

CALIFORNIA COASTAL COMMISSION

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 Hearing Date: October 10-13, 2000
 Commission Action:

**RECORD PACKET COPY****Item Wed 13b****STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-99-461

APPLICANT: Nick Herbert

PROJECT LOCATION: 226 Trafalgar Lane, San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a split-level 2-story, 3573 square foot single-family residence with an attached 608 square foot 3-car garage and 660 square feet of deck area on an existing vacant lot. The project also involves the installation of a caisson and grade beam foundation system. One hundred sixty (160) cubic yards of cut and 160 cubic yards of fill are proposed for site preparation.

LOCAL APPROVALS RECEIVED: Approval-in-Concept from the City of San Clemente Community Development Department dated September 20, 1999.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission **APPROVE** the proposed development with five (5) special conditions. The site is located adjacent to Trafalgar Canyon, one of seven coastal canyons in San Clemente identified as containing environmentally sensitive habitat. Primary issues include assurance that the proposed development is consistent with the geologic hazard policies of the Coastal Act, as well as assuring that the development is consistent with protection of environmentally sensitive habitat areas (ESHA). The proposed development conforms to the canyon setback policies in the certified LUP, as development will be sited in accordance with house and deck/patio stringlines drawn between the nearest corners of the adjacent structures.

Special Condition 1 requires the applicant to submit plans that show evidence of conformance with geotechnical recommendations, including those regarding site preparation, foundation design, and drainage. Special Condition 2 requires submittal of a revised landscape plan to ensure use of native plant species for all in-ground plantings and restrict any in-ground irrigation. Special Condition 3 requires submittal of a revised drainage and runoff control plan. Special Condition 4 requires the recordation of an assumption of risk deed restriction. Special Condition 5 requires the applicant to record a deed restriction, which ensures that the applicant and future landowners are aware that future development requires a coastal development permit.

SUBSTANTIVE FILE DOCUMENTS:

City of San Clemente Certified Land Use Plan; Coastal Development Permits 5-99-380 (Beck); 5-99-385 (Reddington); 5-98-106 (Wachtler); 5-93-337-G (City of San Clemente); 5-93-337 (City of San Clemente); *Preliminary Geotechnical Investigation for Proposed Residence on a Vacant Parcel at 226 Trafalgar Lane, San Clemente, California (Lot 7, Block 12, Tract 822) prepared by William R. Munson, Inc. and Lotus Consulting Engineers, Inc (Lotus Project #99845) dated February 28, 2000.*

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with conditions.

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-99-461 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Conformance of Design and Construction Plans To Geotechnical Recommendations

- A. The applicant shall comply with all recommendations contained in the *Preliminary Geotechnical Investigation for Proposed Residence on a Vacant Parcel at 226 Trafalgar Lane, San Clemente, California (Lot 7, Block 12, Tract 822) prepared by William R. Munson, Inc. and Lotus Consulting Engineers, Inc (Lotus Project #99845) dated February 28, 2000.*
- B. The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Revised Landscape Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a revised Landscape Plan which demonstrates the following:
 - (a) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;
 - (b) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
 - (c) Landscaped areas in the canyon-facing (southern and western) yard areas not occupied by hardscape shall be planted and maintained for erosion control and native habitat enhancement purposes. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent existing native plant areas, all landscaping shall consist of native, drought resistant plants. Invasive, non-indigenous plant species that tend to supplant native species shall not be used;

- (d) Landscaped areas in the courtyard and northern yard areas can include ornamental or native, drought-tolerant plants. Vegetation installed in the ground shall consist of native, drought tolerant plants. Other vegetation which is placed in above-ground pots or planters or boxes may be non-invasive, non-native ornamental plants. Non-native, non-drought tolerant ground covers shall not be placed on the site;
 - (e) The rear slope shall be landscaped to adequately screen the above-ground drainage system (i.e. slope drainpipe);
 - (f) No in-ground irrigation systems shall be installed on the site. Temporary above ground irrigation is allowed to establish plantings.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Revised Drainage and Runoff Control Plan

- A. The applicant shall submit a revised Grading (and Drainage) Plan which complies with all recommendations contained in the *Preliminary Geotechnical Investigation for Proposed Residence on a Vacant Parcel at 226 Trafalgar Lane, San Clemente, California (Lot 7, Block 12, Tract 822) prepared by William R. Munson, Inc. and Lotus Consulting Engineers, Inc (Lotus Project #99845) dated February 28, 2000*. In addition, the Grading Plan must demonstrate compliance with the following provisions:
- (a) Run-off from all roofs, patios, driveways and other impervious surfaces on the site shall be collected and discharged via pipe or other non-erosive conveyance to the frontage street to avoid ponding or erosion either on or off site;
 - (b) Run-off from the rear yard shall be collected and conveyed in a non-erosive manner to an energy dissipater at the canyon bottom;
 - (c) The slope drainpipe shall be placed on the slope surface;
 - (d) The functionality of the approved drainage and runoff control plan shall be maintained throughout the life of the development.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Assumption-of-Risk, Waiver of Liability, and Indemnity Deed Restriction

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards such as erosion and landslides-- specifically, the effects of expansive soils, slope creep and lateral fill extension; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. Future Development Deed Restriction

- A. This permit is only for the development described in Coastal Development Permit No. 5-99-461. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the single family house authorized by this permit, including, but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-99-461 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development within the parcel. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The proposed development is located at 226 Trafalgar Lane in the City of San Clemente, Orange County (Exhibits 1 & 2). The project site is located along the eastern portion of Trafalgar Canyon, which is identified in the City of San Clemente Certified Land Use Plan (LUP) as one of seven environmentally sensitive coastal canyon habitat areas (Exhibit 3). The surrounding development consists of low-density single-family residences. The project site is located inland, approximately one-half mile from the beach. The site is a vacant rectangular parcel with a gently sloping split-level pad at street level and a more steeply sloping rear portion extending into Trafalgar Canyon.

The canyon depth at this location is approximately 60-feet relative to the lower pad elevation. The applicant's property extends to an estimated 10 feet above the existing canyon bottom. (Note: In the 1970s, a 72" storm drain culvert (pipe) was constructed in the canyon bottom and the bottom was raised several feet with compacted backfill. The work resulted in a side-to-side flat canyon bottom, which included covered manholes and catch basins to collect surface runoff. This issue will be discussed further in Section C, Geologic Stability.)

The proposed development consists of the construction of a split-level 2-story, 3573 square foot single-family residence with an attached 608 square foot 3-car garage and 660 square feet of deck area on an existing vacant lot adjacent to Trafalgar Canyon (Exhibit 4). The project also involves the installation of a caisson and grade beam foundation system. Approximately 160 cubic yards of cut and 160 cubic yards of fill are proposed for site preparation. There is no existing native vegetation on the proposed building pad; however, native species exist on the adjacent slope and canyon bottom.

B. PRIOR COMMISSION ACTION IN THE SUBJECT AREA

On June 10, 1998, the Commission approved Coastal Development Permit 5-98-106 (Wachtler) for the construction of a 2077 square foot single-family residence with a three-car 628 square foot garage and 863 square feet of exterior deck at 222 Trafalgar Lane, two lots north of the subject lot. The project also included less than 50 cubic yards of cut. The permit included special conditions that required conformance with geotechnical recommendations, submittal of a drainage plan and rear-yard landscaping plan, identification of excess dirt disposal site, and recordation of a future improvements deed restriction.

C. GEOLOGIC STABILITY

1. Coastal Act Policies

Section 30253 of the Coastal Act states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

2. Project Site Geotechnical Report

The applicant submitted a geotechnical report dated February 28, 2000 prepared by William R. Munson, Inc. and Lotus Consulting Engineers, Inc. The geotechnical investigation consisted of: on-site reconnaissance, subsurface exploration, soil sampling and laboratory testing. The report includes an appendix entitled "*Risk Reduction: Guidelines for Site Drainage, Maintenance, Monitoring, Etc.*" that provides general guidelines for protecting property terrain and structures. The applicant's consultants also submitted a supplemental Slope Stability Analysis dated July 18, 2000 at the request of Commission technical staff.

The front 70 feet (\pm) of the site terrain is a gently sloping split-level pad, which transitions to a descending 3H:1V to 1H:1V slope that forms the easterly side of the canyon (Exhibit 4). As referred to previously, a 72" diameter storm drain culvert (pipe) was constructed along the bottom of Trafalgar Canyon seaward of Ola Vista in the 1970s (pre-coastal development). The canyon bottom was raised several feet with compacted backfill. The work resulted in a side-to-side flat canyon bottom, which included covered manholes and catch basins to collect surface runoff. Runoff from the rear portion of the subject site currently drains to the Trafalgar Canyon culvert.

Following the severe winter rains of 1993, the Executive Director approved an Emergency Permit and the Commission approved a follow-up permit for the removal and replacement of a catch basin and storm drain pipe in the subject area. The existing drainage pipe had broken and stormwater runoff was eroding the slope. The follow-up permit included landscaping with native plants. The subject area has remained stable since completion of the City's project.

The geotechnical investigation states that the site terrain of the subject lot is considered to be substantially natural (i.e. minimal artificial fill). However, undocumented placement of fill on the upper pad may have occurred during construction of Trafalgar Lane and/or surrounding residential development. The investigation states that the site has low to nil liquefaction potential and is not known to be transected by an active fault.

