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CALIFORNIA COASTAL COMMISSION

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RECORD PACKET COPY

Filed: January 6, 2000
 49th Day: February 24, 2000
 180th Day: July 4, 2000
 Staff: ALK-LB
 Staff Report: January 25, 2000
 Hearing Date: February 15-18, 2000
 Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-99-206

APPLICANT: Joan Irvine Smith & James Irvine Swinden

AGENT: James F. Gillen

PROJECT LOCATION: Riviera Drive at Monaco Drive, City of Laguna Beach,
 County of Orange

PROJECT DESCRIPTION: Subdivision of a single 2.04 acre parcel into three parcels of
 .92 acre/40,279 square feet (Parcel 1), .62 acre/27,012 square feet (Parcel 2) and
 .49 acre/21,500 square feet (Parcel 3).

LOCAL APPROVALS RECEIVED: Approval in Concept 98-212 from City of Laguna Beach
 Planning Department dated May 18, 1999.

SUBSTANTIVE FILE DOCUMENTS: City of Laguna Beach Certified Local Coastal Program
 and *Report of Geotechnical Studies, Parcels 1, 2 and 3, Tentative Parcel Map
 98-212, Laguna Beach, California* prepared by Goffman, McCormick & Urban, Inc.
 (Project 98-104) dated November 19, 1999.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission **approve** the proposed subdivision with no special conditions. The applicant proposes to subdivide one 2.04 acre parcel into three residential lots within a locked gate community. No construction is proposed by the current application. The subject site is an undeveloped coastal blufftop lot. The primary issues addressed by this staff report include new development, public access and geologic hazards.

STAFF RECOMMENDATION:

The staff recommends that the Commission **APPROVE** the permit with no special conditions.

MOTION:

I move that the Commission approve CDP No. 5-99-206 pursuant to the staff recommendation.

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

RESOLUTION:

I. APPROVAL WITH CONDITIONS

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

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction 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 construction 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 of the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, 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

None.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Location

The proposed project is located between the first public road and the sea at Riviera Drive and Monaco Drive in the private community of Abalone Point, which is in an area of deferred certification (Irvine Cove) within the City of Laguna Beach, County of Orange (Exhibits 1 & 2). The applicant proposes to subdivide a single 2.04 acre parcel into three parcels of .92 acre/40,279 square feet (Parcel 1), .62 acre/27,012 square feet (Parcel 2) and .49 acre/21,500 square feet (Parcel 3) for future residential development. No construction is proposed by the current application. The site is located in the R-1 Residential Low Density Zoning District. The site is a vacant sloping parcel bound to the north, west and east by residential development and to the south by a coastal bluff (Exhibit 3).

B. New Development

Section 30250 of the Coastal Act states, in pertinent part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The Coastal Act requires that new development be located in areas able to accommodate the development without adverse impacts. The proposed development is a three-lot subdivision in an area of existing single-family residential development. The size of the proposed lots conforms to the size of existing lots within the Abalone Point community. The parcel abuts Riviera Drive and Monaco Drive; therefore ingress and egress to all three lots is provided. In addition, the infrastructure supporting surrounding residential development (sewer, water, etc.)

is already established; therefore no significant utility extensions will be required. Lastly, the proposed subdivision will not adversely impact native coastal vegetation, as the subject site is a denuded vacant parcel that supports only a sparse volunteer growth of grass and weeds.

Therefore, the Commission finds that the proposed development is in an area able to accommodate it, poses no adverse impacts to coastal resources and is consistent with Section 30250 of the Coastal Act.

C. Geologic Hazards

Section 30253 of the coastal Act states, in pertinent part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed subdivision site is a gently sloping blufftop parcel. The buildable portion of the site has a relief of about 20 feet and is adjacent to an approximately 60 foot high coastal bluff. Development on a coastal bluff is inherently risky. To evaluate the feasibility of future residential development at the subject site, the applicants commissioned a geotechnical investigation by Goffman, McCormick & Urban, Inc. The scope of the investigation involved review of previous research and surface mapping; surface reconnaissance; excavation of 5 drill holes to depths of up to 70 feet; laboratory testing of site materials; and analysis of the exploration and laboratory data to develop recommendations pertaining to use of the site, bluff stability and grading.

