

CALIFORNIA COASTAL COMMISSION

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

RECORD PACKET COPY

Filed: April 13, 2000
49th Day: June 1, 2000
180th Day: October 10, 2000
Staff: ALK/LB **ALK**
Staff Report: May 25, 2000
Hearing Date: June 13-16, 2000
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-00-111

APPLICANTS: Joe & Carol Ballard; Bryan & Danielle Ballard

AGENT: Frank Montesinos

PROJECT LOCATION: 108 Capistrano Lane, San Clemente,
Orange County

PROJECT DESCRIPTION: Construction of a new 4667 square foot, 43'4" high, split level duplex ranging from three to five stories in height with two attached 2-car garages on a vacant, sloping lot.

PROJECT SPECIFICS:

Lot Area:	3200 sq. ft.
Building Area:	5711 sq. ft.
Building Coverage:	1361 sq. ft.
Pavement Coverage:	1028 sq. ft.
Landscape Coverage:	811 sq. ft.
Parking Spaces:	Four (4)
Land Use Designation:	Residential High Density
Ht. above final grade:	43 feet 4 inches

LOCAL APPROVALS RECEIVED:

Approval-in-Concept from the Department of Community Development of the City of San Clemente; Approval of Cultural Heritage Permit 99-13 from the Planning Commission of the City of San Clemente; City of San Clemente Geotechnical Review dated June 24, 1999 and City of San Clemente Building Permits.

SUMMARY OF STAFF RECOMMENDATION:

The applicant proposes to construct a 43'4" high duplex on a vacant lot in the Pier Bowl district of the City of San Clemente. Staff recommends that the Commission **DENY** the proposed development. The major issue of this staff report is preservation of public coastal views. As proposed, the project will obstruct a public view of the shoreline within a designated view corridor. This is an after-the-fact permit, as construction was initiated without benefit of a coastal development permit.

SUBSTANTIVE FILE DOCUMENTS:

City of San Clemente Certified Land Use Plan, City of San Clemente Pier Bowl Specific Plan and Coastal Development Permits P-2-28-77-312 (Schroeder), P-7-11-77-1324 (Easton) and P-12-2-77-2353 (Hartfield).

LIST OF EXHIBITS:

1. Vicinity Map
2. Assessor's Parcel Map
3. Pier Bowl Boundary Map
4. Project Plans
5. City of San Clemente Planning Division Memorandum dated March 27, 2000
6. Copies of Previously-Issued CDPs in Pier Bowl District
7. Examples of Objection Letters Received
8. View Corridor Figure from Pier Bowl Specific Plan
9. Site Photos

STAFF RECOMMENDATION:

I. Staff Recommendation of Denial

Staff recommends that the Commission adopt the following resolution. The motion passes only by affirmative vote of a majority of the Commissioners present.

A. MOTION:

I move that the Commission approve Coastal Development Permit No. 5-00-111 for the development proposed by the applicant.

B. STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

C. RESOLUTION TO DENY THE PERMIT:

The Commission hereby **DENIES** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will 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 would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. Findings and Declarations

The Commission hereby finds and declares:

A. Project Location, Description and Background

Project Location

The subject site is located at 108 Capistrano Lane in the Pier Bowl area of the City of San Clemente (Exhibits 1 & 2). The subject site is a "through lot" which abuts both Capistrano Lane to the northeast (inland) and Santa Ana Lane to the southwest (seaward). The site is located within the Residential High (RH) density zoning designation, approximately one-quarter mile from the shoreline. The nearest public coastal access is provided at the entrance to the San Clemente Municipal Pier.

The Pier Bowl is a mixed-use district adjacent to the Municipal Pier, which serves as the central focal point of the City (Exhibit 3). The area includes commercial, visitor-serving and residential development. As described in the Pier Bowl Specific Plan, the topography of the subject area gently slopes seaward, forming a "natural amphitheater to the ocean."

Project Description

The applicant is proposing the construction of a new 4667 square foot, 43'4" high, split level duplex ranging from three to five stories in height with two attached 2-car garages on a vacant, sloping lot (Exhibit 4). One garage will take access from Capistrano Lane, while the other garage will take access from Santa Ana Lane. The project also involves approximately 900 cubic yards of cut for site preparation. Excess material will be disposed of at the Prima Deshecha Landfill.

City Approval of Project

On April 20, 1999, the City of San Clemente Planning Commission approved Cultural Heritage Permit 99-13 for construction of the proposed duplex. The Cultural Heritage Permit was necessary due to the proximity of the subject site to a designated historic site. The City's staff report for the Cultural Heritage Permit included a condition requiring Coastal Commission approval prior to issuance of a building permit. However, no coastal development permit (CDP) application was submitted to the Commission. Instead, the City's Planning Division staff subsequently cleared a building permit through an improperly issued Categorical Exclusion approval.

As allowed under Categorical Exclusion Order E-82-1 (City of San Clemente), certain categories of development located in specific geographic areas can be excluded from the requirement of obtaining a coastal development permit if specific conditions are met. However, the subject site is not located within an area encompassed by the Categorical Exclusion Order. In addition, even if the site had been located within a Categorical Exclusion area identified on the map, the proposed duplex did not meet the Categorical Exclusion condition limiting project height to a maximum of 25 feet above average finished grade. Therefore, the City's approval was issued in error. Attached is a memo dated March 27, 2000, summarizing the City's internal investigation into the approval of the current project (Exhibit 5).

Prior Commission Actions in Subject Area

On April 4, 1977, the Coastal Commission approved P-2-28-77-312 (Schroeder) for the construction of a four-story duplex, conditioned not to exceed 20 feet from the centerline of the frontage road (Capistrano Lane) at 110 Capistrano Lane (Exhibit 6a). The Schroeder residence is located directly south of the subject site. No other coastal development permit records were discovered for projects on Capistrano Lane or Santa Ana Lane. The majority

of existing development on those streets appears to be pre-coastal (constructed prior to the passage of the Coastal Act).

However, in 1977 and 1978, the Commission approved two (2) permits for development in the immediate vicinity that limited allowable building height. On August 11, 1977, the Commission approved CDP No. P-7-11-77-1324 (Easton), which allowed the construction of a four-story duplex, conditioned not to exceed 36 feet above the centerline of Alameda and 23 ½ feet above the centerline of Santa Ana Lane at 122 Santa Ana Lane (Exhibit 6b). Also, on January 9, 1978, the Commission approved CDP No. P-12-2-77-2353 (Hartfield), which allowed the construction of a 3-story (over garage level) triplex, conditioned not to exceed 26 feet above average finished grade and 36 feet above the centerline of the frontage road at 123 Coronado Lane (Exhibit 6c).

Public Comment

Forty-eight (48) letters of opposition to the proposed project were received. Representative examples are attached as Exhibit 7. The opponents express concern over the height of the proposed structure as it relates to view obstruction and community character. Many have requested the height of the proposed duplex be restricted to the height of surrounding development. Additionally, they have requested the project be considered at a local hearing, as many intend to make presentations to the Commission.

B. Standard of Review

The Commission certified the City of San Clemente Land Use Plan (LUP) on May 11, 1988, and approved an amendment in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan (IP) portion of the Local Coastal Program (LCP). The suggested modifications expired on October 10, 1998. Therefore, the City has no certified LCP and the Commission retains permit issuance jurisdiction.

The City has recently submitted the revised IP for Commission review. However, until such time as the IP is approved and the City's LCP has been fully certified by the Commission, the Chapter Three policies of the Coastal Act are applied as the standard of review. The City's certified LUP will be used as guidance in the current analysis.

Also noted, the City adopted the Pier Bowl Specific Plan on October 13, 1993. The Specific Plan is included in the City's recent IP submittal for Commission review. However, as the Commission has yet to certify the Specific Plan, the Plan will not be applied as guidance.

C. Scenic and Visual Resources

1. Coastal Act Policy

Section 30251 of the Coastal Act states, in pertinent part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

2. City of San Clemente Land Use Plan Policies

Section 305 of the City's certified LUP contains the following Coastal Visual and Historic Resources Goals and Policies.

Policy XII.5 states:

Preserve the aesthetic resources of the City, including coastal bluffs, visually significant ridgelines, and coastal canyons, and significant public views.

Policy XII.9 states:

Promote the preservation of significant public view corridors to the ocean.

3. Pier Bowl Specific Plan Policies

The Pier Bowl Specific Plan contains policies and standards for allowable building height and view preservation within the Pier Bowl district. During public workshops for the development of the Specific Plan, the protection of significant public views was identified as an important design issue. Included in the Specific Plan is an identification of significant view corridors, including the Pier and ocean from Avenida Del Mar. Exhibit 8 illustrates four of the six designated view corridors in the Specific Plan. However, as the Commission has yet to certify the City's Specific Plan, these policies will not be used as guidance in the current analysis.

4. Analysis of Scenic and Visual Resource Issues

The project is sited in an area where development is allowed to reach to a maximum average building height of 45 feet above existing grade. (Averages are used to accommodate development on sloping lots.) However, at present, the structures along the south side of Capistrano Lane do not typically exceed a 35-foot maximum height above existing grade. In addition, the majority of development within the surrounding residential neighborhood maintains a consistent building height of approximately 35 feet above existing grade. This pattern of development has created a uniform line of structures along each parallel block within the Pier Bowl area. Each row of residences steps down with the topography toward the ocean (Exhibit 9a). However, as proposed, the 43' 4" high duplex will exceed the heights of adjacent structures by approximately 8 feet, creating an incongruous feature in the current pattern of residential development and obstructing public views of the ocean.

At present, the ocean is visible when traveling toward the San Clemente Pier via Avenida Del Mar. Avenida Del Mar is the main entrance road into the Pier Bowl. The Commission recognizes this horizon view of the ocean to be a visual resource of statewide significance. As shown in Exhibit 9b, the proposed project will obstruct views of the ocean within this existing public view corridor.

In addition, the project will affect views toward the Pier Bowl Core as seen from the San Clemente Pier (Exhibit 9c). While the view of the Core from the Pier will not be obstructed by the proposed duplex, the structure will create an obtrusive, nonconforming element in the center of existing development, thus affecting the appearance of the Pier Bowl Core when viewed from the Pier. The duplex will appear noticeably out of character with adjacent structures.

As discussed previously, the Commission has imposed building height restrictions on at least three (3) developments in the subject area to ensure the preservation of coastal views. Commission actions include the approval of a duplex at 110 Capistrano Lane, next door to the subject site, which was limited to 35' maximum height [CDP No. P-2-28-77-312 (Schroeder)]. Other approvals include a 36' high duplex at 122 Santa Ana Lane [CDP No. P-7-11-77-1324 (Easton)] and a 36' high duplex at 123 Coronado Lane [CDP No. P-12-2-77-2353 (Hartfield)]. The proposed duplex exceeds the height of adjacent structures and will create a new development precedent if approved at 43'4" in height.

Opponents of the proposed development contend that the Commission has set a precedent of limiting height in the Pier Bowl area and should not allow the current structure to exceed previously imposed height restrictions. As stated in one letter,

"If the project is allowed to be completed in its entirety, as proposed by the applicant, this building would obliterate a large percentage of the first public view to the ocean from Avenida Del Mar, the first public 'window to the sea.' In addition, this project, if completed, would be incompatible with the character of the surrounding properties..."

While the Commission recognizes that the proposed duplex meets the City's zoning requirements for height, the project conflicts with the qualitative policies for public view preservation contained in the City's certified LUP and the Coastal Act. Moreover, as the proposed project may set a precedent for future development within the Pier Bowl High Density residential area, the more protective policy must be enforced. Subsequent applicants may propose to construct structures to the maximum allowable building height (45'), thereby creating a higher pattern of rooflines within the Pier Bowl. These incremental height increases will result in cumulative adverse effects on public views of the Pier and the ocean from public roadways.

5. Conclusion

The proposed project will obstruct a public view of the coastline, inconsistent with Section 30251 of the Coastal Act and the City's certified LUP. The Commission has set a precedent of limiting height in the subject area. As such, the Commission's current action is consistent with previous actions.