Nonetheless, the consultant's investigation finds that the site terrain exhibits evidence of landslide deposits in the rear half (\pm). The upper extent of the inferred landslide approximately corresponds with the designated top of the canyon slope.

The applicant's consultant concludes, "*the site terrain exhibits no evidence of active landslide or other deep seated movement. However, active surficial (i.e. shallow) slope instability appears to be limited to slope creep, and to related movement associated with expansive soil activity (i.e. lateral expansion or soil stretching).*" As such, the consultant recommends that the portion of the dwelling within 20 feet of the top of the canyon slope, including the proposed decks, be supported on a caisson-grade beam system. The applicant has incorporated this recommendation into the design of the proposed residence, as discussed in the following section.

The geotechnical report also provides recommendations regarding earthwork grading, foundation design, hardscape improvements, drainage and landscaping. Appendix A of the geotechnical report includes further guidelines for "Risk Reduction." In particular, the guidelines discuss yard drainage, roof drainage, drainage maintenance and monitoring, retaining walls, landscaping, landscape irrigation, grading, utility line protective measures and weatherizing.

With proper site preparation, structural design and drainage, the site is deemed suitable for development by the applicant's geotechnical consultant. The report concludes that the proposed project *"is opined to be feasible within our purview of geotechnical engineering and engineering geology, provided: The recommendations hereinafter are implemented in the project designs, construction, and subsequent maintenance; the finalized project plans are made available for our geotechnical review prior to permit issuance; and the property owner and project contractors comply with all requirements of the City, State and County authorities."* (Recommendations are discussed in the subsequent section.)

3. Project Analysis/Special Conditions

Section 30253(2) of the Coastal Act states that new development shall assure stability and structural integrity and shall not contribute to erosion, geologic instability or destruction of the site or require the construction of protective devices which would substantially alter natural landforms.

The geotechnical consultant concludes that the construction of the proposed residence is feasible provided the applicant complies with the recommendations of the geotechnical report. The geotechnical report describes the structural requirements for the proposed residence, as well as the proposed drainage system. Specifically, the report contains the following recommendation regarding the structural design of the proposed residence:

"The portion of the dwelling within 20 feet of the top of the canyon slope, including the proposed decks, will be required to be supported on a caisson-grade beam system owing to the potential ground movements by slope creep-related phenomena, and the close proximity of an inferred old or ancient landslide."

The applicant has incorporated this recommendation into their design, as shown on the Structural Foundation Plan (Exhibit 4, page 9). The foundation system includes a caisson and grade beam system with a total of twenty-one (21) caissons extending to a maximum depth of 25' along the canyon edge (minimum 5' embedment into bedrock).

The geotechnical report includes the following recommendations regarding site drainage and irrigation (in pertinent part):

"3.2 All draining runoff from the building roof, and from yard areas and flatwork of the upper pad, should be directed away from structural improvements and to the street in an efficient and nonerosive manner; and be subsequently maintained so.

3.3 Drainage runoff from concrete flatwork and unpaved yard areas on the lower pad should be efficiently collected and directed to a catch basin/drainpipe system at the top of the canyon slope, and conducted to the canyon bottom via the

drainpipe, where it should debouch onto a concreted rock rip-rap energy dissipator.

- 3.4 *The slope drainpipe should be placed on the slope surface (trenching on the slope is not recommended), where it should be properly secured to resist most of the effects of ground movement by slope creep and deformation...*
4. *...Irrigation should be applied at minimal rates for healthy growth. Long duration watering and saturation should be avoided to maintain ground and foundation integrity; and automatic sprinkler systems are not recommended, unless closely monitored and maintained."*

The applicant has submitted a Precise Grading Plan prepared by Toal Engineering which identifies the proposed drainage system. As shown on the plan, all roofs will be guttered and the downdrains will be connected to the existing storm drain system. In addition, the rear yard surface runoff will be collected and conveyed to a drainage outlet/spreader at the applicant's property line, near the canyon bottom. This drainpipe is proposed to be buried beneath the surface of the canyon slope.

This drainage plan is inconsistent with the consultant's recommendation that the slope drainpipe be placed on the slope surface (not beneath) and that the drainage be carried to the base of the canyon. As stated by the Commission's Senior Geologist,

"...This has the potential to introduce water into the slope on a mapped landslide, with the potential for reactivating it. Trenching through the slide, as proposed by the precision grading plan, is specifically warned against in the geotechnical report. Accordingly, I recommend that the permit be conditioned such that all recommendations of the geotechnical report be adhered to. Specifically, rear yard drainage should be carried to the base of the canyon by an above-ground drainage pipe and discharged either through an energy dissipater to the base of the canyon or through a junction box into the storm drain system at the base of the canyon."

Commission staff has discussed the discrepancy with the applicant and the applicant has agreed to modify the project plans to be in conformance with the geotechnical consultant's recommendations. The applicant's agent submitted a letter dated September 20, 2000 agreeing to accept the recommendation to convey runoff to an energy dispersion device at the base of the canyon (beyond their property line) or into the City's existing storm drain system (Exhibit 5). Additionally, the agent agrees to install an above-ground drainage and irrigation system. At the time of this staff report, the issue of permanent in-ground irrigation had not yet been resolved.

Special Condition 1 (Conformance with Geotechnical Recommendations)

With exception of the drainage plan inconsistency mentioned above, the proposed development conforms to the recommendations contained in the geotechnical investigation. The proposed residence complies with the existing structural and deck stringlines, in accordance with requirements set forth in the City LUP. Based on the conclusions presented in the geotechnical report as reviewed by the Commission's technical staff, the City's setback is found to be adequate for the proposed development so long as the structural requirements set forth in the geotechnical investigation are adhered to.

Since the recommendations provided by the geotechnical consultant include measures to mitigate any adverse geologic effects, the Commission finds that Special Condition 1 ensures that the consulting geotechnical expert has reviewed the development plans and verified their conformance with the geotechnical recommendations. As such, Special Condition 1 guarantees that the development plan is consistent with Section 30253 of the Coastal Act.

Special Condition 2 (Revised Landscape Plan)

The applicant has submitted a landscaping plan that has been designed to minimize the amount of irrigation necessary. This has been accomplished by utilizing native, drought tolerant plant material on the portions of the lot adjacent to the canyon. The landscape plan identifies three planting zones. Zone 1 consists of the canyon slope and is to remain undisturbed and non-irrigated. Zone 2 occupies the rear yard and side yard areas and is considered the "Coastal Sage Scrub Transition." Temporary on-grade irrigation system with drip emitters are proposed for plant establishment in this area. Zone 3 is the front yard, which will consist of ornamental, drought tolerant plantings with an in-ground irrigation system, automatic low flow pop-up spray heads and bubblers. The applicant's plan is consistent with the recommendations contained in the geotechnical report, but inconsistent with the Commission's standard practice regarding irrigation on lots demonstrating slope instability (in this case, the mapped landslide). To ensure that the project does not contribute to slope instability, the Commission imposes Special Condition 2, which requires the submittal of a revised final landscaping plan which demonstrates that no permanent in-ground irrigation is included.

Breaks and leaks in in-ground irrigation systems have been associated with slope failures in canyon and bluff areas of San Clemente (5-98-181, 5-98-143, 5-93-304, and 5-93-217). Irrigation of lawns and other non-native, non-drought tolerant in-ground plantings is estimated to add the equivalent of 60 to 300 inches of rainfall per year. *[Irrigation figure disclosed at a lecture given to Coastal Commission staff in Ventura on January 30, 1995 by James E. Slosson, Professor Emeritus of Geology, Los Angeles Valley College, head of the geologic consulting firm of Slosson & Associates.]* Therefore, the Commission imposes Special Condition 2, which requires that only native, drought tolerant plant species may be planted in the ground and that no in-ground irrigation systems may be installed on the project site. Special Condition 2 allows non-native, non-invasive ornamental plants to be utilized in above-ground pots and planters and does allow the use of temporary irrigation systems to help plantings establish. This condition also requires the applicant to utilize native, drought tolerant plant species. In addition, the condition requires that any above-ground drainpipes be screened with vegetation, thereby mitigating any adverse visual impacts. Lastly, Special Condition 2 requires that the plantings be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.

Special Condition 3 (Revised Grading and Drainage Plan)

Since the manner in which the site drains is important to site stability, a revised Grading Plan must be submitted which document how site drainage will be accomplished in accordance with the geotechnical recommendations. Special Condition 3 notifies the applicant that rooftop runoff must be taken to the street, and runoff from impervious surfaces and the rear yard must be conveyed above-ground to the canyon bottom in a non-erosive manner. Special Condition 3 also requires that drainage devices must be maintained throughout the life of the development.

Special Condition 4 (Assumption of Risk Deed Restriction)

As noted above, the geotechnical report provides recommendations regarding site drainage. These recommendations are provided by the geologist in order to avoid any adverse effects that site drainage may have upon site stability. For instance, improper site drainage could cause the area subject to slope creep identified by the geologist to activate and cause damage to the structure. The geologist's recommendations regarding site drainage are designed to avoid such adverse effects and must be incorporated into the proposed project.

