 4. LOS MONTEROS DRIVE
 - 5. ANDALUSIA DRIVE
 - 6. RANALUNA DRIVE
 - 7. SOTO GRANDE DRIVE
 - 8. SOTO
 - 9. HANDELLA
 - 10. ST. MICHAEL
 - 11. ST. ROBERT
 - 12. ANTILIA
 - 13. ST. RITTO
 - 14. ST. ANNE'S
 - 15. MONTANA COURT
 - 16. FOREST HILLS COURT
 - 17. WILLOW COURT
 - 18. TARRAMA VILLAS DRIVE
 - 19. CENTER COURT
 - 20. SOTO DRIVE
 - 21. MONARCH
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SEE INDEX MAP NO. 1

COASTAL COMMISSION

RECEIVED

South Coast Region

JUN 17 1999

CALIFORNIA
COASTAL COMMISSION

NIGUEL ROAD

FUTURE HOTEL LOT 1

EXISTING
TEMPORARY
PARKING FOR
STALLS

COASTAL COMMISSION

5-96-006-A1

EXHIBIT # 3

PAGE 1 OF 1

SCALE: 1" = 80'

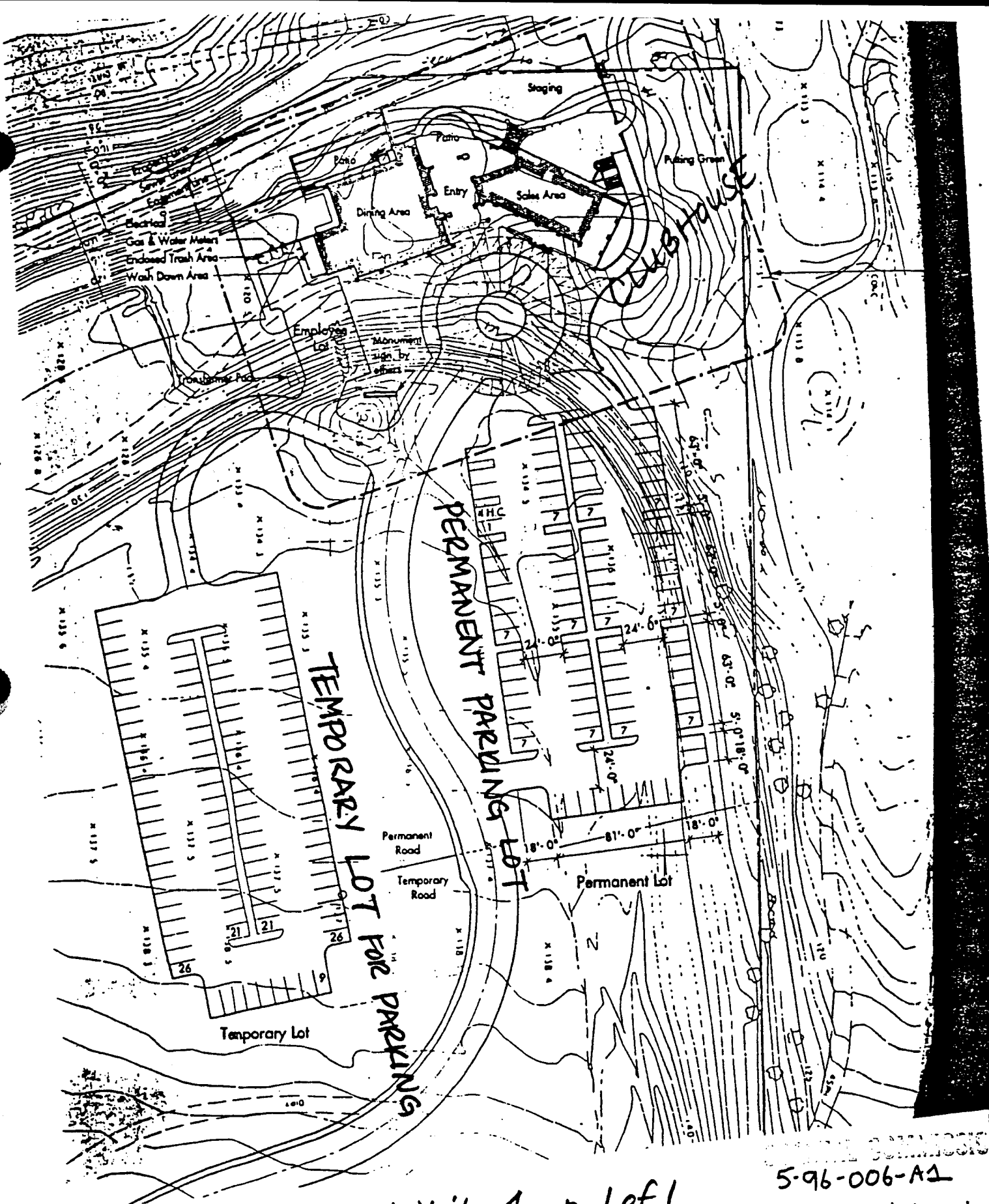


MAP DATE IDENTIFIER	
DATE OF LATEST CORRECTION TO THIS MAP	
06/16/99	BY: J.R.G.
DATE OF THIS MAP	
06/16/99	

HUNSAKER & ASSOCIATES
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TEMPORARY PARKING PLAN

MONARCH BEACH RESORT
TRACT NO. 14589



5-96-006 - Exhibit 4 p. 1 of 1
 Location of permanent + temporary parking lots 4
 AS APPROVED BY CDP 5-96-006.

5-96-006-A1

PAGE 1 OF 1