The proposed duplex does not conform to the existing pattern of development, will result in an incremental adverse impact, and will set a precedent for future development in the subject area. Over time, incremental impacts can have a significant cumulative adverse visual impact. For the proposed project to be considered allowable, the proposed duplex would have to be reduced in height so as not to obstruct public views of the ocean and to be consistent with the existing pattern of development. Therefore, the Commission can not allow the proposed duplex to be constructed as submitted. For the reasons stated above, the proposed project is inconsistent with Section 30251 of the Coastal Act and the project must be denied.

D. New Development

1. Coastal Act Policies

As defined by Section 30106 of the Coastal Act, "development" includes a change in the density or intensity of use of land or construction, reconstruction, demolition, or alteration of the size of any structure. The proposed project involves construction of a new duplex on a vacant lot.

Section 30250 (a) of the Coastal Act requires that new development be located where it will not have significant adverse effects on coastal resources. It states, in relevant 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.*

As stated previously, Section 30251 of the Coastal Act requires the scenic and visual qualities of coastal areas to be considered and protected as a resource of public importance. Therefore, new development should be sited so as not to adversely affect scenic and visual resources.

2. City of San Clemente Land Use Plan Policies

Section III. G of the City of San Clemente Certified Land Use Plan (LUP) contains various policies regarding new residential development within the Pier Bowl district. These policies are being used as guidance.

LUP Policy I.5 addresses multi-family residential development as follows:

Require that multi family residential projects be designed to convey a high level of quality and distinctive neighborhood character in accordance with the Urban Design Element.

The LUP includes the following policy intent for the Pier Bowl area:

Plan policy provides for the continuation of the Pier Bowl as a recreational activity area. Coastal recreational uses including retail, restaurant, hotel, bed and breakfast, time share, and residential are allowed. Cultural and recreational activities, including the Ocean Festival, are encouraged. Building design in the Pier Bowl is required to preserve public views, encourage pedestrian activity, to be sensitive to the Pier Bowl's topography and to be a Spanish Colonial Revival Architecture style.

The LUP also contains Policy VI.5 requiring the preparation of a Specific Plan to guide new development in the Pier Bowl:

Formulate a Specific Plan incorporating detailed land uses, design and public improvement requirements to ensure consistent development of the Pier Bowl area.

3. Pier Bowl Specific Plan Policies

The Pier Bowl Specific Plan provides policies, development standards and design guidelines for new development in the subject area. Of particular interest as it relates to the currently proposed development, the Specific Plan requires the design of buildings to be compatible with the surrounding area, particularly adjacent buildings and suggests that in-fill development not contrast greatly with the neighboring structure. However, as noted previously, the Pier Bowl Specific Plan has not been reviewed and certified by the Commission and therefore, cannot be applied in the current analysis.

4. Analysis of Development Issues

The applicant is proposing a new 43'4" high duplex in the Pier Bowl area of San Clemente. The project is consistent with the height limit set forth in both the City of San Clemente Zoning Ordinance for structures within the Residential High (RH) density district. However, as proposed, the structure will exceed the maximum height of adjacent structures by approximately 8', or one full story. As shown in Exhibit 9a, existing development in the subject area steps down with the topography towards the ocean. The adjacent structures (which run parallel to the shoreline) are each two to four stories in height on sloping lots, whereas the proposed structure will be three to five stories. As proposed, the duplex will not follow the established pattern of development. Consequently, the proposed project will be out of character with surrounding structures.

Additionally, the proposed structure will obstruct a public view of the ocean from Avenida Del Mar, as discussed in the previous section. Section 30250 (a) of the Coastal Act prohibits new development from being sited where it will have an adverse affect on coastal resources. As scenic and visual qualities are considered a public resource, the proposed development would have an adverse affect on a coastal resource. Existing coastal views from Avenida Del Mar, the primary thoroughfare into the Pier Bowl area, will be incrementally obstructed as structures are allowed to be built to the 45' height limit. Over time, this will have a cumulative and significant adverse impact.

The Commission has previously imposed building height restrictions in the subject area, thereby setting a development precedent, as reviewed on page 6 of the current report. Existing structures along Capistrano Lane and Santa Ana Lane are a maximum average height of 35 feet above grade. The proposed project exceeds the height of adjacent structures and will create a new development precedent if approved at 43'4" in height.

5. Conclusion

The Commission finds that the proposed development will have an incremental adverse effect, which sets a precedent that will result in a significant cumulative adverse effect on public coastal views in the Pier Bowl district. While the Commission recognizes that the subject property is a legal buildable lot, the proposed development is unallowable as currently proposed. Feasible alternatives to the proposed development include 1) construction of a structure that conforms to the City's LUP and Coastal Act policies regarding height and public view preservation and 2) the "no project" alternative (holding the property for investment purposes). Development at the subject site would be considered allowable if the structure were reduced in height so as not to obstruct public views of the coastline. However, the currently proposed development is inconsistent with Sections 30250 and 30251 of the Coastal Act and the project must be denied.

E. Unpermitted Development

Without benefit of a coastal development permit, the applicant has initiated construction of the duplex. As shown in Exhibits 9d and 9e, site preparation (i.e. grading and foundation placement) and structural framing has occurred.

The applicants stated that they believed this work was allowable since the City of San Clemente had already issued a Categorical Exclusion approval, as well as building permits. Upon becoming aware of the development underway, Coastal Commission staff informed City staff that the work required Commission approval. The City issued a stop work order immediately thereafter. The applicant was then directed to submit a coastal development

permit application for Commission review. The application was submitted March 23, 2000 and deemed complete April 13, 2000.

Consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. The certified San Clemente Land Use Plan was used as guidance by the Commission in reaching its decision. The Pier Bowl Specific Plan, as yet uncertified by the Commission, was not applied in the current analysis.

Commission action on this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. Therefore, the Commission retains coastal development permit jurisdiction in the City of San Clemente.

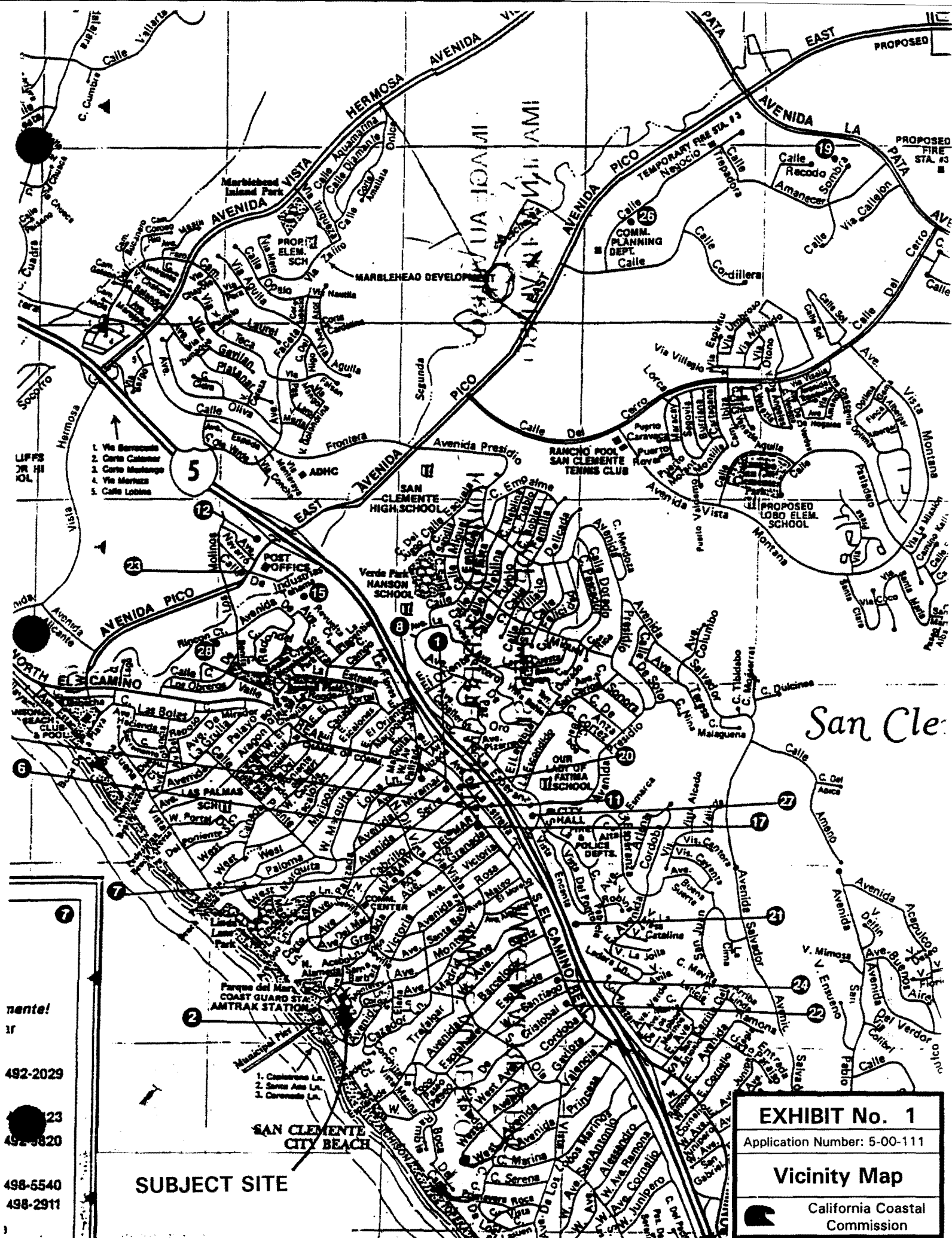
The City has recently submitted the revised IP for Commission review. The Pier Bowl Specific Plan is included in the City's submittal. The Specific Plan includes policies that are intended to be consistent with the Chapter Three policies of the Coastal Act. However, the Commission finds the Specific Plan policies to be internally inconsistent in their regulation of building height and view preservation. Resolution of this issue will be necessary during the Commission's review of the current Implementation Plan submittal. Consistency with the scenic and visual resource policies of the Coastal Act must be ensured prior to LCP certification.

While the IP is still under consideration, the Commission can not take any action that may prejudice the City's ability to prepare a certified LCP. The proposed development is inconsistent with the visual resource policies of the Coastal Act. In addition, the proposed development is inconsistent with the policies contained in the City's certified Land Use Plan regarding preservation of public views of the coastline. Therefore, approval of the proposed development will 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).

G. Consistency with the California Environmental Quality Act (CEQA)

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

As described above, the proposed project is not consistent with the policies of the policies of the Coastal Act. There are feasible alternatives or mitigation measures available, such as reduction in project height. This alternative would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives which would lessen significant adverse impacts which the activity would have on the environment. Therefore the project must be denied.