Although the proposed project will be constructed with geotechnical approval, risk from development on a coastal canyon is not eliminated entirely. While the project is deemed entirely adequate at this time to minimize any potential hazard, future protection and repair may be required as subsurface conditions continue to change. Therefore, the standard waiver of liability condition has been attached through Special Condition 4. By this means, the applicant is notified that the residence is being built in an area that is potentially subject to geologic hazard that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. Finally, recordation of the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity for liability.

Special Condition 5 (Future Improvements Deed Restriction)

Finally, in order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability concerns expressed in this staff report, the Commission finds that the applicant shall comply with Special Condition 5, a future development deed restriction. This deed restriction will ensure that the applicant and all successors and assigns are aware that a coastal development permit is required for development at the site. This includes landscaping and structural improvements that may otherwise be exempt from Commission review.

4. Conclusion/Project Consistency with Coastal Act

The Commission has found that, in order to assure that the proposed development minimizes risks to life and property in areas of high geologic hazard and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, the applicant shall be conditioned to: 1) conform to recommendations prepared by geotechnical consultants, William R. Munson and Lotus Consulting Engineers, Inc.; 2) submit a revised Landscape Plan; 3) submittal of a revised Grading Plan; 4) execute and record an assumption-of-risk deed restriction; and 5) execute and record a deed restriction regarding future improvements to the subject site. Only as conditioned does the Commission find that the proposed development is consistent with Section 30253 of the Coastal Act.

D. ENVIRONMENTALLY SENSITIVE HABITAT AREA

1. Coastal Act and Land Use Plan (LUP) Policies

Section 30240(b) of the Coastal Act states:

- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which*

would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

San Clemente's certified Land Use Plan (LUP) discusses the importance of coastal canyons and states:

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

Policy VII.12 of the certified LUP states:

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

Policy XV.13 of the certified LUP states:

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

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

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

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

The development setback shall be established depending on site characteristics.

2. Site Analysis

The proposed development is located adjacent to Trafalgar Canyon, one of seven coastal canyons designated as Environmentally Sensitive Habitat Area (ESHA) in the certified LUP. Trafalgar Canyon is located in the central portion of San Clemente, just south of the Municipal Pier. The proposed development is consistent with LUP canyon setback policy "c" above, in that the proposed development is set back in accordance with the house and deck stringlines drawn between the nearest corners of the adjacent structures.

Setback policy "a" was not applied due to the narrowness of the buildable pad and setback requirements from the frontage road. The use of a 15' setback would unduly restrict the allowable footprint of the structure. As such, the applicant is proposing to apply the stringline

policy. Commission technical staff has deemed the setback acceptable based on the geotechnical information provided by the applicant.

Additionally, there is no definitive "line of native vegetation" on the subject site, as only sparse vegetation exists along the sloping portion of the lot. As such, setback policy "b" can not be applied.

The existing building pad appears to have been cleared for weed abatement purposes. The canyon slope contains toyon bushes, lemonade berry and coastal quail bush. Existing vegetation along the slope will remain undisturbed. Vegetation in the adjacent canyon consists of a mixture of natives and exotics. The canyon itself is considered a degraded coastal canyon and the City LUP contains policies that encourage activities to improve its biological value. This includes the removal of non-native plants and the reestablishment of native plants where possible.

The landscape plan provided by the applicant show that the rear and side portions of the site will be landscaped with drought-tolerant native trees, shrubs, and groundcovers. This is in conformance with Special Condition 2, which requires that only native, drought-tolerant plants be installed on the canyon side of the property. However, the landscape plan submitted indicates that permanent in-ground irrigation is proposed in the front yard to support non-native ornamental species. As such, Special Condition 2 requires that the applicant submit a revised landscape plan to demonstrate that no in-ground irrigation is proposed on the entire site. This special condition also requires all planting consist of native, drought tolerant species.

3. Special Conditions

The previous section on geologic hazards includes findings to support the five (5) special conditions: conformance with geologic recommendations, submittal of a revised landscape plan, submittal of a revised grading and drainage plan, an assumption of risk deed restriction and a future development deed restriction. These conditions are necessary to ensure compliance with Section 30253 of the Coastal Act concerning prevention of erosion and promotion of geologic stability.

San Clemente's certified Land Use Plan (LUP) advocates the preservation of native vegetation and discourages the introduction of non-native vegetation. The coastal canyons act as open space and potential wildlife habitat as well as corridors for native fauna. Decreases in the amount of native vegetation due to displacement by non-native vegetation would result in an adverse impact upon habitat value of the canyons. Trafalgar Canyon has been designated by the City of San Clemente as an environmentally sensitive habitat area (ESHA).

Special Conditions 2, 3, and 5 ensure that the proposed development, which is adjacent to the canyon, does not have any significant adverse effect on the environmentally sensitive habitat area. Special Condition 2 requires that landscaping consist of native, drought tolerant species throughout the subject site. This ensures that non-native invasive species will not encroach into the adjacent canyon. Special Condition 3 requires that a revised drainage plan be submitted to ensure that all water intercepted by the proposed structure be conveyed in a non-erosive manner to the canyon bottom or the frontage street by the use of roof and area drains to reduce excessive runoff, erosion, and sedimentation. Special Condition 5, the future

development special condition, ensures that no development, including landscaping, takes place that would adversely impact the enhancement of Trafalgar Canyon as an environmentally sensitive habitat area.

4. Consistency with Section 30240 and Land Use Plan (LUP) Policies

The proposed development is adjacent to Trafalgar Canyon, which is identified in the City's certified LUP as an Environmentally Sensitive Habitat Area (ESHA). The special conditions of this staff report (future development and landscape plan) are designed to enhance Trafalgar Canyon as an environmentally sensitive habitat area. Therefore, as conditioned, the Commission finds that the proposed development is consistent with Section 30240(b) of the Coastal Act and the policies of the certified LUP.

E. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a local coastal program which conforms with Chapter 3 policies of the Coastal Act.

The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998 the Commission certified with suggested modifications the IP portion of the Local Coastal Program. The City did not accept the suggested modifications within six months and therefore the Commission's approval of the IP portion of the LCP is no longer effective. The Commission will consider the City's IP submittal at their October 2000 hearing.

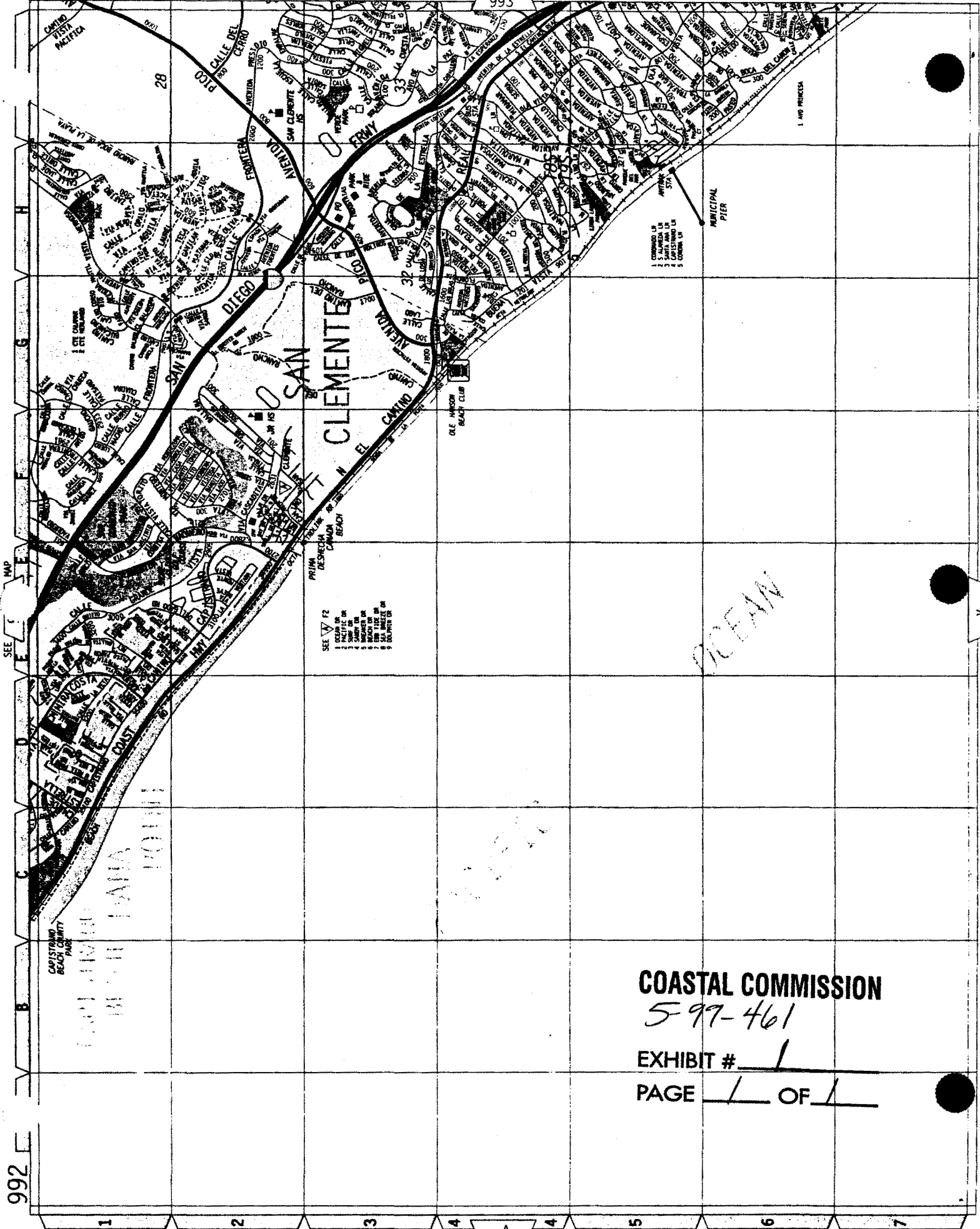
As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding enhancement of native vegetation and geological stability. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

F. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the geologic hazards and environmentally sensitive habitat policies of the Coastal Act. Mitigation measures, in the form of special conditions, require 1) conformance with geologic recommendations; 2) submittal of a revised landscaping plan; 3) submittal of a revised drainage and runoff plan; 4) recordation of a deed restriction regarding assumption of risk; and 5) recordation of a deed restriction regarding future development, will minimize all adverse

effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



COASTAL COMMISSION

599-461

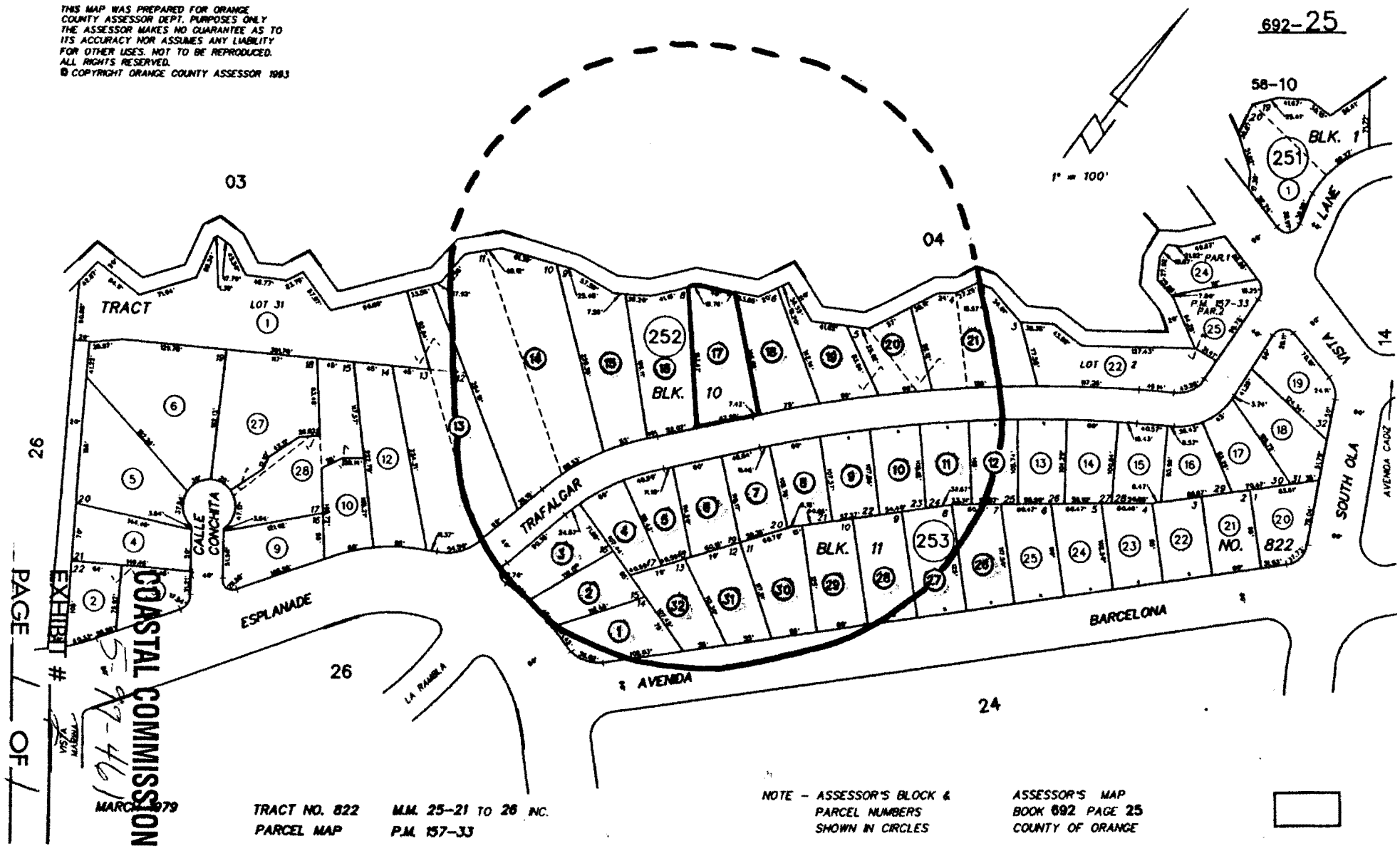
EXHIBIT # 1

PAGE 1 OF 1

992

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692-25



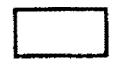
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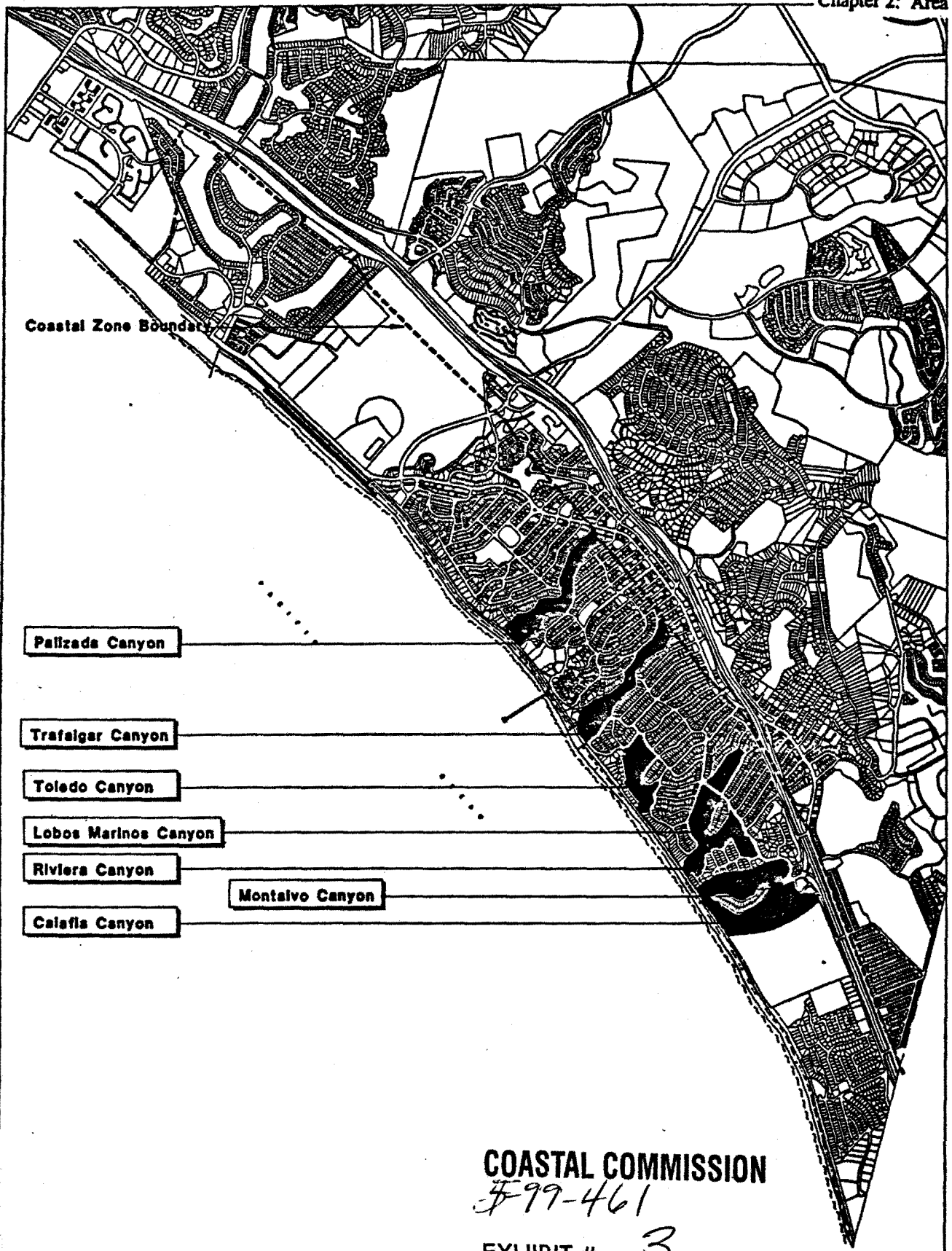
EXHIBIT # 5-97-46
 COASTAL COMMISSION
 MARCH 1979