The Report of Geotechnical Studies, Parcels 1, 2 and 3, Tentative Parcel Map 98-212, Laguna Beach, California (Project 98-104) dated November 19, 1999 concludes that "site development is feasible from a geological and geotechnical standpoint." However, the consultant adds that a more detailed geotechnical investigation, including subsurface exploration, laboratory testing, and slope stability analysis should be performed prior to grading and construction at the site.

The engineering consultants found no evidence of deep seated or shallow landsliding within the site during their reconnaissance or review of literature. They concluded that the bluffs along the southwest side of the property show evidence of erosion and rock falls typical of natural coastal bluff retreat, but found the building setback identified on the Tentative Parcel Map to be "reasonable for preliminary planning purposes." The consultants stated that the rate of coastal retreat should be further analyzed prior to finalizing structure and improvement locations.

The City's certified LCP (not effective in this area of deferred certification, but useful in providing guidance) generally requires a structural setback of 25 feet for residences and 10 feet for accessory structures like patios from the edge of the bluff or a setback ascertained by a stringline, whichever is more restrictive. The Commission's adopted Regional Interpretive

Guidelines for Orange County recommend a minimum 25 foot setback for residences from the edge of a coastal bluff. The Guidelines also recognize that in a developed area, where construction is generally infilling and is otherwise consistent with the Coastal Act policies, no part of the proposed new structure, including decks, should be built further seaward than a line drawn between the nearest adjacent corners of the adjacent structures (stringline setback). Due to the configuration of the subject parcel and the lack of adjacent structures (site is vacant), the Commission's stringline concept cannot be applied.

The Laguna Beach Zoning Code, which the Commission uses as guidance, states the following in Section 25.50.004(l): *In the event that there is no applicable stringline on adjacent oceanfront lots, the setback shall be at least twenty-five feet from the top of an oceanfront bluff.* The Tentative Parcel Map submitted with the application depicts the top of slope varying between the 55' and 65' contour lines and shows the building setback line 25' inland of the top of slope. A site visit by Commission staff confirmed the applicant's delineation of the top of slope and 25' setback. The map indicates that future development (not a part of the current application) will comply with the 25 foot building setback from the top of slope.

The Commission finds in this particular case, because of the pattern of development on adjoining property, the topography of the subject site, and the geological consultant's determination that a greater setback is not required, that the City's setback requirement of 25' for future development is appropriate for subdivision purposes. However, the Commission will have the opportunity to review the adequacy of the setback requirement at the time that development on each of these three lots is proposed. Supplementary project-specific geotechnical evaluations may be required at that time.

Therefore, the Commission finds that the current subdivision will not result in any adverse impacts to geologic stability and is consistent with Section 30253 of the Coastal Act, which requires that risks be minimized and geologic stability be assured.

D. Public Access and Recreation

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.

Section 30212 of the Coastal Act states, in relevant 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:

(2) adequate access exists nearby.

The proposed development is located within an existing locked gate community (Abalone Point) located between the sea and the first public road paralleling the sea. Public access through this community does not currently exist. However, the proposed development, subdivision of a 2.04 acre parcel in an area inaccessible to the public, will not affect the existing public access condition. It is the locked gate community, not this subdivision, that impedes public access.

Access is provided in the project vicinity at Crystal Cove State Park, located just north of the subject site. The proposed development 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.