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- 2. Calle Colander
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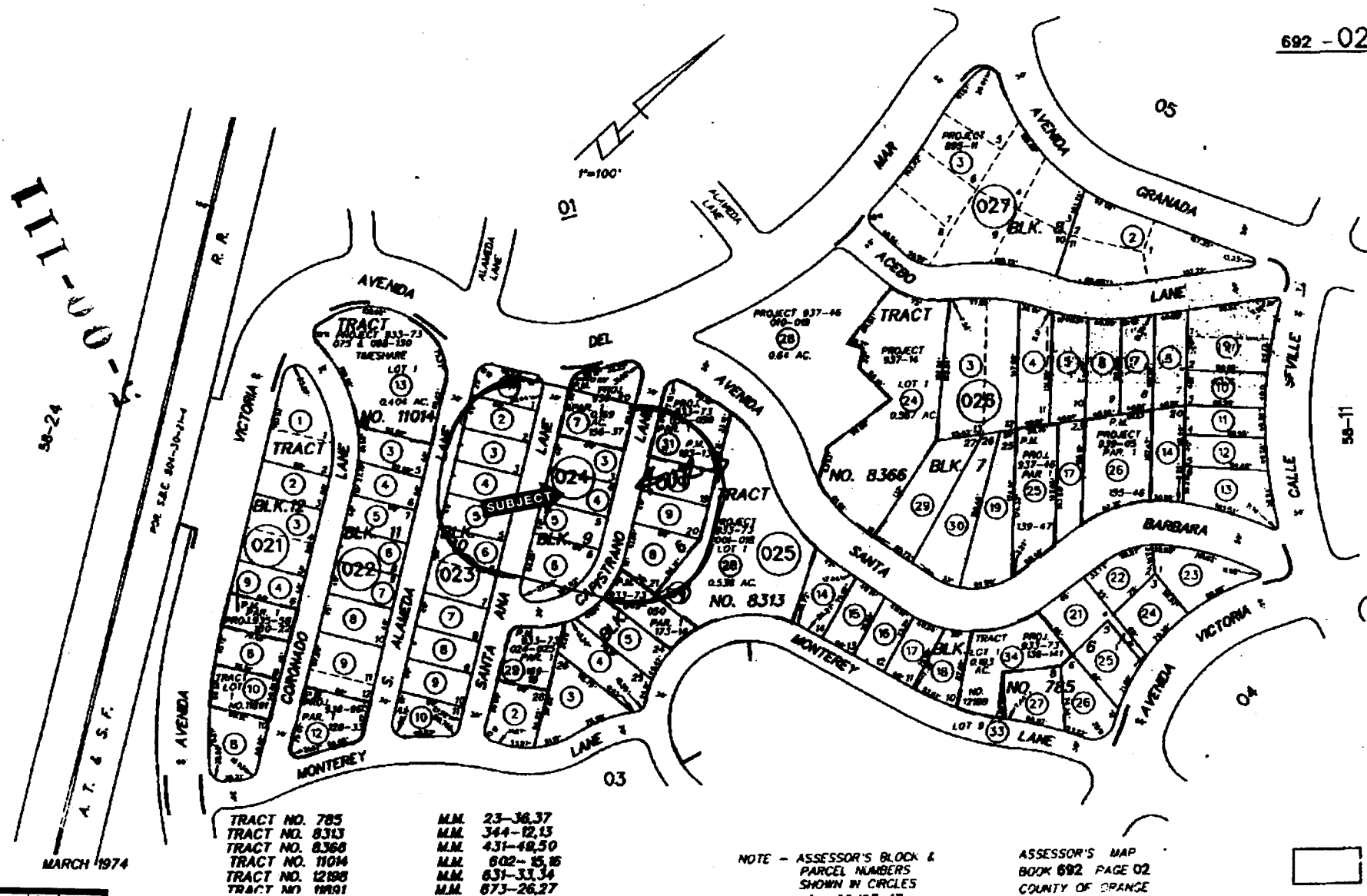
SUBJECT SITE

EXHIBIT No. 1

Application Number: 5-00-111

Vicinity Map

California Coastal Commission



58-24

A. T. & S. F.

MARCH 1974

58-11

EXHIBIT No. 2

Application Number: 5-00-1

Parcel Map

California Coastal Commission

RECEIVED

South Coast Region

MAR 23 2000

COASTAL COMMISSION



PIER BOWL SPECIFIC PLAN

PIER BO

EXHIBIT No. 3

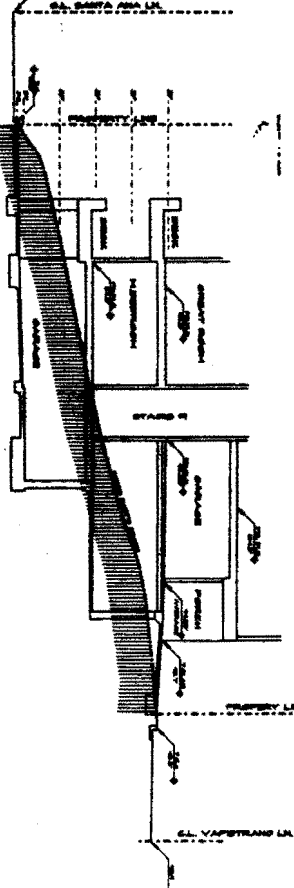
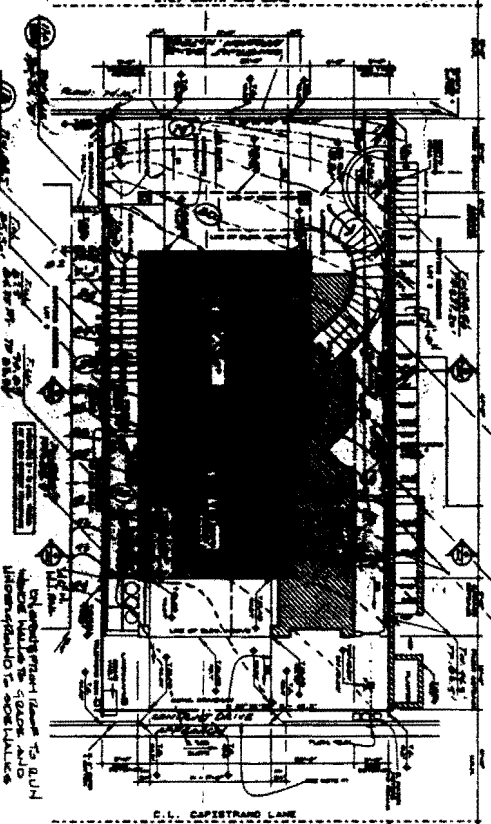
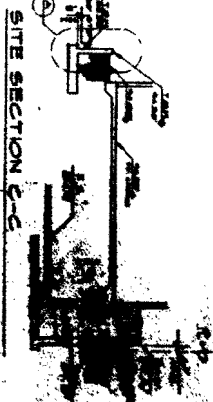
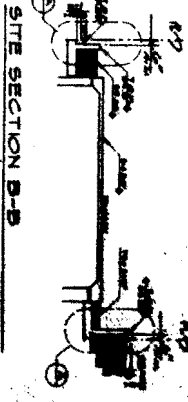
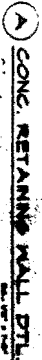
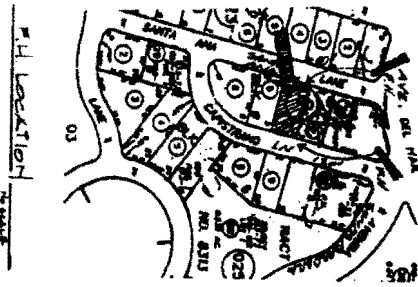
Application Number: 5-00-111

Pier Bowl Boundary Map

**California Coastal
Commission**

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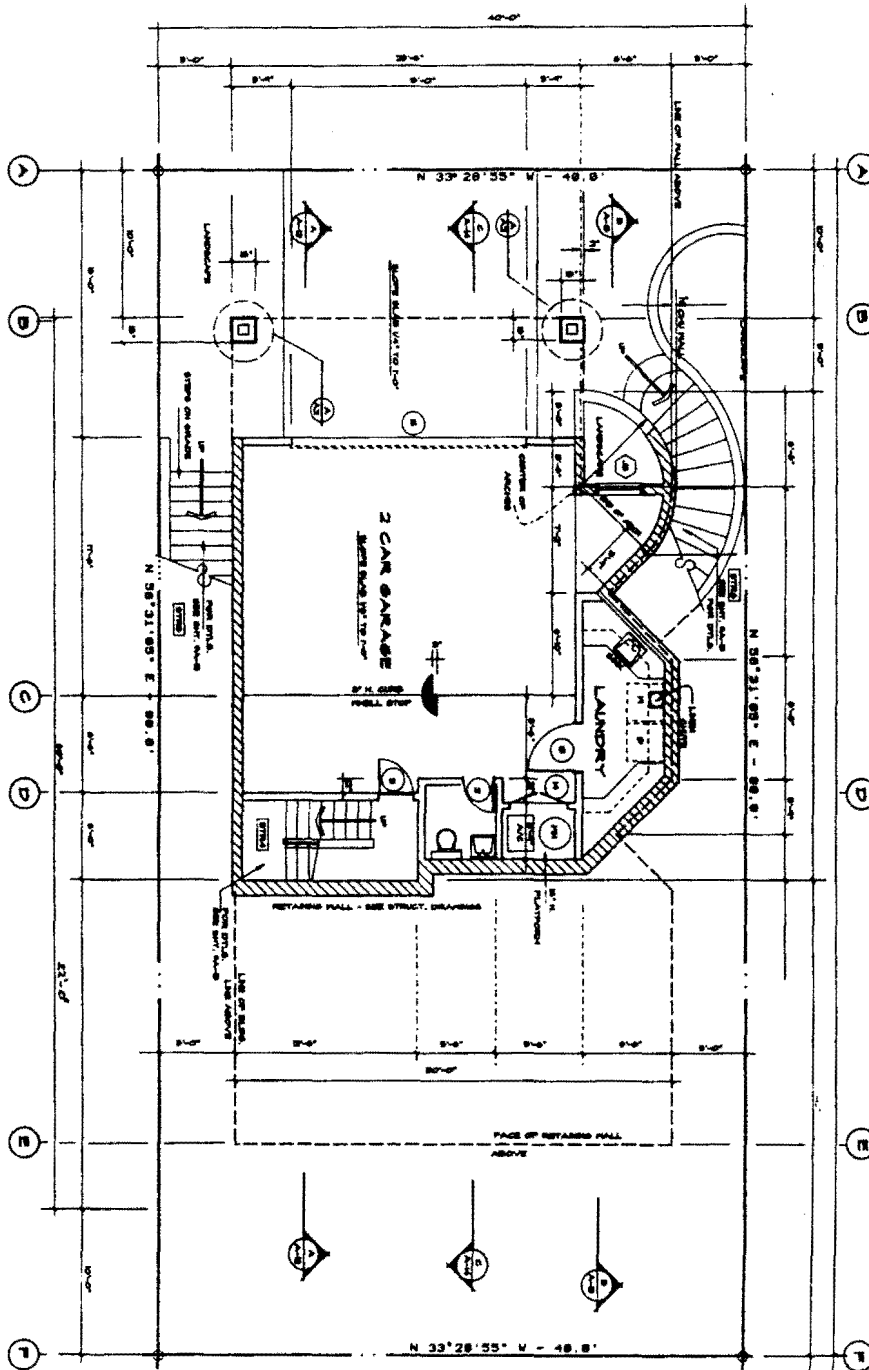
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T = first four numbers

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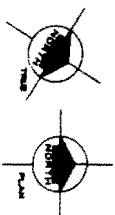


SANTA ANA LN. GARAGE LEVEL FLOOR PLAN

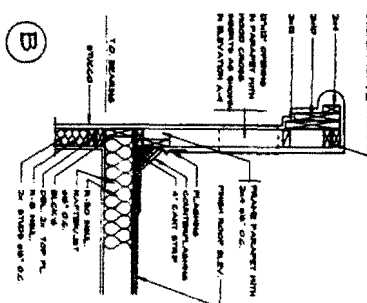
BASED UPON UNDERGROUND CALCULATIONS
 TOTAL PERIMETER = 121'0" (100%)
 UNIFORM PT. ON A 12'0" x 12'0" GRID
 ON BATHING SURFACE:
 NORTH (GARAGE): 6'0" x 12'0" (100%)
 NORTH (LAUNDRY): 6'0" x 12'0" (100%)
 TOTAL: 12'0" x 12'0" (100%)

THIS PLAN IS FOR THE GARAGE LEVEL
 AT THE END OF THE LOT
 SEE OTHER DRAWINGS

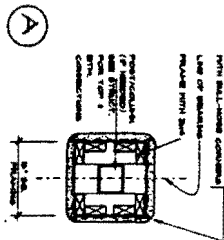
SEE OTHER DRAWINGS FOR THE GARAGE LEVEL
 SEE OTHER DRAWINGS



PARAPET FRAMING DETAIL



COLUMN FRAMING DETAIL



JO & BRYANT BALLARD

100 CAPISTRANO LANE
 SAN CLEMENTE, CA 92672

Artek

francisco p. montesinos a.i.a.
 108 via zapata lic. # 13710
 san clemente, california 92672
 (949) 361-3520, fax (949) 361-3729 montesinos@earthlink.net



A-2

Sheet number

Drawn by: F.P.