TRACT NO. 822
 PARCEL MAP
 M.M. 25-21 TO 26 INC.
 P.M. 157-33

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

ASSESSOR'S MAP BOOK 692 PAGE 25 COUNTY OF ORANGE





COASTAL COMMISSION

F99-461

EXHIBIT # 3

PAGE 1 OF 1

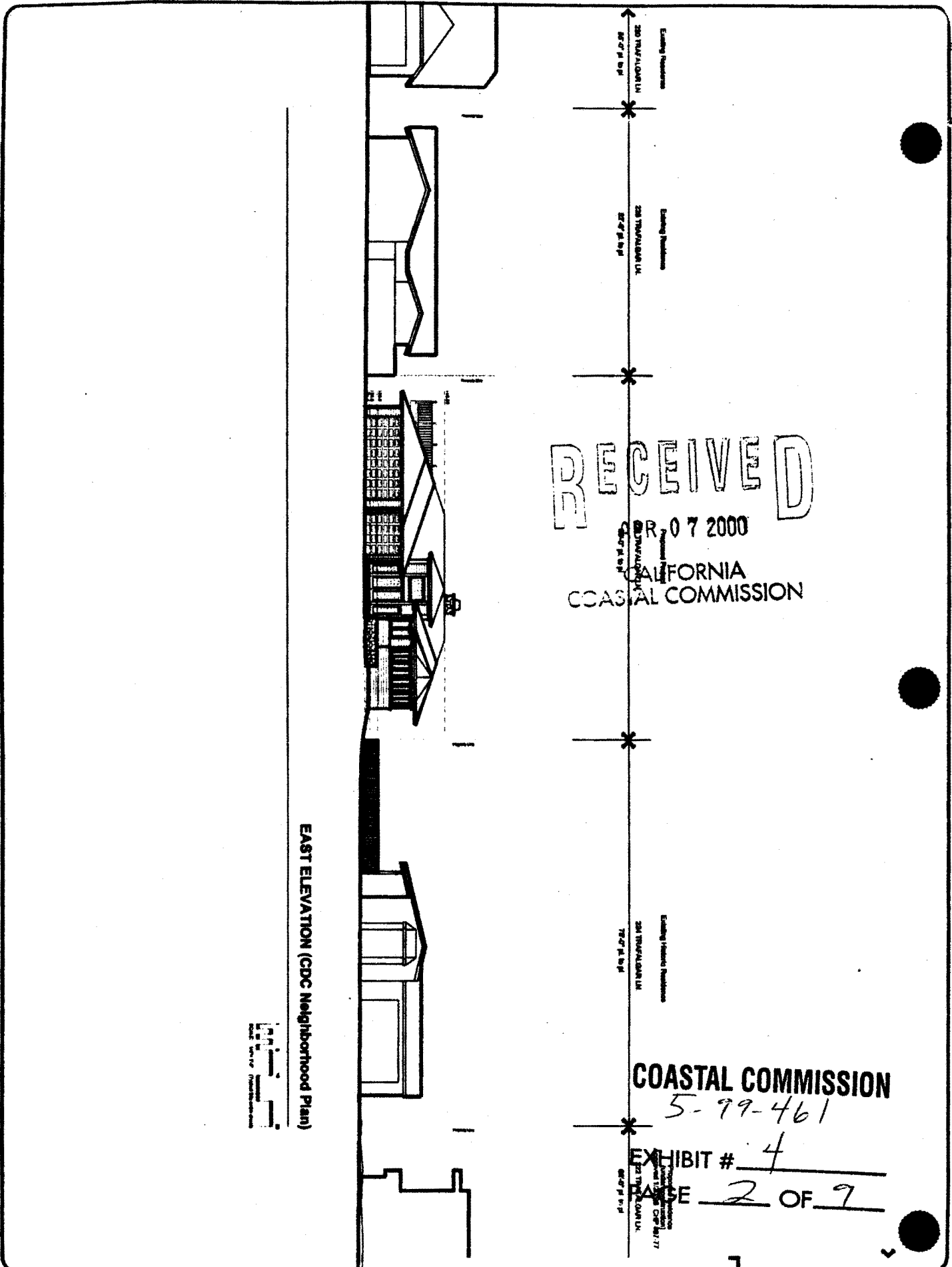


FIGURE 2-1



CITY OF SAN CLEMENTE

COASTAL CANYONS/ ENVIRONMENTALLY SENSITIVE HABITAT AREAS



EAST ELEVATION (CDC Neighborhood Plan)

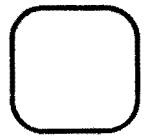
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 5-99-461

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A2
 SHEET NO.
 OF SHEETS



REVISIONS
 DATE: APR. 3, 1999
 DRAWN BY: J.M.J.

HERBERT RESIDENCE
 A CUSTOM HOME PROJECT
 226 THRAFLONG
 LOT # 7, BLOCK # 10, TRACT # 522
 SAN CLEMENTE, CA.

OWNERS:
 NICK and GINNY HERBERT
 35771 KILLARNEY LN
 SAN LUIS OBISPO, CALIF. 95051 443 5414

J. Michael Jones, Architect, A.I.A.
 24632 San Juan Ave., Dana Point, CA 92629
 Ph. (949) 661 0508 FAX (949) 661 0504
 California Architect License No. C-13782 Expires 08/1/99

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FIRST FLOOR PLAN

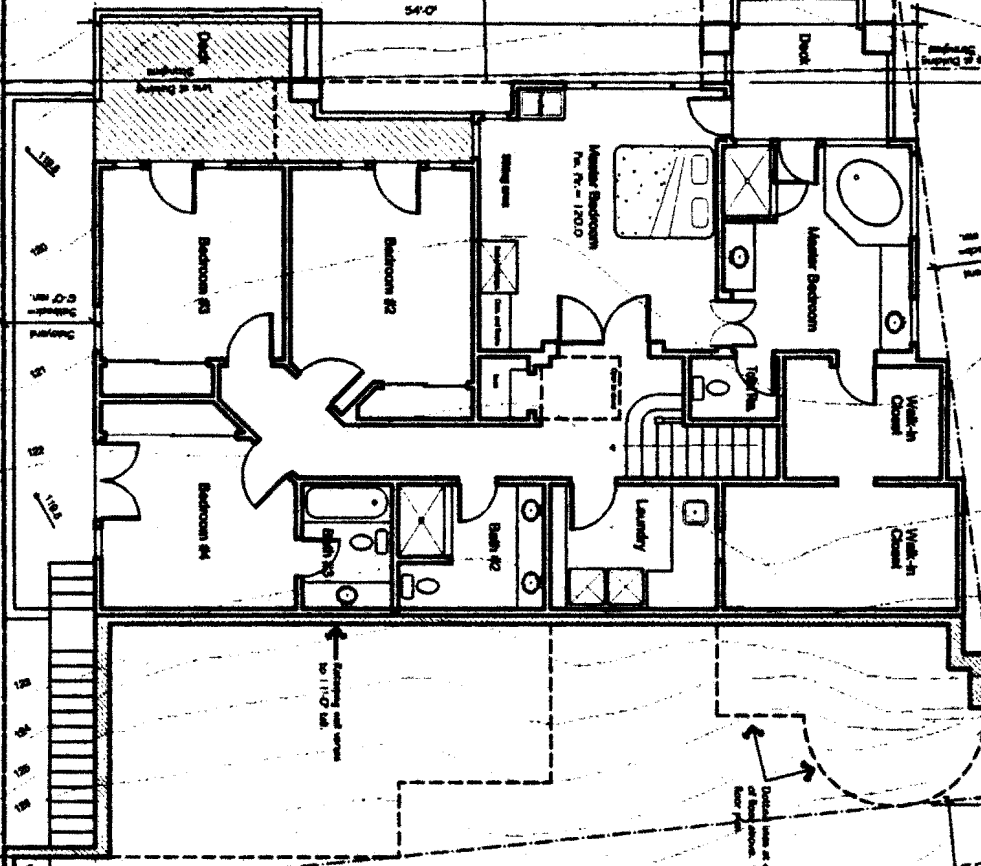
101

102

FIRST FLOOR SQUARE FOOTAGE - 1735 sq. ft.

LEGEND

- Heavy walls
- Masonry walls
- Insulation
- Concrete floor
- Property boundary line
- Property owner
- Room Name
- Room Number (See Deck Schedule)
- Door Number (See Door Schedule)
- Window Number (See Window Schedule)



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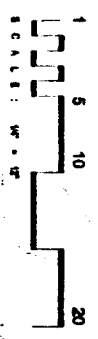
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HERBERT RESIDENCE

OWNERS:

J. Michael Jones, Architect, A.I.A.

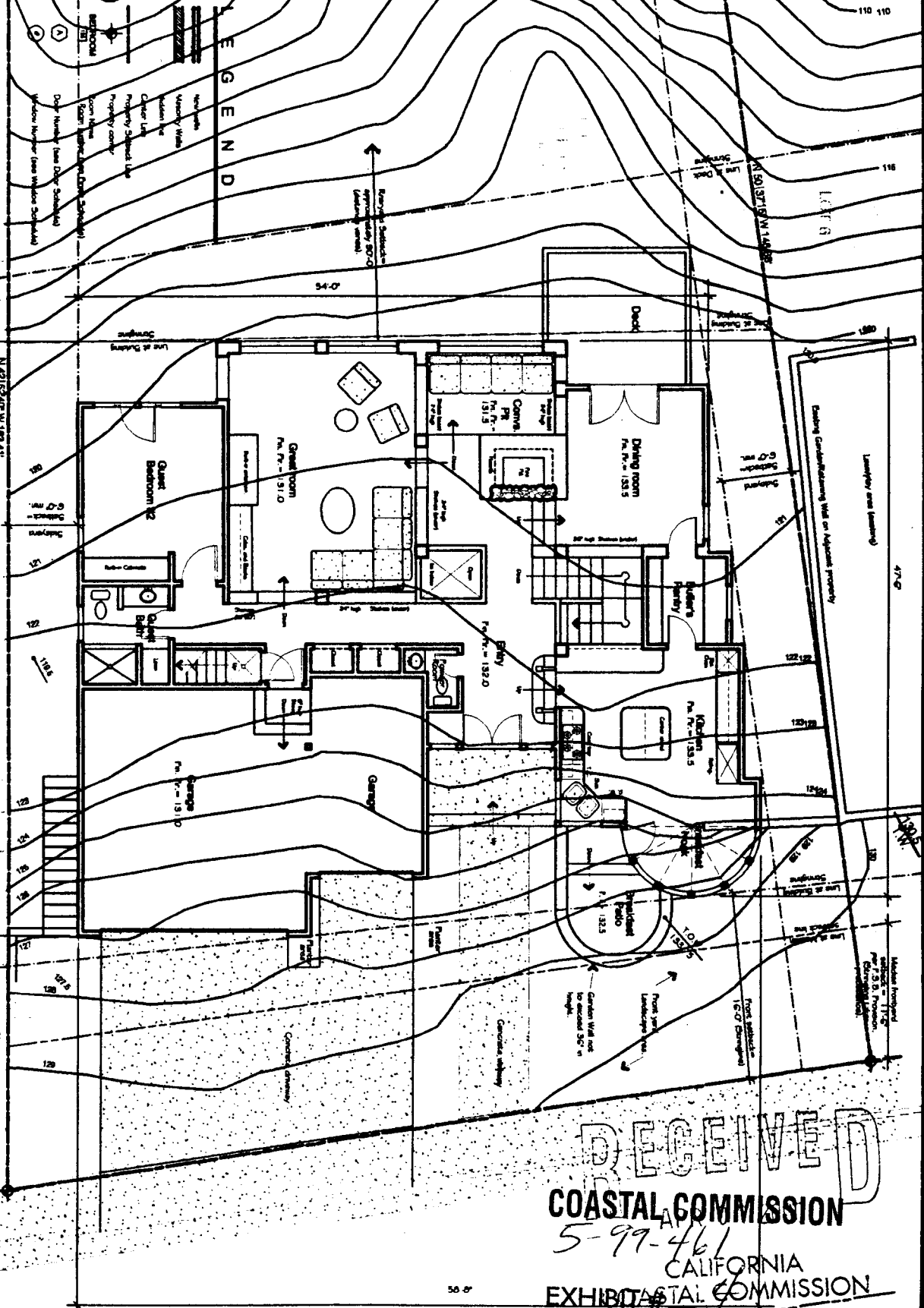


LOT # 8

SECOND (Street) LEVEL FLOOR PLAN

SECOND STREET LEVEL SQUARE FOOTAGE - 1606 SQ. FT.

1/8" = 1'-0"



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 CALIFORNIA
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A6
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 OF 10 SHEETS

DATE: 11/15/99

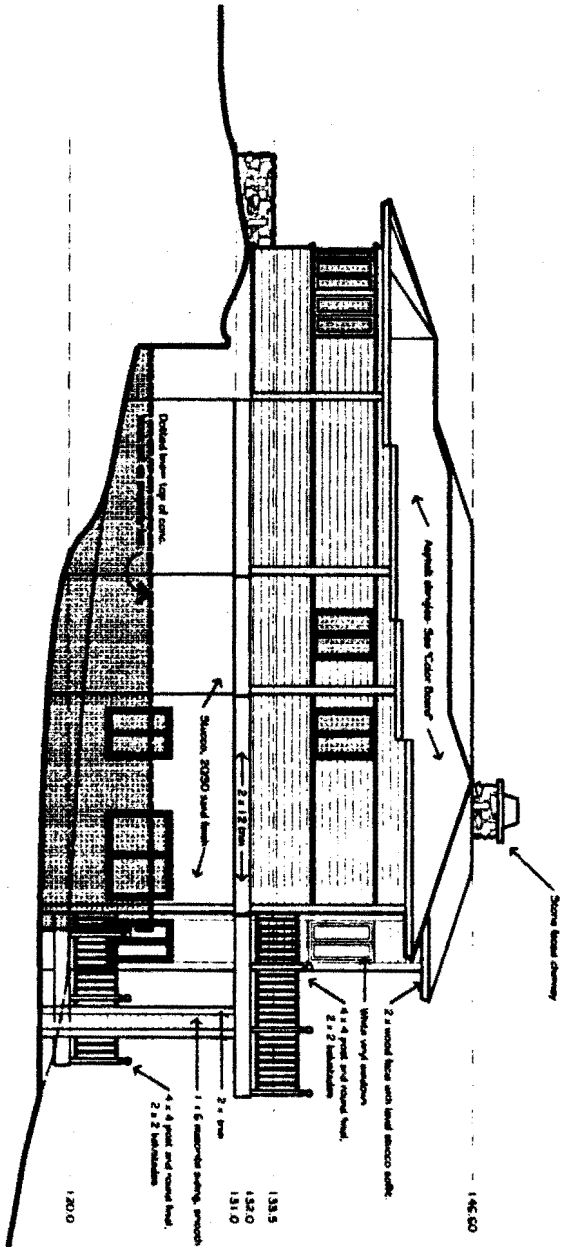
PROJECT DATE:
 11/15/99

HERBERT RESIDENCE
 A CUSTOM HOME PROJECT
 226 TRAFALGAR LN.
 LOT # 7, BLOCK # 10, TRAC # 022
 SAN CLEMENTE, CA.

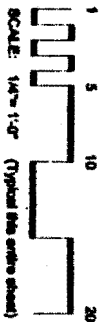
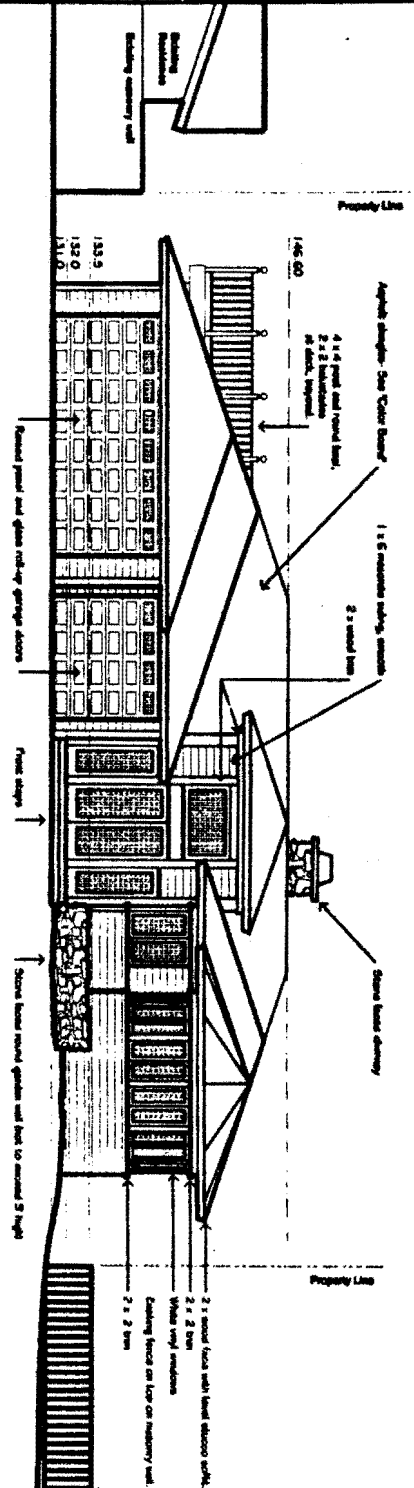
OWNERS:
 NICK and GINNY HERBERT
 33771 KILLARNEY LN.
 948 APR OPRBAND, CA 94079 (949) 445 5414

J. Michael Jones, Architect, A.A.A.
 24632 San Juan Ave., Dana Point, CA 92629
 Ph. (949) 661 0503 FAX (949) 661 0504
 Cellular: (949) 445 5414
 E-mail: jmj@jonesarch.com