E. Local Coastal Program

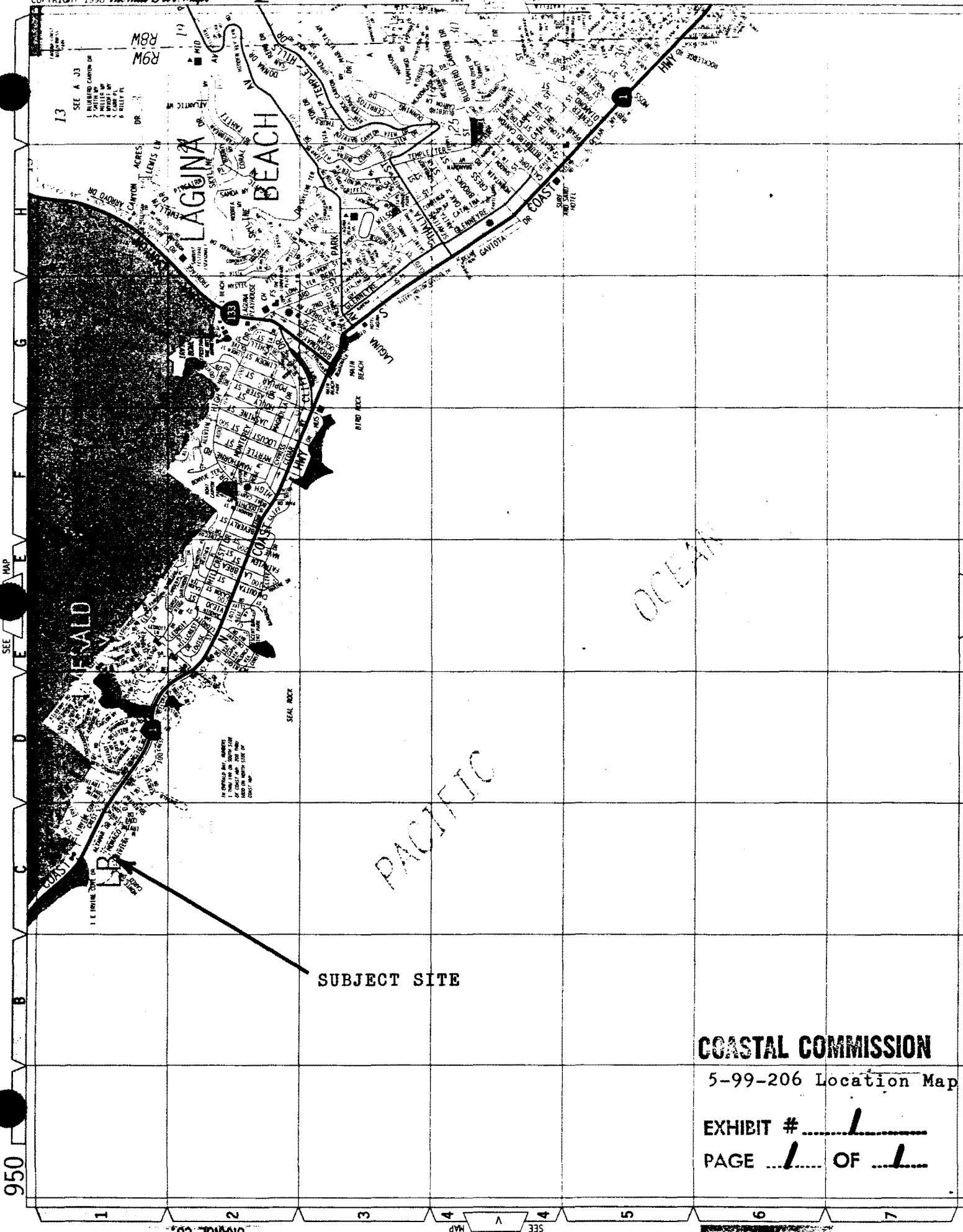
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for four areas of deferred certification, in July 1992. In February 1993, the Commission concurred with the Executive Director's determination that the suggested modifications had been properly accepted and the City assumed permit issuing authority at that time. The subject site is located within the Irvine Cove area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as previously discussed above, the proposed development itself will not further decrease public access which is already adversely affected by the existing locked gate community. Further, the project has been found to conform to the hazard policies of the Coastal Act. Therefore, the Commission finds that approval of this project will not prevent the City of Laguna Beach from preparing a total Local Coastal Program for the areas of deferred certification.