Date: 3-97

Plot: 1/4" = 1'-0"

Scale: 1/4" = 1'-0"

By: F.P.

Check: F.P.

Rev: 0

Project: 100 CAPISTRANO LANE

Client: JO & BRYANT BALLARD

Architect: FRANCISCO P. MONTESINOS

Engineer: FRANCISCO P. MONTESINOS

Structural: FRANCISCO P. MONTESINOS

Mechanical: FRANCISCO P. MONTESINOS

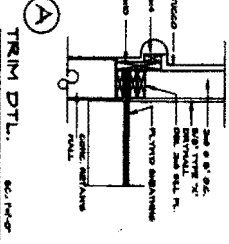
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Plumbing: FRANCISCO P. MONTESINOS

Fire: FRANCISCO P. MONTESINOS

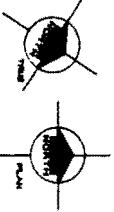
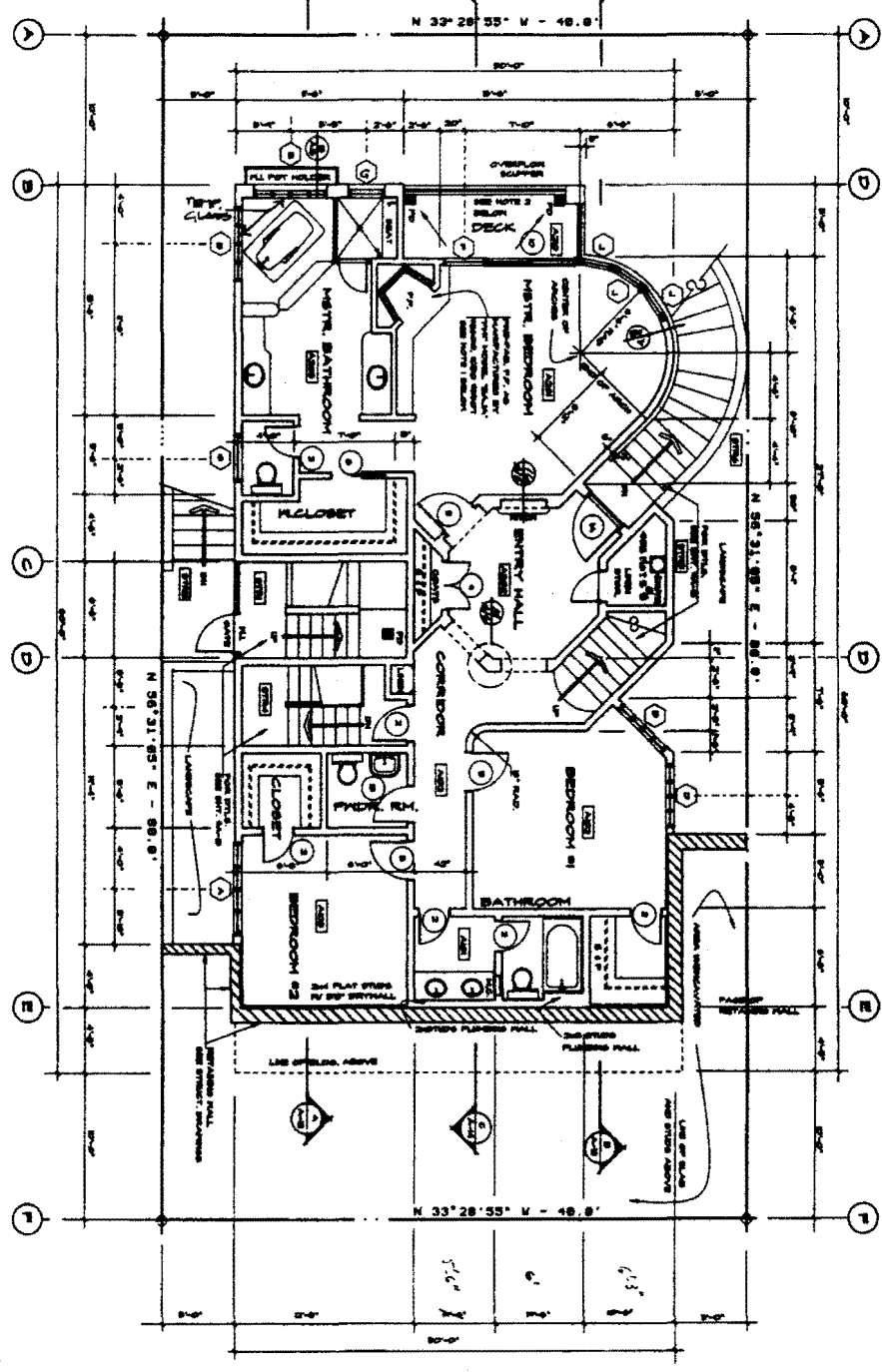
Other: FRANCISCO P. MONTESINOS

NOTES:
 1. PROVIDE ALL DIMENSIONS AND LOCATIONS FOR ALL WALLS, DOORS, WINDOWS, AND FIXTURES TO MATCH THE BLUE PRINT. ALL DIMENSIONS SHALL BE IN FEET AND INCHES. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE WALL OR WINDOW UNLESS OTHERWISE NOTED.
 2. PROVIDE ALL DIMENSIONS AND LOCATIONS FOR ALL WALLS, DOORS, WINDOWS, AND FIXTURES TO MATCH THE BLUE PRINT. ALL DIMENSIONS SHALL BE IN FEET AND INCHES. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE WALL OR WINDOW UNLESS OTHERWISE NOTED.
 3. PROVIDE ALL DIMENSIONS AND LOCATIONS FOR ALL WALLS, DOORS, WINDOWS, AND FIXTURES TO MATCH THE BLUE PRINT. ALL DIMENSIONS SHALL BE IN FEET AND INCHES. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE WALL OR WINDOW UNLESS OTHERWISE NOTED.
 4. PROVIDE ALL DIMENSIONS AND LOCATIONS FOR ALL WALLS, DOORS, WINDOWS, AND FIXTURES TO MATCH THE BLUE PRINT. ALL DIMENSIONS SHALL BE IN FEET AND INCHES. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE WALL OR WINDOW UNLESS OTHERWISE NOTED.
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SANCA AND LUN. FIRST LEVEL FLOOR PLAN

THIS FLOOR PLAN IS A COPY OF THE ORIGINAL DRAWING AND IS NOT TO BE USED FOR CONSTRUCTION WITHOUT THE ORIGINAL DRAWING.



JO & BRYANT BALLARD

Sheet Number
 A-3
 of 16

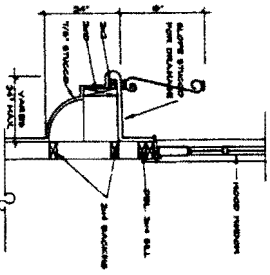
108 CAPISTRANO LANE
 SAN CLEMENTE, CA 92672

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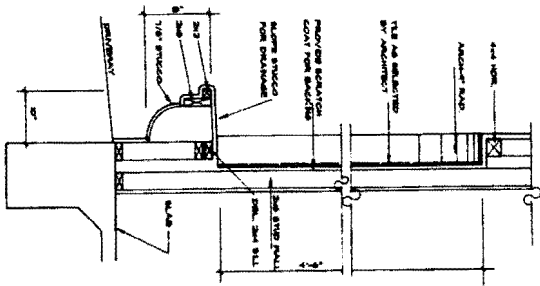
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B) POT HOLDER DETAIL
SECTION



A) NITCH FRAMING DETAIL
SECTION

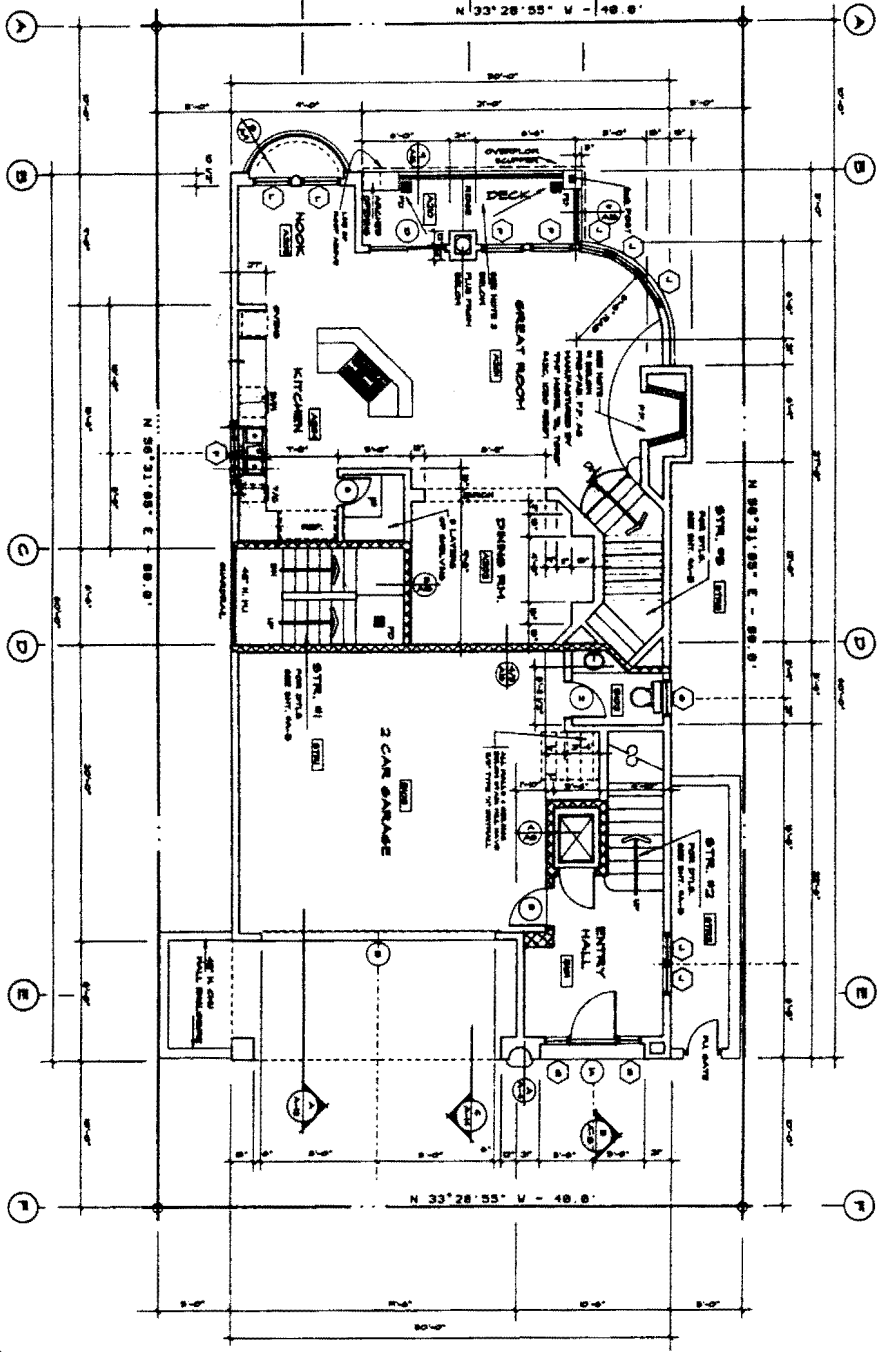
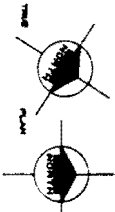


CAPISTRANO LN. FIRST LEVEL FLOOR PLAN

THIS FLOOR PLAN IS A COPY OF THE ORIGINAL DRAWING AND IS NOT TO BE USED FOR CONSTRUCTION.