NORTH ELEVATION



EAST ELEVATION



Approved Building by
 Coastal Commission
 Project No. 5-99-461

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5-99-461

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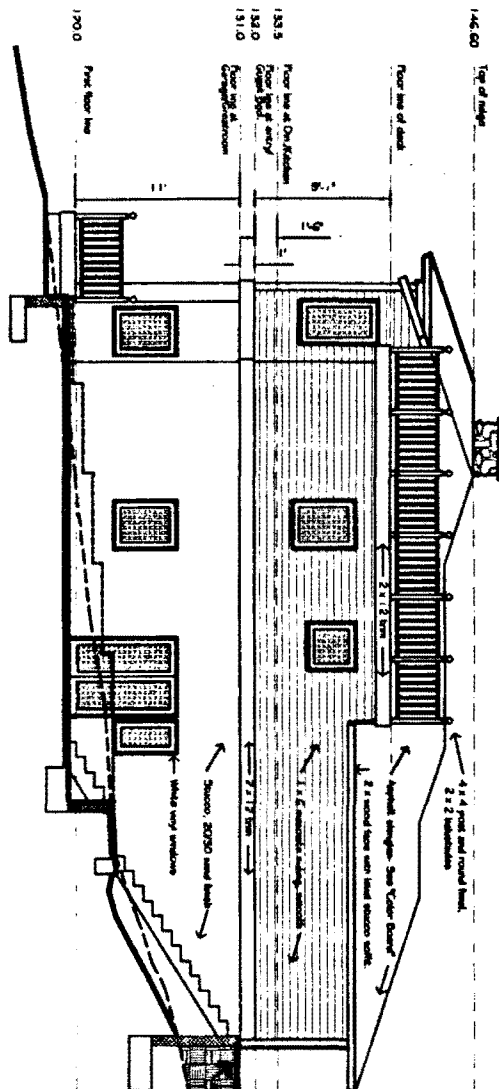
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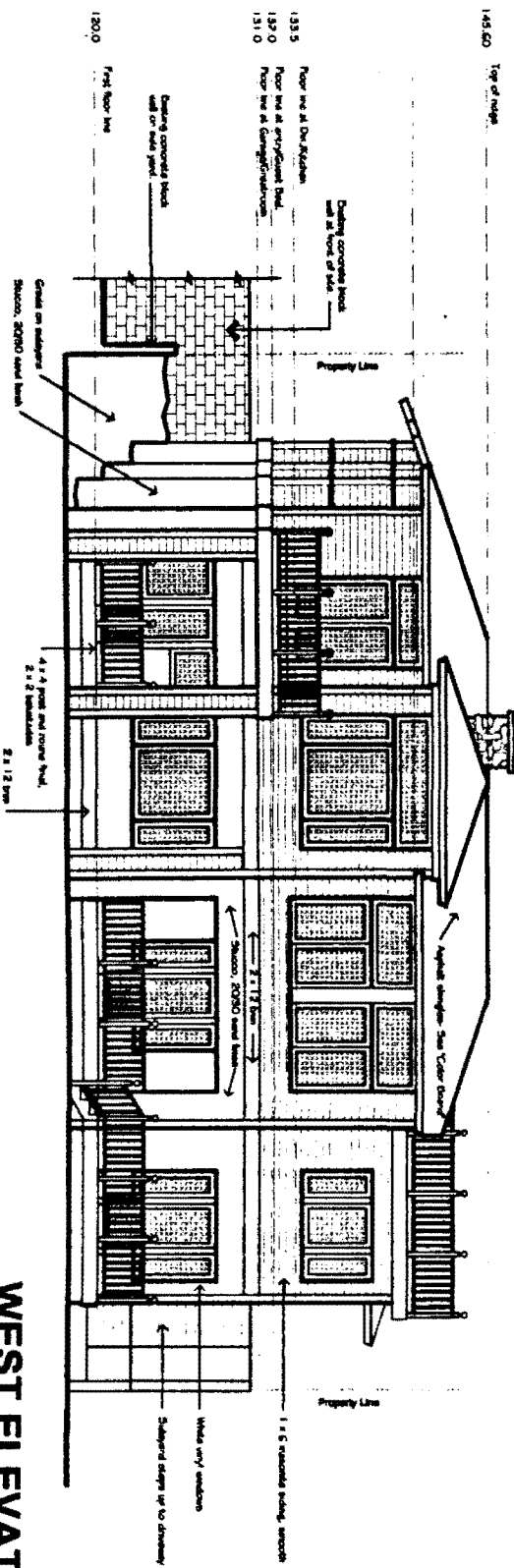
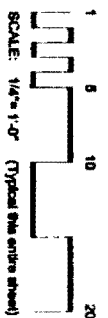
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<p>A8 <small>ARCHITECTURAL</small></p>	<p>PRINT DATE: APR. 15, 1999</p>	<p>HERBERT RESIDENCE A CUSTOM HOME PROJECT 226 TRAFALGAR LOT # 7, BLOCK # 10, TRACT # 877 SAN CLEMENTE, CA</p>	<p>OWNERS: NICK and GINNY HERBERT 5577 KILBURN LN SAN JUAN CAPISTRANO, CA 92675 (949) 442-2414</p>	<p>J. Michael Jones, Architect, A.I.A. 24637 San Juan Ave., Dana Point, CA 92629 Ph. (949) 661-0503 FAX (949) 66-0504 California Architect License No. C11920 Expires on 09-09</p>
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SOUTH ELEVATION



WEST ELEVATION

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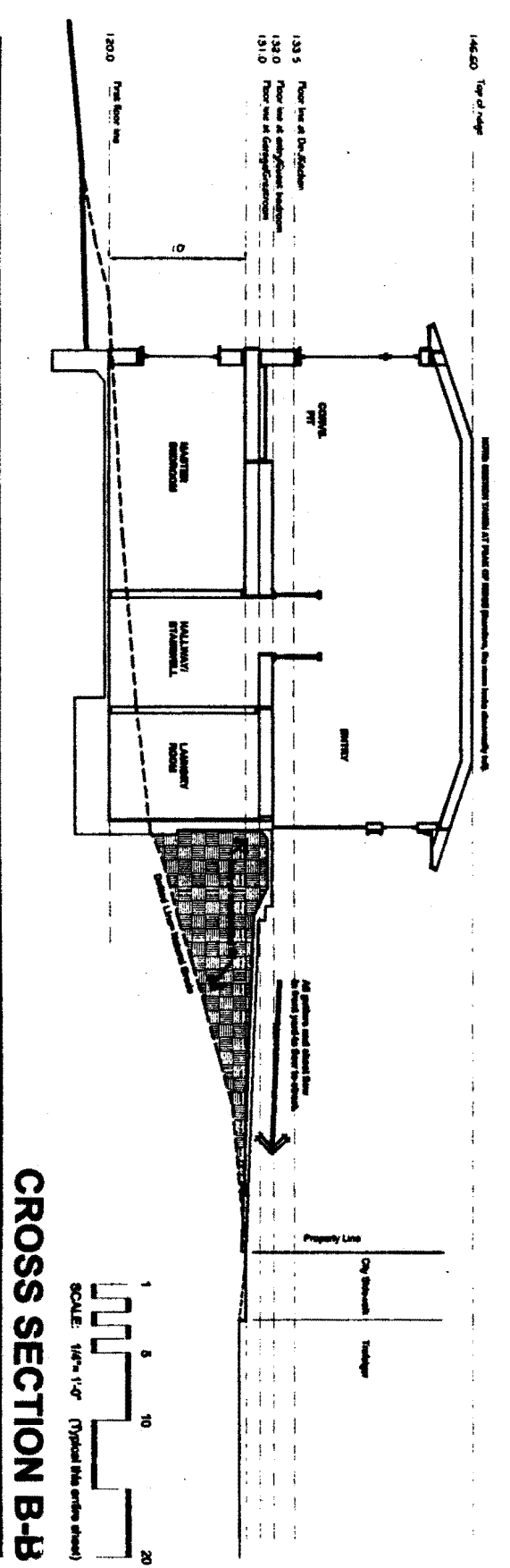
REVISIONS:

PRINT DATE:
APR 13, 1999

HERBERT RESIDENCE
A CUSTOM HOME PROJECT
226 TRAFALGAR
LOT #7, BLOCK # 3, TRAC # 822
SAN CLEMENTE, CA.

OWNERS:
NICK and GINNY HERBERT
33771 S. LARNEY LN.
SAN JUAN CAPISTRANO, CA 92675 (949) 443 5414

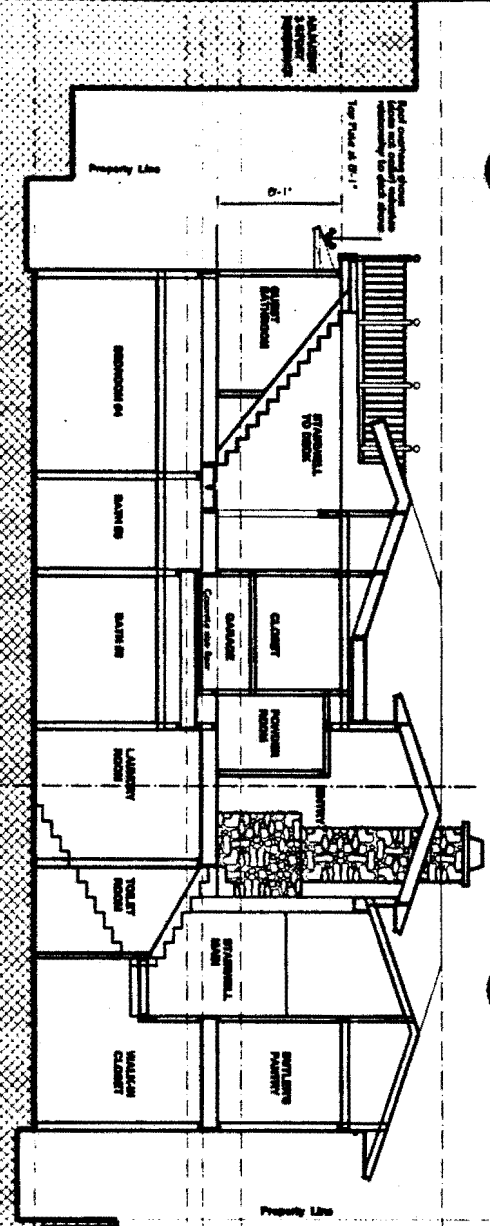
J. Michael Jones, Architect, A.L.A.
24632 San Juan Ave., Dana Point, CA 92629
Ph. (949) 661 0508 FAX (949) 661 0504
California Architect License No. C19780 Expires on 08/18/99