F. 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 project is located in an existing urbanized area. Development already exists in the project vicinity and all necessary utilities needed to serve the proposed development are available. The proposed development is consistent with the hazard and access policies in Chapter 3 of the Coastal Act. Therefore, the Commission finds that no mitigation measures are necessary and the proposed project is consistent with CEQA and the policies of the Coastal Act.



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ORANGE CO.

SEE MAP

MAP

SUBJECT SITE

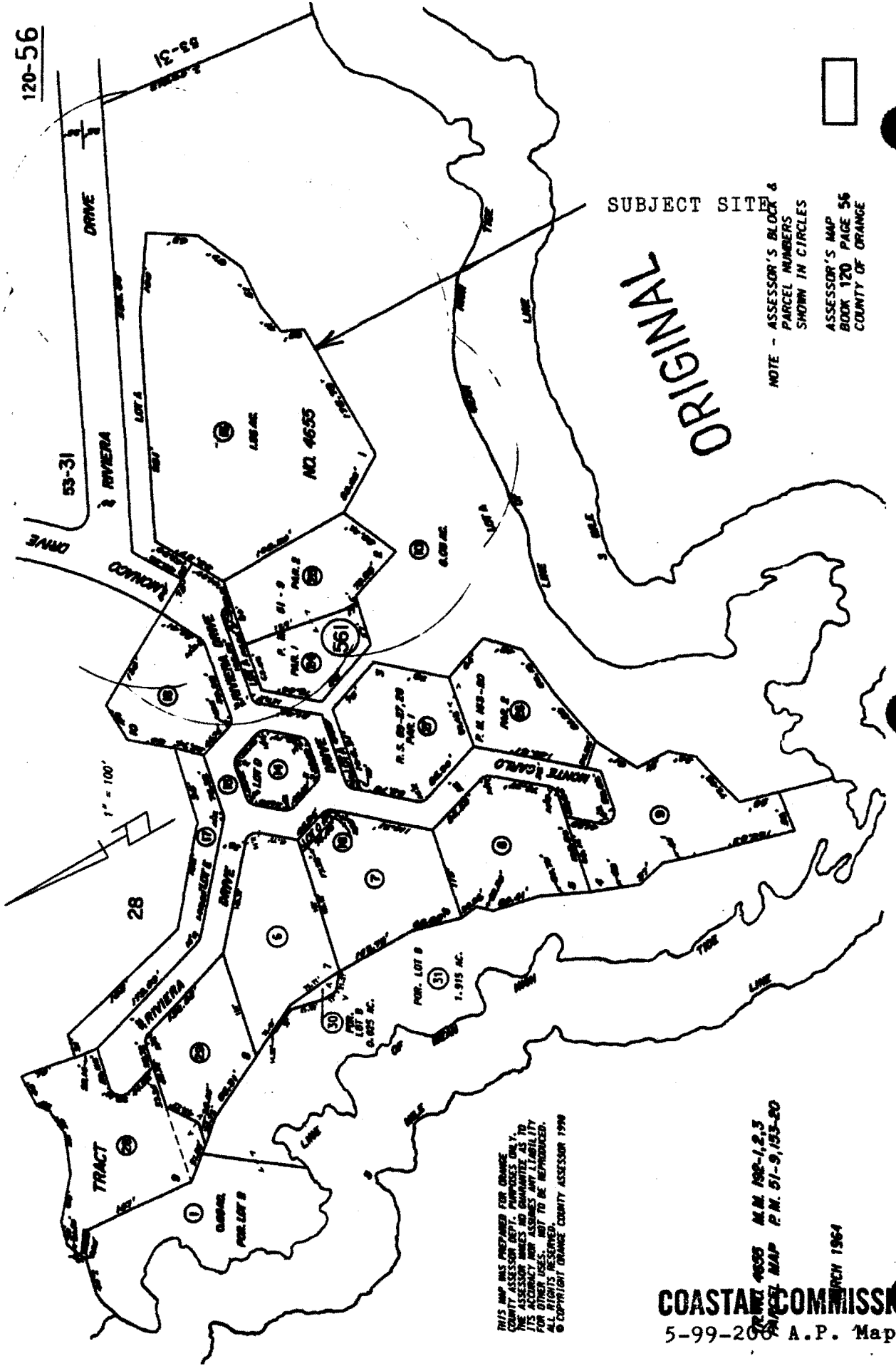
COASTAL COMMISSION

5-99-206 Location Map

EXHIBIT # 1

PAGE 1 OF 1

120-56



SUBJECT SITE

ORIGINAL

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

ASSESSOR'S MAP
 BOOK 120 PAGE 56
 COUNTY OF ORANGE

1" = 100'