100 CAPISTRANO LANE, SAN CLEMENTE, CA 92672
100' x 100' FLOOR PLAN - 100' x 100' FLOOR PLAN - 100' x 100' FLOOR PLAN

100' x 100' FLOOR PLAN - 100' x 100' FLOOR PLAN - 100' x 100' FLOOR PLAN



NOTES:

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JO & BRYAN BALLARD

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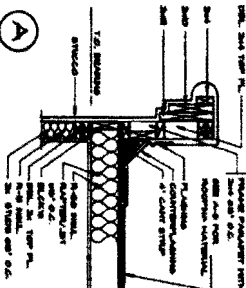
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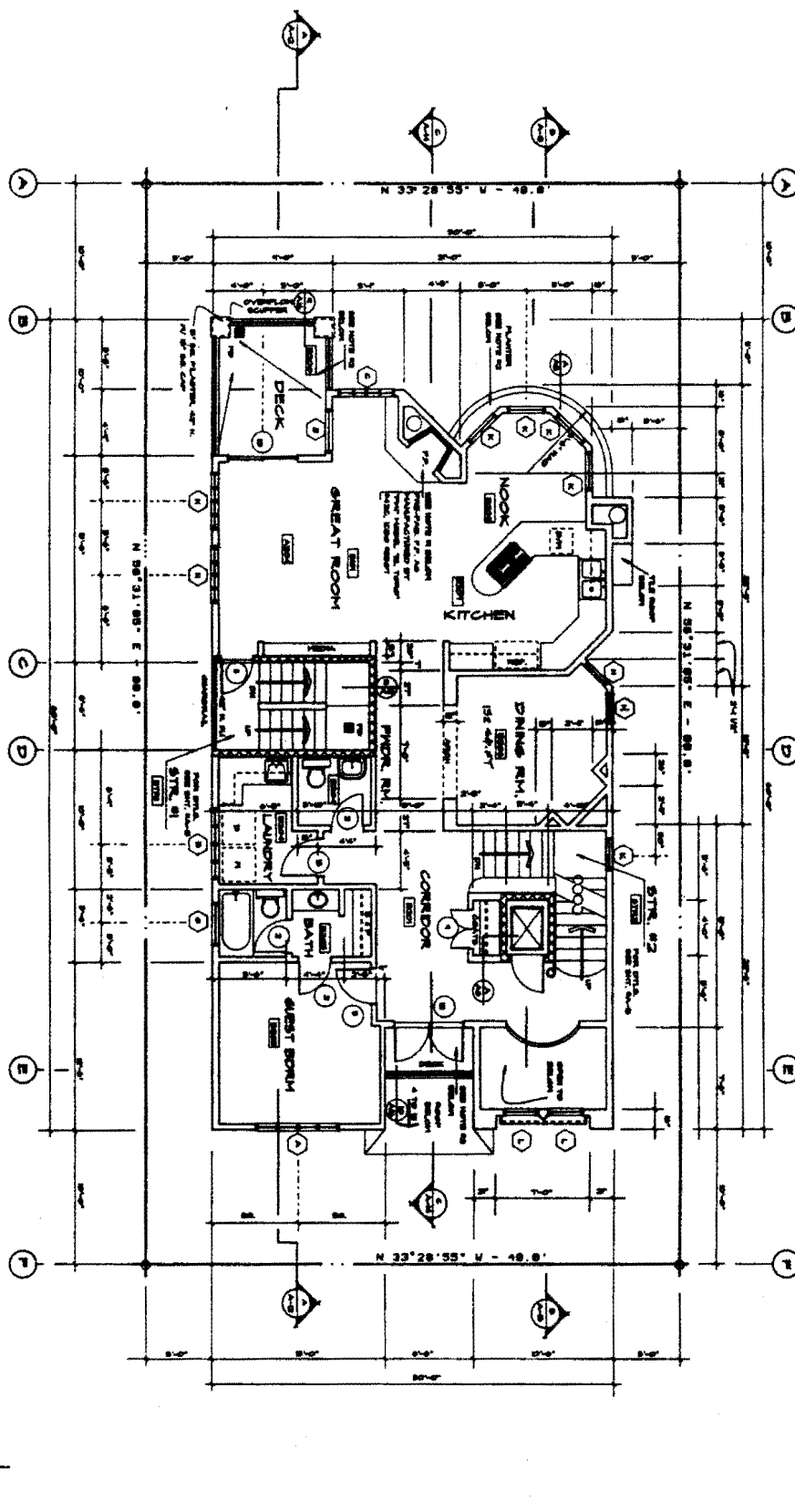
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~~SALES BY~~ **JO & BRYAN BALLARD**

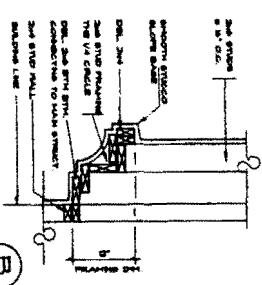
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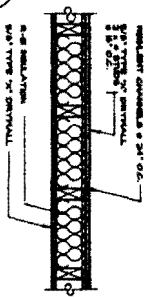


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date: 3-99
plan check: 4-99
bldg permit:
rev date: by:



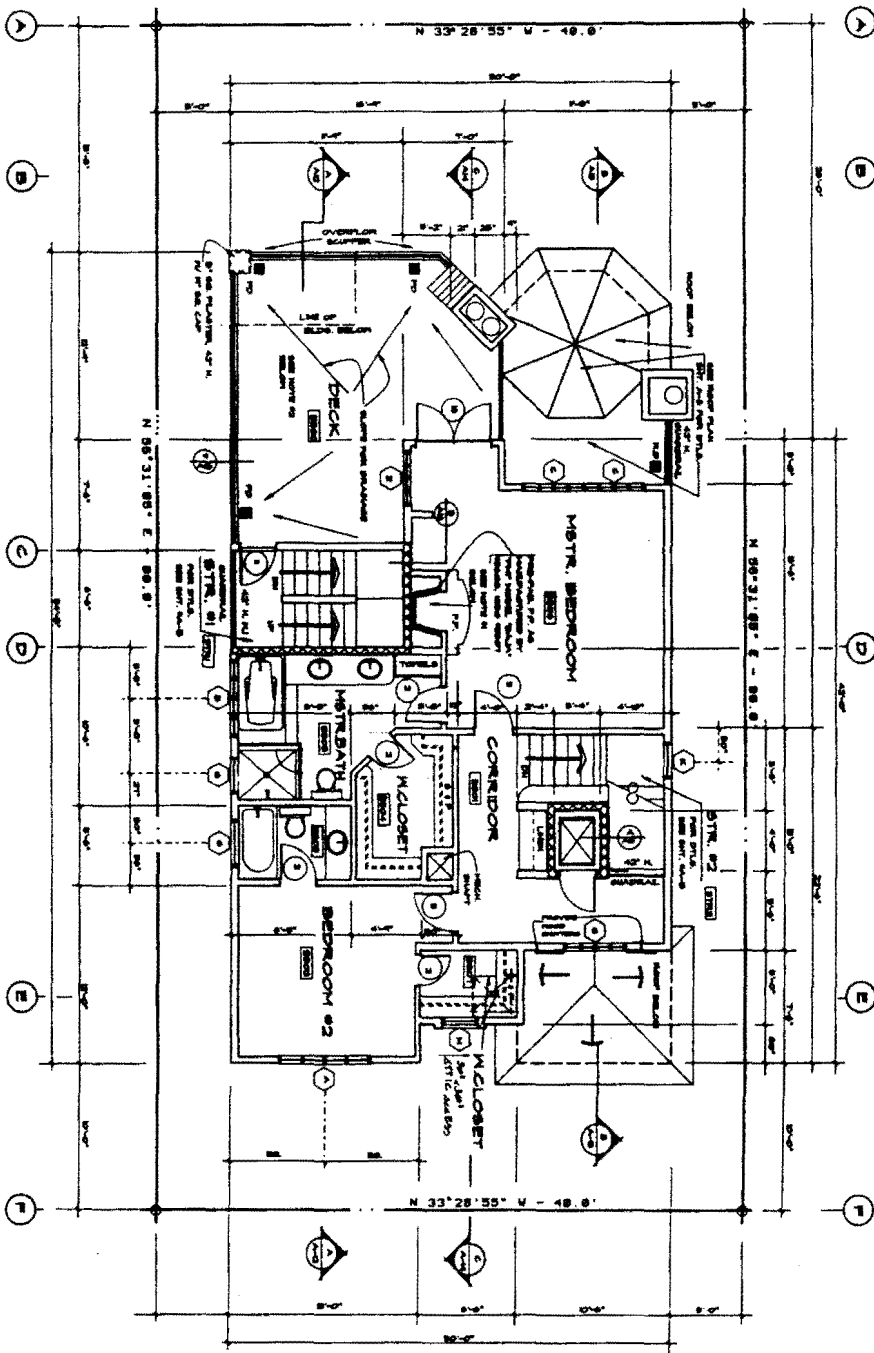
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LOCATIONS FOR THE GAS LIGHT COLLECT.



CAPISSTRANO LT. 4TH LEVEL, MOOR PLAIN

File number 148. For copies of materials
of 148 see: (U.S.A.)



JO & BRYAN BALLARD

106 CAPISTRANO LANE
SAN CLEMENT, CA 92672

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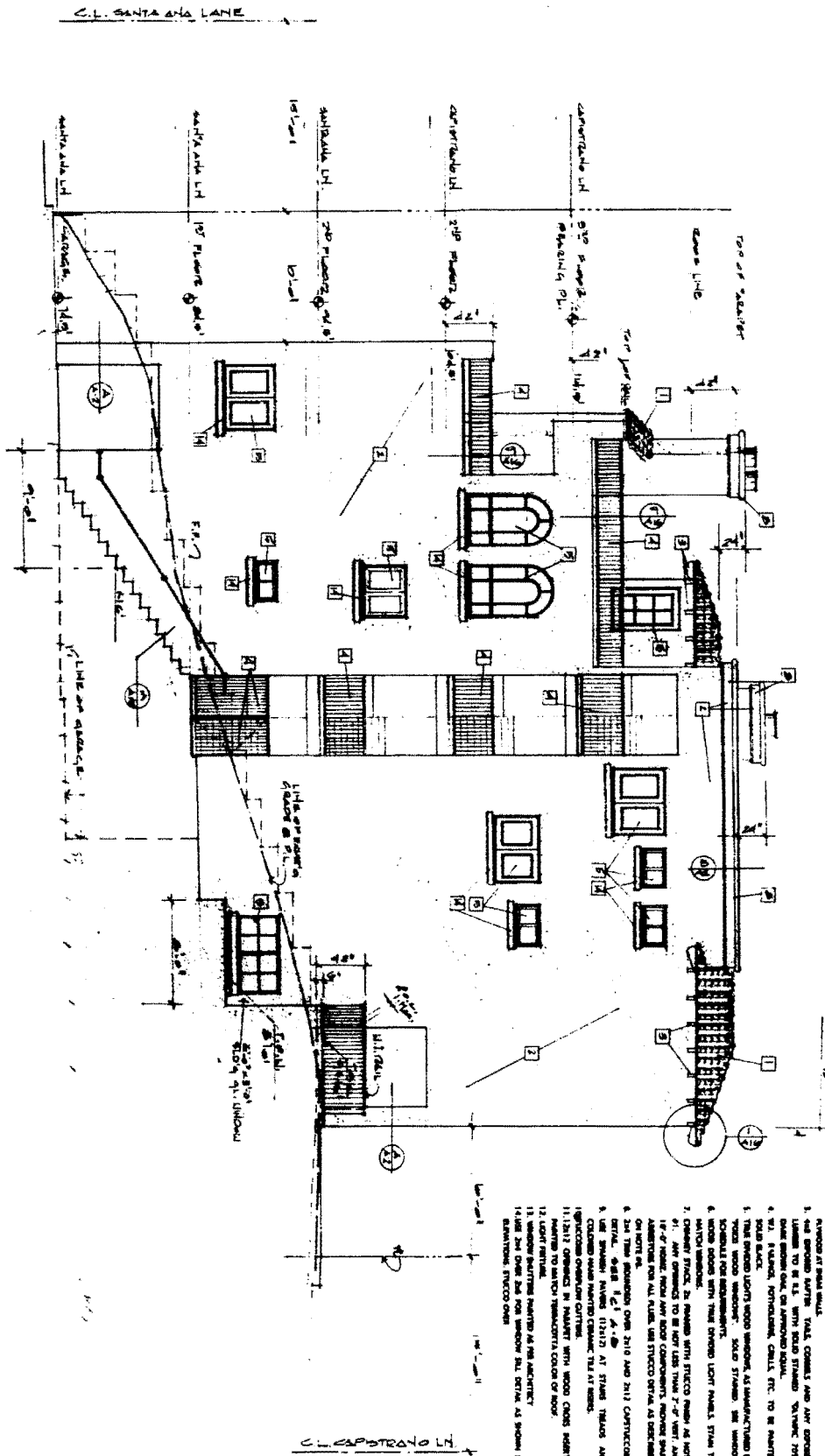
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A-9

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SOUTH SIDE ELEVATION



GENERAL NOTES

1. THE TWO STORIES PROVIDE CLAY TILE ROOFING, 4" TO 12" SLOPE, WITH 1/2" MINIMUM OVERLAP. ROOFING SHALL BE INSTALLED BY A QUALIFIED ROOFER. THE ROOFING SHALL BE INSTALLED BY A QUALIFIED ROOFER. THE ROOFING SHALL BE INSTALLED BY A QUALIFIED ROOFER.
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106 CAPISTRANO LANE
SAN CLEMENTE, CA 92672

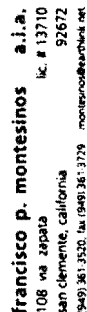
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Drawn by: R.T.
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Scale: 1/8" = 1'-0"
Date: 10/1/01

A-11



Artek.