CROSS SECTION B-B

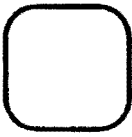
LONGITUDINAL SECTION A-A

Line at shift in
 Section cut line
 (See plan for location)



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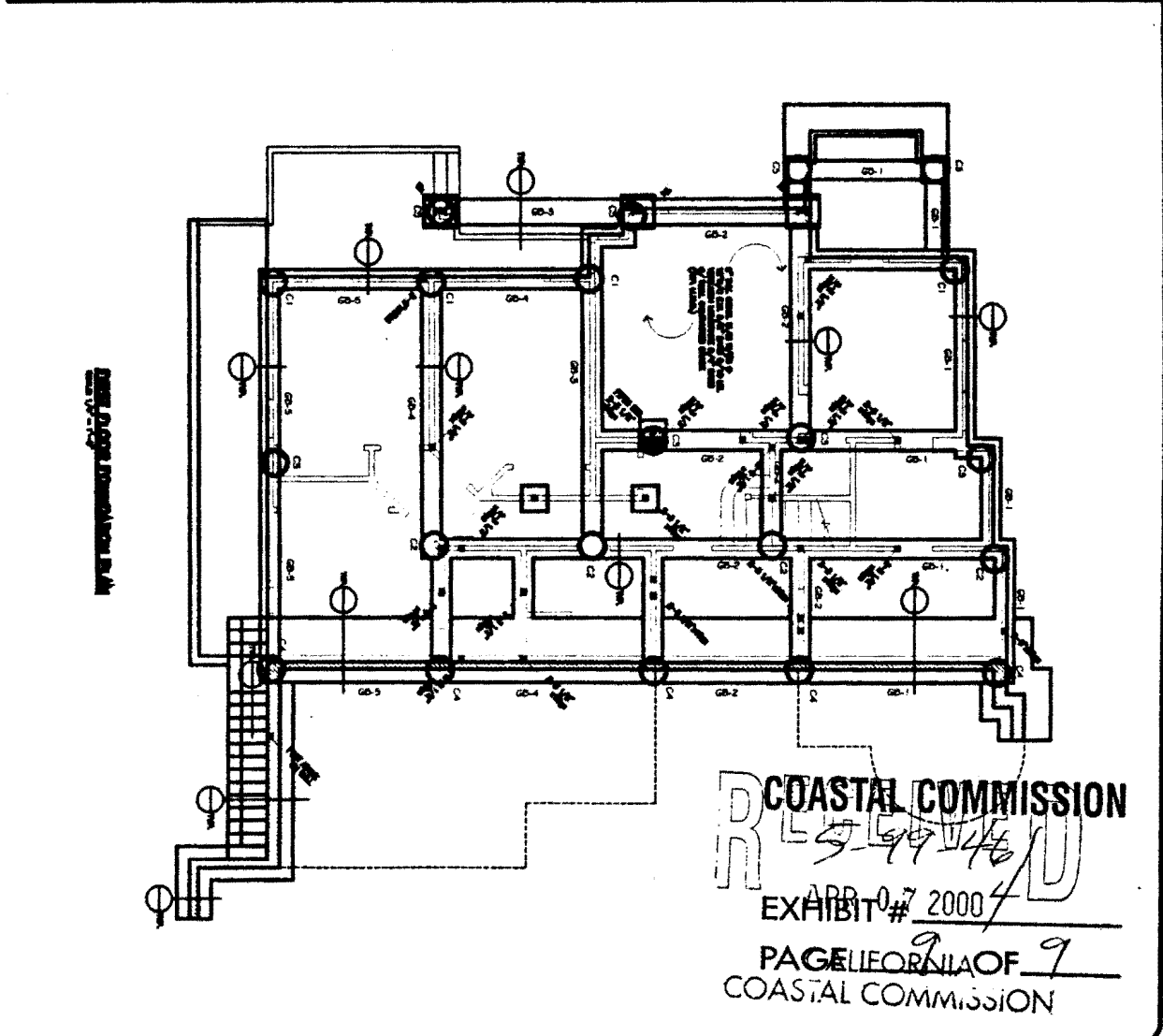
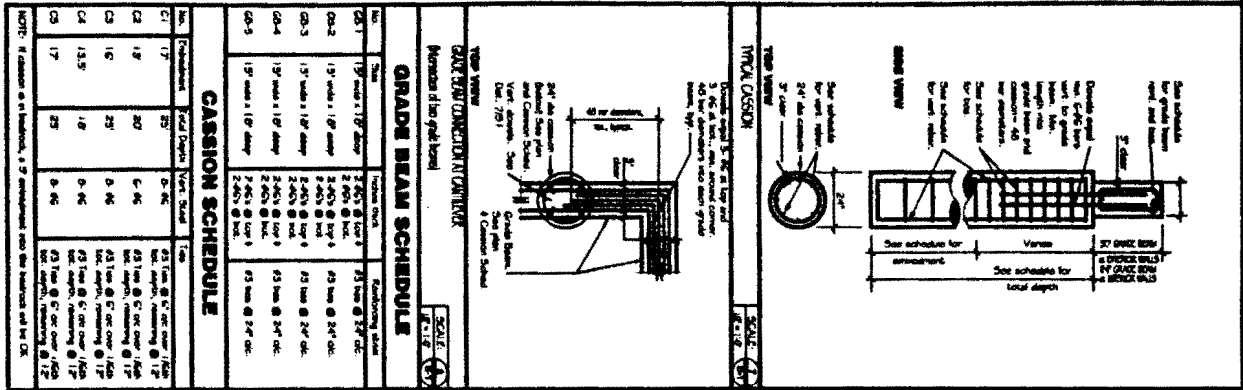


PROJECT DATE:	APR. 13, 1999
ARCHITECT:	J. MICHAEL JONES, ARCHITECT, A.I.A.

HERBERT RESIDENCE
 A CUSTOM HOME PROJECT
 225 "VALGAR"
 LOT 47, BLOCK # 10, TRACT # 822
 SAN CLEMENTE, CA.

OWNERS:
 NICK and GINNY HERBERT
 38771 KILBURN LN.
 92646 CA 92679 (949) 442 3414

J. Michael Jones, Architect, A.I.A.
 24632 San Juan Ave., Dana Point, CA 92629
 Ph. (949) 661 0500 FAX (949) 661 0504
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COASTAL COMMISSION
 5-99-46
 APR 07 2000
 EXHIBIT # 2000
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S1
 SHEET NO.
 12

PROJECT DATE:
 REVISIONS:
 1
 2
 3

HERBERT RESIDENCE
 A CUSTOM HOME PROJECT
 226 TRAPGAR LN
 LOT # 7, BLOCK # 10, TRACT # 522
 SAN CLEMENTE, CA

OWNERS:
 NICK and GINNY HERBERT
 5377 S. KILPATRICK LN.
 SAN JUAN CAPISTRANO, CA 92675 (949) 443-3414

J. Michael Jones, Architect, A.L.A.
 24632 San Juan Ave., Dana Point, CA 92629
 PH. (949) 661-0506 FAX (949) 66-0504
Continued from sheet No. C-1752 Issues to 08-99

J. Michael Jones, Architect, A.I.A.

ARCHITECTURE AND PLANNING

September 20, 2000

TO: California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Attn.: Anne L. Kramer
Coastal Program Analyst

RE: Coastal Development Permit Application No. 5-99-461
226 Trafalgar Lane, San Clemente, (Orange County).

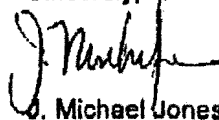
Dear Ms. Kramer

I spoke with Mr. Nick Herbert today. He informed me that he has spoken with both Lesley Ewing, Sr. Coastal Engineer and yourself and, if he understand the situation correctly, the geotechnical concerns have been successful mitigated, and that only two minor points remain. Those two points are:

1. The Energy Dispersion Device design by Toal Engineering, the Civil Engineer, outlets on the slope face. This has been determined to not be an acceptable location. It is recommended to continue the drain to the bottom of the canyon and outlet either in the existing 60" storm drain or place the Energy Dispersion Device at the bottom of the canyon. Either of these two solutions is acceptable to us. We will check with the City of San Clemente to see if they have a preference. Please note that we accept either solution.
2. The landscape plan indicates drains and sprinkler pipes to be buried in the soil. It has been requested that these lines be laid on top of the grade rather than excavated. We accept this request and agree that all drain and sprinkler lines from the side of the house back into the canyon be surface installed.

I assume I have understood the last two corrections, and that we have responded to them in a satisfactory manner. If this is *not* the case, please contact me as soon as possible so we can take immediate action to avoid any further delay of the project.

Sincerely,



J. Michael Jones, Architect, AIA.

cc.: Nick Herbert

33961 Granada Dr., Dana Point, CA 92629 ■ (714) 661 0503 ■

COASTAL COMMISSION
FAX (714) 661 0504

5-99-461
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PAGE 1 OF 1