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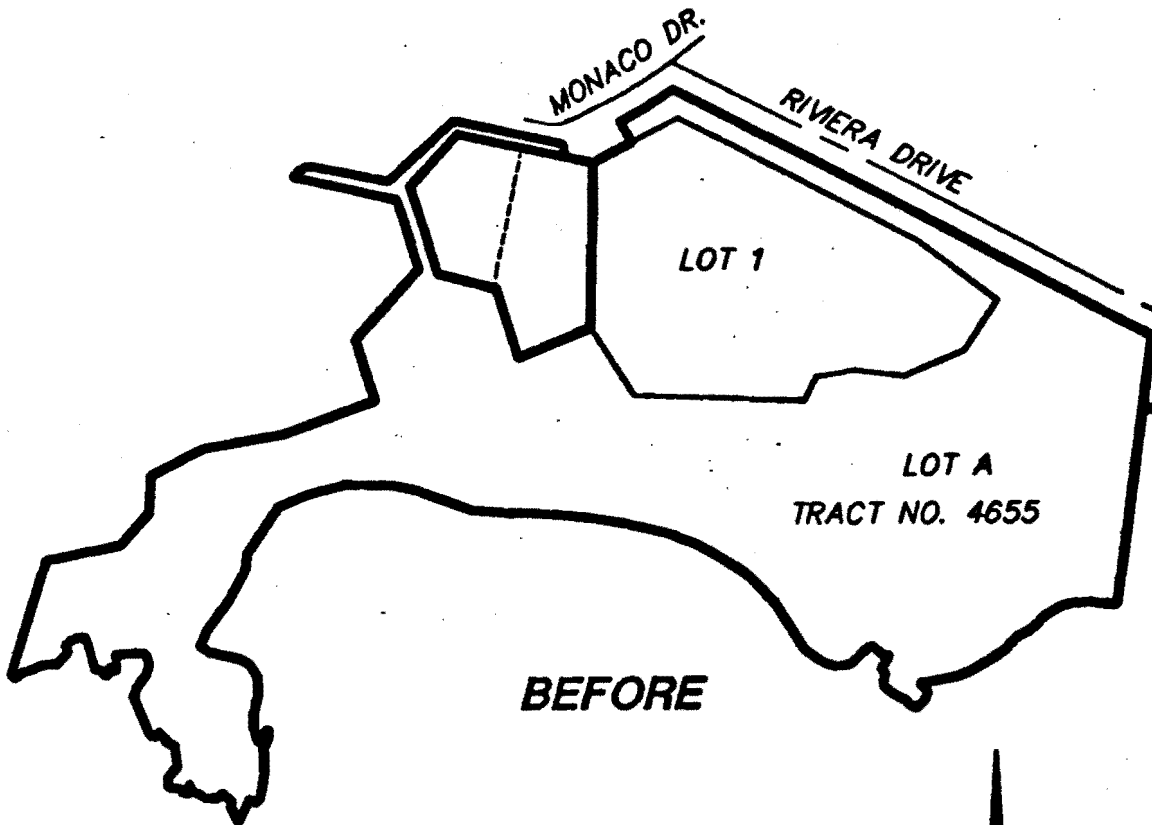
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COASTAL COMMISSION
 5-99-2000 A.P. Map
 TRACT 4655 M.M. 198-1,2,3
 PARCEL MAP P.M. 51-9,153-20
 MARCH 1964

EXHIBIT # 2
 PAGE 1 OF 1



PROJECT ORIENTATION:



AFTER