1000 CARMISTRAND LANE
SAN CLEMENTE, CA 92672

drawn by: 20
date: 8-77
plan check: 4-77
bldg permit:
rev date: by:

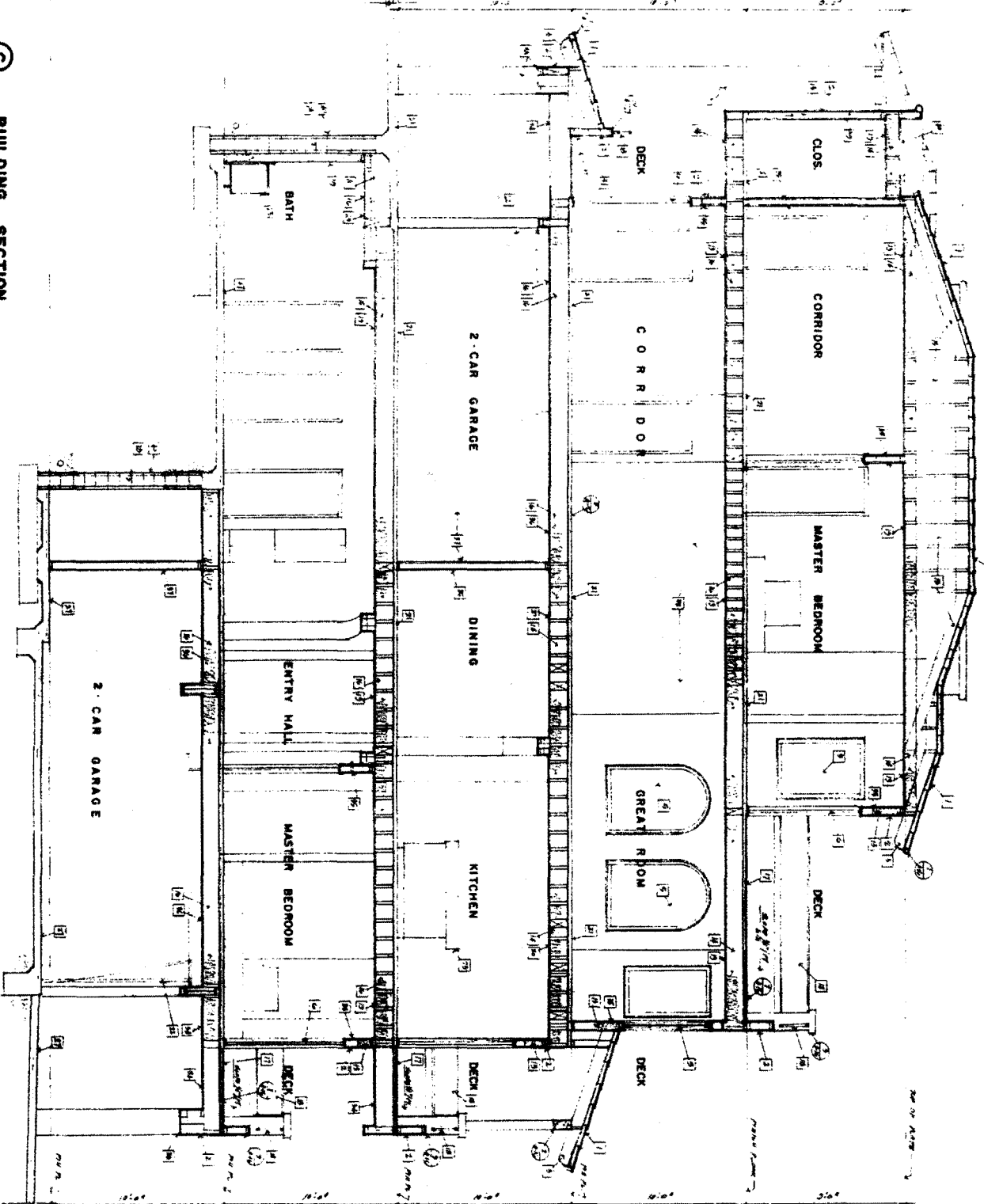
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of 16

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- PROVIDE 3/8" TYPE "H" REINFORCE AT WALLS AND CEGS THROUGH THE BLDG.



KEYED & GEN CONST. NOTES

1. THIS PROJECT IS A REVISION OF THE ORIGINAL PROJECT, THE HOUSE, 108 CAPISTRANO LANE, SAN CLEMENTE, CALIF. 92672. THE REVISIONS ARE AS FOLLOWS: A. ADDITION OF A SECOND GARAGE, 2-CAR GARAGE, TO THE REAR OF THE HOUSE. B. ADDITION OF A SECOND DECK, 10' X 10', TO THE REAR OF THE HOUSE. C. ADDITION OF A SECOND CORRIDOR, 10' X 10', TO THE REAR OF THE HOUSE. D. ADDITION OF A SECOND BATH, 5' X 7', TO THE REAR OF THE HOUSE. E. ADDITION OF A SECOND MASTER BEDROOM, 12' X 12', TO THE REAR OF THE HOUSE. F. ADDITION OF A SECOND DINING, 10' X 10', TO THE REAR OF THE HOUSE. G. ADDITION OF A SECOND KITCHEN, 10' X 10', TO THE REAR OF THE HOUSE. H. ADDITION OF A SECOND GREAT ROOM, 12' X 12', TO THE REAR OF THE HOUSE. I. ADDITION OF A SECOND CORRIDOR, 10' X 10', TO THE REAR OF THE HOUSE. J. ADDITION OF A SECOND BATH, 5' X 7', TO THE REAR OF THE HOUSE. K. ADDITION OF A SECOND MASTER BEDROOM, 12' X 12', TO THE REAR OF THE HOUSE. L. ADDITION OF A SECOND DINING, 10' X 10', TO THE REAR OF THE HOUSE. M. ADDITION OF A SECOND KITCHEN, 10' X 10', TO THE REAR OF THE HOUSE. N. ADDITION OF A SECOND GREAT ROOM, 12' X 12', TO THE REAR OF THE HOUSE. O. ADDITION OF A SECOND CORRIDOR, 10' X 10', TO THE REAR OF THE HOUSE. P. ADDITION OF A SECOND BATH, 5' X 7', TO THE REAR OF THE HOUSE. Q. ADDITION OF A SECOND MASTER BEDROOM, 12' X 12', TO THE REAR OF THE HOUSE. R. ADDITION OF A SECOND DINING, 10' X 10', TO THE REAR OF THE HOUSE. S. ADDITION OF A SECOND KITCHEN, 10' X 10', TO THE REAR OF THE HOUSE. T. ADDITION OF A SECOND GREAT ROOM, 12' X 12', TO THE REAR OF THE HOUSE. U. ADDITION OF A SECOND CORRIDOR, 10' X 10', TO THE REAR OF THE HOUSE. V. ADDITION OF A SECOND BATH, 5' X 7', TO THE REAR OF THE HOUSE. W. ADDITION OF A SECOND MASTER BEDROOM, 12' X 12', TO THE REAR OF THE HOUSE. X. ADDITION OF A SECOND DINING, 10' X 10', TO THE REAR OF THE HOUSE. Y. ADDITION OF A SECOND KITCHEN, 10' X 10', TO THE REAR OF THE HOUSE. Z. ADDITION OF A SECOND GREAT ROOM, 12' X 12', TO THE REAR OF THE HOUSE.

PROVIDE 2" NAILING'S
1" CEMENTS THROUGH THE BUILDING



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108 CAPISTRANO LANE
SAN CLEMENTE, CA 92672

DRAWN BY: **ART**
 DATE: **1/12**
 CHECKED BY: **ART**
 DATE: **1/12**
 SCALE: **1/8" = 1'-0"**
 SHEET NUMBER: **A-14**



Memorandum Planning Division

March 27, 2000

RECEIVED
APR 5 2000

CALIFORNIA
COASTAL COMMISSION

To: Mike Parness, City Manager
From: Jim Hare, City Planner
Subject: Ballard Duplex Processing Review
Copies: Jim Holloway, Community Development Director
Jeff Goldfarb, Assistant City Attorney

This memorandum is to document my internal investigation of the matter of the Ballard duplex, leading up to the issuance of a stop work order. In doing so, this memorandum will speak to the following questions:

1. Does the project conform to City codes, especially as regards to height?
2. What process steps did the project take?
3. Why did construction begin before obtainment of a Coastal Development Permit?
4. Did Frank Montesinos intervene in the processing of the application or the building permit?
5. What are the actual and likely future steps?

Project Description

The particular development project at issue is known as the Ballard Duplex. It is located at 108 Capistrano Lane, within the Pier Bowl Specific Plan district of San Clemente. The site is a through lot, extending from Capistrano Lane westerly and downhill to Santa Ana Lane. The proposed project is an unsubdivided residential duplex. Each residence has a two-car garage, one each facing the two fronting streets. Including the garage levels, the building is three stories facing onto Capistrano Lane and five stories facing onto Santa Ana Lane

Does the Project Conform to City Codes?

The project complies with all objective standards of the Pier Bowl Specific Plan and City Zoning. As for the primary issue of concern, height, the building is 43'-4" where 45'-0" is permitted. It observes 5'-0" minimum sideyards and



minimum front yards on both fronting streets. Recessed garages observe 18'-0" setbacks.

What process steps did the project take?

Due to the Pier Bowl requirement for architectural permits and the proximity of historic sites, the project was subject to obtaining a discretionary Cultural Heritage Permit. Frank Montesinos filed applications on behalf of the owner with the Planning Division on January 26, 1999. The permit was reviewed by the Design Review Subcommittee of the Planning Commission on February 25, 1999. Since Mr. Montesinos serves on the sub-committee, he excused himself from the sub-committee and presented the project as applicant representative. The record reflects consideration of neighborhood issues, including height, during the sub-committee meeting.

The project went to an initial hearing before the full Planning Commission on March 16, 1999. Commission Vice Chairman Ricardo Nicol served as chair for the hearing, as Mr. Montesinos again excused himself. The staff presentation included comments regarding discussion at the Design Review Subcommittee. Mr. Montesinos made no extensive presentation, but made himself available for questions. Minutes reflect testimony from Gary Button and Mary Schneider, both concerned with height and view blockage. Commissioner Pat Leyden addressed the testimony and supported the project. On motion of Commissioner Ron Runofson, seconded by Commissioner Dorothy Prohaska, the project was approved 6-0-1, Frank Montesinos abstaining. No appeal or City Council call up was undertaken in response to the Planning Commission action.¹

Questions were received by staff regarding the noticing of the hearing. In reviewing the file, staff determined that the noticing information provided by the applicant took in a 100' radius, whereas City codes require a 300' noticing radius.² On that basis, staff determined that the hearing was void, and commenced a renoticing of the project.

The re-noticed hearing before the Planning Commission took place on April 20, 1999. Once again, Commission Vice Chairman Ricardo Nicol served as chair for the hearing, as Mr. Montesinos excused himself. There was no testimony offered by applicants, representatives or others at this hearing. On motion of Ron

¹ At the request of the City Council, staff has recently amended the Planning Commission minutes format to clearly indicate which actions are final with the Commission and which will proceed to City Council.

² This event lead directly to two changes in process within the Planning Division. Whereas previously support staff retained the notice mailing information until the noticing date, those materials are now forwarded to the assigned planner and checked as a part of the process to determine the completeness of the application. Secondly, staff no longer follows the past practice of allowing applications to begin processing without all noticing information provided, with the noticing materials being allowed to "catch up".

Runolfson, seconded by Dennis Papilion, the project was approved by vote of 5-0-1, with Frank Montesinos abstaining and Pat Leyden absent.

Why did construction begin before obtainment of a Coastal Development Permit?

The suspension of the issued building permit and the issuance of a "stop work" order on the existing construction of the duplex has occurred because the project lacks clearance by the Coastal Commission, as required of projects generally within the Coastal Zone. In preparing the staff report for the Cultural Heritage Permit action, staff had indeed placed a condition requiring such Coastal Commission approval. Planning Division staff's reason for clearing the building permit was based on staff's misunderstanding of a document issued by the Coastal Commission which excludes many similar projects from the need to obtain such approval.

In 1982, the Coastal Commission issued a document known as an Exclusion Order, which is binding on both the City and the Commission. This Order generally states that homes and duplexes, built in areas not on a coastal bluff or canyon, and inland of the first street parallel to the shore, are excluded from any requirement to obtain a Coastal Development Permit. This description of the Order was used and trained to staff since the inception of the Order. However, the text of the Order itself contains exceptions from the exclusion – that is conditions under which the normal rule does not apply and Coastal Commission permission is required. One such criteria is evoked when the structure would exceed 25'-0" in height. The Exclusion Order also has appended maps of applicability, which do not take in the project site. Thus, the project was not correctly processed and cleared by Planning Division staff under the Exclusion Order.³

Staff had raised the Exclusion Order with Mr. Montesinos during his due diligence investigations on behalf of the applicant, prior to submittal of the project for processing. During the plan check process, the need for Coastal Commission consideration was questioned by the plan checker but internally signed off by Planning Division. Neither the applicant nor his representatives had contact with the Division at the time that the Exclusion Order was applied to the project.

As the project arose in framing, residents in the area raised the issue of Coastal Zone processing, and staff revisited the specific language of the Exclusion Order

³ Copies of the Exclusion Order have been made for staff and a review of the Order has been completed as a part of a recent staff meeting, to prevent similar misinterpretations in the future. Since the maps generally conform to the area description which was previously trained and since most single family and duplex zones limit height to 25'-0" regardless, staff is unaware that this error has occurred in any other project.

to discover the error. Within twenty-four hours of the discovery, the building permit was suspended and a "stop work" notice was posted.

Did Frank Montesinos intervene in the processing of the application or the permit?

Clearly every employee of the Planning Division and every member of the Planning Commission are aware of Mr. Montesinos, and so it is obviously difficult to document how his involvement in the project effected the outcome of decision making. It is similarly true that Mr. Montesinos is, through his role on the Commission, acutely aware of the City's design standards and the preferences of the Planning Commission, so it is therefore equally difficult to assess how that knowledge makes the process more straight forward for him and his applicants. That said, the record and my review reflects the following:

1. Mr. Montesinos reviewed the requirements for submittal and the standard for review for the project at the Planning Division public counter prior to assembling an application for submittal;
2. In his due diligence meetings at the Planning Division counter, Mr. Montesinos was informed by Division staff of the Exclusion Order—he did not independently raise the issue with staff;
3. In each hearing of the Planning Commission and its Design Review Subcommittee where the Ballard project was discussed, Mr. Montesinos excused himself and did not participate in the deliberative discussions;
4. Staff evoked the Exclusion Order during plan check as a result of internal discussions at the line staff level; again, it was not evoked or alluded to by Mr. Montesinos;
5. Mr. Montesinos has not meet with any supervisor or manager in the Planning Division, including the City Planner, at any time during the discretionary or ministerial processing of the project until the time the "stop work" notice was issued. Further, no supervisory or managerial direction has been given to staff to process the Ballard project in any way different from the processing of a project from any other applicant

What are the actual and likely future steps?

The suspension of work on the Ballard duplex relates to the single matter of requirement to provide a clearance from the Coastal Commission. The means of processing the application and the matters taken into account as a part of that

process are solely at the discretion of the Coastal Commission. In speaking with neighbors to the site, we have pointed out that the 25'-0" height contained in the Exclusion Order is a test for referral and in all probability should not be considered to be a limitation that the Commission would be obligated to enforce. Ultimately, the Coastal Commission will need to determine the means of processing and whether that process results in the project being approved in conformance with the City's approvals, modified or denied. Any action that significantly changes the design of the building would require additional processing by the City.

The applicant has met with staff regarding the "stop work" order. Subsequently, two steps have been undertaken:

1. Based on the Planning Commission's valid approval of the project, an "in concept" City approval has been confirmed for the applicants use as a part of his submittal to the Coastal Commission for their permission. Staff believes that the applicant has begun the Coastal Commission process.
2. Due to the expected amount of time during which the building permit will be suspended, the applicant has met with Building Division staff to determine ways to preserve the existing exposed construction on the site. Particular instruction has been given to the applicant in this regard, which may result in some activity at the site.

ATTACHMENT

Planning Commission Reports and Minutes 3/16/99 and 4/20/99

**MINUTES OF THE MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION**

April 20, 1999

@ 7:00 p.m.

City Council Chambers

100 Presidio

San Clemente, CA 92672

1. CALL TO ORDER

Chair Montesinos called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

Chair Montesinos led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Montesinos, Runolfson, Papilion, Bonner, Nicol, Prohaska

Commissioners Absent: Leyden

Staff Present: Jim Hare, City Planner
Jason Martin, Associate Planner
Akram Hindiye, Senior Civil Engineer
Ted Simon, Senior Civil Engineer
Jeff Goldfarb, Assistant City Attorney
Eileen White, Recording Secretary

4. SPECIAL ORDERS OF BUSINESS - None

5. MINUTES

IT WAS MOVED BY COMMISSIONER RUNOLFSON, SECONDED BY COMMISSIONER BONNER AND CARRIED 4-0-2 (WITH NICOL AND PROHASKA ABSTAINING) to receive and file the minutes of the meeting of April 6, 1999, as presented.

6. ORAL COMMUNICATIONS - None

7. WRITTEN COMMUNICATIONS

Chair Montesinos announced that all Commissioners have received a letter from the group "San Clemente Citizens for Responsible Development" inviting them to attend a meeting to be held on Tuesday, April 27, 1999, at St. Andrews by the Sea Methodist Church on Calle Frontera.

8. CONSENT CALENDAR

A. Proposed Parking Prohibition

Should the Planning Commission approve staff's recommendation to prohibit parking on a portion of South El Camino Real and Camino Mira Costa for the purpose of providing adequate sight distance.

B. Proposed Parking Modifications on Calle Lago and Calle de Los Molinos

Should the Planning Commission approve staff's recommendation to modify the parking restriction on portions of Calle Lago and Calle de Los Molinos.

IT WAS MOVED BY COMMISSIONER BONNER, SECONDED BY COMMISSIONER Runolfson AND UNANIMOUSLY CARRIED to adopt item 8.A.

Commissioner Bonner requested that staff speak to item 8.B.

Akram HindiyeH summarized the proposed parking modifications, the intent of which is to provide the necessary parking on Calle Lago and prevent vehicle storage on portions of Calle de los Molinos. Staff met with representatives from businesses located on Calle Lago and most were supportive of the proposal. No objections have been received to date. After the modifications are implemented, the end result will be an increase in long term parking and a decrease in short term parking. The parking restrictions will restrict overnight parking by vehicles being worked on by the automotive repair shops in the area. Staff is confident that the auto repair establishments can accommodate the cars in their parking areas overnight. The Calle de los Molinos Business Group has voiced their support of the staff proposal.

IT WAS MOVED BY COMMISSIONER BONNER, SECONDED BY COMMISSIONER PROHASKA AND UNANIMOUSLY CARRIED to adopt item 8.B.

9. PUBLIC HEARINGS

A. Cultural Heritage Permit 99-13, Ballard Duplex

A request by Frank Montesinos, AIA, on behalf of O.V. and Bryan Ballard, for a Cultural Heritage Permit to construct 2 attached dwelling units in the Pier Bowl Specific Plan area at 108 Santa Ana Lane, the legal description being Lot 4, Block 9, Tract 785.

Chair Montesinos excused himself from consideration of this item. Commissioner Nicol chaired this portion of the meeting.

Jason Martin summarized the staff report. This item is back before the Commission because of a noticing error attributed to an outdated form. The project was sufficiently re-noticed. Staff gave an overview of the project and recommends approval of the project as conditioned.

Frank Montesinos, the architect representing the applicant, was available for questions. There was no public testimony.

IT WAS MOVED BY COMMISSIONER RUNOLFSON, SECONDED BY COMMISSIONER PAPILION AND CARRIED 5-0-1 (WITH MONTESINOS ABSTAINING) to adopt Resolution no. PC 99-24, approving Cultural Heritage Permit 99-13, Ballard, a request to construct a new residential duplex located at 108 Santa Ana Lane.

In response to Commissioner Prohaska's question regarding the possibility that adjacent neighbors be provided with copies of the Pier Bowl Specific Plan, City Planner Hare stated that any interested party may request a copy of the document for the cost of reproducing it. Producing the lengthy document without reimbursement for any and/or all those individuals who spoke to this project at the last meeting would be cost prohibitive.

Chair Montesinos resumed the chairperson position.

B. Site Plan Permit (SPP) 99-11, Rick's Trailer Supply

A request by Kevin Grant of General Contractors, on behalf of Rick Unfried, to construct a 13,000 square foot building with associated parking and vehicular circulation areas on the 1.75 acre, vacant lot located along the planned extension of Avenida Fabricante. The proposed use is a RV service and storage facility. The subject site is located in the easterly, industrial portion of the Rancho San Clemente Business Park, the legal description of the site being Lot 6 of Tract 14609.

Jason Martin presented the project. A colored rendering and vicinity map were displayed for the Commissioners' consideration. The project is composed of three components; a RV parts and service building requiring a site plan permit, a conditional use permit allowing the proposed use; and a minor exception permit to allow the installation of a six foot high wall. He distributed a memo detailing a driveway misalignment that has recently come to staff's attention. He indicated the location of a utility vault on the site plans that will interfere with the applicant's driveway placement. Although he is unsure how this issue will ultimately be resolved, the applicant is considering several alternatives and additional study of the site is required before a decision can be made. Staff will have final approval over the revised plans.

Don Mueller, the architect representing the applicant, described the project. The building is a tilt-up style constructed with concrete block and painted in earth tones. The RV storage area will be screened off with an eight-foot wall, which is set back 25 feet from the street. An abundant amount of mature landscaping will be installed behind the eight-foot wall for screening purposes. He is confident that the driveway can be realigned or redesigned to staff's satisfaction and agrees with all the conditions attached to the project. In response to Commissioner Nicol's question regarding overnight street parking, he assured the Commissioners that it is not the owner's intent to encourage his customers to park their RV's on the street. In response to Commissioner Bonner's question, he noted that the RV storage lot will accommodate approximately 30 vehicles.

Commissioner Nicol commented that together the well-designed building and abundance of mature landscaping made for a very attractive project. He advised the applicant to try to conserve as much of the landscaping as possible during the driveway redesign.

IT WAS MOVED BY COMMISSIONER BONNER, SECONDED BY COMMISSIONER PROHASKA AND UNANIMOUSLY CARRIED to adopt Resolution no. PC 99-31, adopting a mitigated negative declaration and approving Site Plan Permit 99-11, Conditional Use Permit 99-12, and Minor Exception Permit 99-47, Rick's RV, to allow construction of a building and establishment of recreational vehicle service, storage and supply business in the San Clemente Industrial Center.

C. Site Plan Permit (SPP) 99-26, Dana Innovations (Dynamic Building)

A request by Dynamic Builders to construct a 43,240 square foot office/warehouse building with associated parking and vehicular circulation areas on the 2.5 acre, vacant lot located along the planned extension of Avenida Fabricante. The subject site is located in the Rancho San Clemente Business Park, the legal description being Lot 4 of Tract 15257.

Jason Martin presented the staff report. This is a request to construct an office/warehouse building in the San Clemente Business Park. In addition to some minor issues that can be addressed through the conditions of approval, the Development Management Team (DMT) identified significant concerns with the building's east elevation and non-compliance with the City's Hillside Development Ordinance. In response to these concerns, the applicant submitted revised landscaping plans that attempt to screen the east elevation and installed "story poles" to indicate the building's visibility from Steed Park and Avenida La Pata. A perspective drawing was also submitted for the Commissioners' consideration.

The Design Review Sub-Committee reviewed the project and recommended modifications relating to the building height and color scheme. The applicant revised his plans accordingly. DRSC members agreed with the applicant that the view encroachment was minor and that the starkness of the east elevation can be mitigated with landscaping.

Because the project does not comply with the requirements in the Hillside Development Ordinance, however, staff is recommending that the Planning Commission deny the project. Staff believes the project should be re-designed to comply with all City standards and guidelines.

Barry Segal, a partner in Dynamic Builders, addressed the two concerns identified by staff. The stark east elevation will be mitigated by proposed landscaping and has limited visibility from down the street. It will not be visible from Avenida Pico. With regard to the ridgeline obstruction, he noted that the obstruction is only visible from the concession stand line at Steed Park. Only 10-15% of the building is actually projecting into the ridgeline view. He believes that the project complies with the intent of the Hillside Development Ordinance, and that the ridgeline view blockage is minimal.

In response to questions regarding the width of the truck access, City Engineer Ted Simon reported that staff had thoroughly tested the access driveway with templates and concluded that the width was adequate. On the site plans, he indicated some of the changes to the driveway and entry area proposed by staff to improve access to the site. The applicant has agreed to revise the plans accordingly.

The Commissioners also discussed the possibility of requiring the applicant to enhance the landscaping in the greenbelt areas adjacent to the property that are currently owned and maintained by two separate business park associations. Attorney Jeff Goldfarb explained that the project cannot be conditioned to enhance or exert control over the property of another. It would be within the Commission's purview, if they so desire, to require that the applicant put forth his best effort to formulate an agreement with an adjacent association to enhance the landscaping on that association's property.

In response to Commissioner Nicol's suggestion, the applicant agreed to research the availability of alternative roofing material colors. Staff will have approval over the final selection.

Following discussion, the consensus of the Commission was that the projection into the ridgeline was insignificant or minimal at best. The fact that the ridgeline encroachment can only be seen from Steed Park as opposed to being visible from many different locations, further minimizes the view blockage issue. In addition, the applicant has adequately mitigated the starkness of the east elevation with landscaping.

Commissioner Papilion believes that the project can and should be redesigned or reoriented on the site to bring it into full compliance with the Hillside Development Ordinance. Standards and guidelines have been put in place and should be adhered to. He does not agree that the starkness of the east elevation can be mitigated with landscaping. He agrees with staff that the architectural design should be enhanced and the building needs more articulation. Approval of this project is clearly bending the rules and may set precedence for other projects.

The Commission directed the applicant to research the available roofing materials on the market with the intent of enhancing the view of the rooftop from the Ridgeline Trail. Staff, pursuant to the requirements of the San Clemente Zoning Ordinance, will review and have final approval of the roofing materials selected.

IT WAS MOVED BY COMMISSIONER NICOL, SECONDED BY COMMISSIONER RUNOLFSON AND CARRIED 5-1 (WITH PAPILION AGAINST) to approve Resolution no. PC 99-32, adopting a negative declaration and approving Site Plan Permit 99-26, Dana Innovations (AKA Sonance) to allow construction of an office/warehouse building in the Rancho San Clemente Business Park.

10. NEW BUSINESS - None

11. OLD BUSINESS - None

12. REPORTS OF COMMISSIONERS/STAFF

A. Planning Commission Representation at Next City Council Meeting

The Commissioners decided there was no need to send a representative to the next City Council meeting.

B. Minutes of Zoning Administrator Meeting – April 13, 1999

Included in the Commissioners' packets for their consideration.

C. Long Range Tentative Agenda

Included in the Commissioners' packets for their review.

In response to a request from Design Review Sub-committee members Rumolfson, Papilion, and Montesinos, City Planner Jim Hare agreed to place the Marblehead Coastal project on the April 29 DRSC agenda.

13. ADJOURNMENT

IT WAS MOVED BY COMMISSIONER PROHASKA, SECONDED BY COMMISSIONER NICOL AND UNANIMOUSLY CARRIED to adjourn at 8:45 p.m. to the Study Session of the Planning Commission to be held on Tuesday, May 4, 1999, at 4:00 p.m. at Council Chambers, City Hall, 100 Avenida Presidio, San Clemente, CA 92672.

Respectfully submitted,

Frank Montesinos, Chair

Attest:



Jim Hare, Secretary

TO: PLANNING COMMISSION
FROM: Jason Martin, Associate Planner 

SUBJECT: Cultural Heritage Permit (CHP) 99-13, Ballard Duplex

ISSUE

Should the Planning Commission approve a request to construct a residential duplex at 108 Santa Ana Lane.

ENVIRONMENTAL REVIEW

The Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has determined the project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure.

BACKGROUND

Frank Montesinos AIA, on behalf of O.J. and Bryan Ballard, has submitted an application package, which proposes the construction of a residential duplex on the vacant lot located at 108 Santa Ana Lane.

The project was considered by the Planning Commission on 3/16/99. The minutes from that meeting are included as Attachment B. After the Planning Commission meeting, it was determined by staff that the public hearing notice was not conducted in full compliance with City requirements. The City requires that a public hearing notice be mailed to property owners within a 300 foot radius of the site. Public hearing notices for this project were mailed to property owners within a 100 foot radius of the site.

The cause of the noticing error has been traced to the applicant being provided an application form which listed outdated noticing requirements (i.e. 100 feet). The application has since been updated and outdated applications have been discarded.

The subject site is located within the Residential High Density zone as designated in the Pier Bowl Specific Plan, and is located within 300 feet of a designated historic structure. (See the attached location map).

Generally, residential duplexes would be reviewed and approved administratively. However, because of the site's location within an architectural overlay zone (all properties in the Pier Bowl are within an architectural overlay zone) and its close proximity to designated historic

The DRSC considered the project and discussed several issues. Much of the discussion was in response to comments and questions made by several surrounding property owners. In particular clarification was given regarding the projects proposed height and its compliance with City standards. The applicant used prepared photo analysis to illustrate the proposed project relative to the built environment. That analysis will be at the meeting for Planning Commission consideration.

It was highlighted that on the taller building elevation, progressively increased building setbacks for the top three stories and a high degree of building articulation are proposed and would do much to lessen the perceived mass of the building.

Ultimately, the DRSC concurred that the proposed architecture was of a high quality and well suited for the area. They did comment that one of the lower level windows on the Santa Ana Lane elevation and visible to the public view should be paned glass. The applicant concurred. A condition of Approval is being recommended accordingly.

In conclusion, staff believes that the project meets all the required findings for the cultural heritage permit. The design of the project with the proposed architectural features (i.e. traditional materials and design elements, progressively increased setbacks for upper floors, and the high degree of building articulation) will complement the pedestrian orientation of the Pier Bowl and the Spanish Colonial Revival style architecture of the nearby historic structure. Additionally, the project complies with all identified requirements of the San Clemente Zoning Ordinance and the Pier Bowl Specific Plan including those relating to height, lot coverage, setbacks, and on-site parking.

ALTERNATIVES/IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with Staff and conditionally approve CHP 99-13 which would result in the construction of a residential duplex, as described in this report, on a vacant lot in the Pier Bowl located at 108 Santa Ana Lane..
2. The Planning Commission, at its discretion, can recommend additions, or modifications to the request, which would result in any revisions being incorporated accordingly.
3. The Planning Commission can deny CHP 99-13.

RECOMMENDATION

Staff recommends that the Planning Commission approve CHP 99-13 subject to the attached Resolution and Conditions of Approval included as Attachment A.

Attachments:

- A. Resolution with Conditions of Approval
- B. Planning Commission Meeting Minutes

Discussion ensued regarding the functional layout of the building; the number of surplus parking spaces granted to businesses in the Downtown Shopping District and the procedure for keeping track of the parking waivers; and the possibility that an aesthetic nuisance may be created if the project is not completed as proposed.

Dave Guterrez, representing the applicant, stated that the applicant intends to complete the project in its entirety as proposed. He agreed to bring the project back for additional review if the applicant changes his mind. He requested that condition no. 1.e. be deleted to allow the applicant to install single paned windows instead of true divided panes.

Commissioner Nicol agreed with the applicant's request. He noted that true divided windows will impair visibility into and out of the building.

Planner Hare commented that the required use of true divided paned windows is included in the design guidelines. This treatment, and others contained in the architectural overlay guidelines, are not always in concurrence with modern retail philosophy. It is within the Planning Commission's discretion whether to require the applicants to adhere to these guidelines.

IT WAS MOVED BY COMMISSIONER NICOL, SECONDED BY COMMISSIONER BONNER AND UNANIMOUSLY CARRIED to adopt Resolution no. PC 99-23, approving CHP 99-15 and DSP 99-34, K & S Cleaners, a request to conduct an exterior building remodel, construct a building addition totaling 690 square feet, for a parking waiver, and to install business signage on the property located at 114 S. El Camino Real with the following revisions:

Page 4, delete condition no. 1.E.

Page 5, delete condition no. 4.

C. Cultural Heritage Permit 99-13. Ballard Duplex

A request by Frank Montesinos, AIA, on behalf of O.V. and Bryan Ballard, for a Cultural Heritage Permit to construct 2 attached dwelling units in the Pier Bowl Specific Plan area at 108 Santa Ana Lane, the legal description being Lot 4, Block 9, Tract 785.

Chair Montesinos excused himself from consideration of this item. Vice-Chair Nicol led the meeting.

Jason Martin summarized the staff report. Review of this duplex is before the Commission due to its location within the Pier Bowl architectural overlay zone and its close proximity to designated historical buildings. During its review, the DRSC commented that the proposed architecture was of

ATTACHMENT B

high quality and well suited for the area. A suggestion to replace one of the lower level windows with paned glass was well received by the applicant and a condition of approval was written and included in the project accordingly. Staff recommends approval of the request as conditioned.

Frank Montesinos, representing the applicant, was available for questions.

Public Testimony:

Gary Button, San Clemente resident, lives across the street from the proposed project. He distributed photographs depicting views of the site from all angles. On one of the photographs, he indicated the proposed location and height of the duplex and expressed concerns that it would be taller than all the other buildings on the street. Instead of the ocean view from his front window that he has enjoyed for many years, his home will overlook a "skyscraper." Noting that city workers have visited the site and installed meters, he asked if the building permits have already been approved.

Mr. Montesinos responded to Mr. Button's comments. The installation of water meters is unrelated to this project. Mr. Button's home, and most of the other homes on the street, are at least three stories high. In addition, he noted that the project is subject to Coastal Commission approval.

Mary Schneider, San Clemente resident, pointed out that no other homes on the street are five stories high.

Mr. Martin remarked that the proposed project is in compliance with the height restrictions in the Zoning Ordinance and Pier Bowl Specific Plan.

Commissioner Leyden commented that nearby residents have enjoyed the views afforded by the empty lot for many years and, understandably, are reluctant to lose the views. The project proposed is consistent with other homes in the neighborhood, well-designed architecturally, and will be an asset to the community.

Commissioner Nicol remarked that the project has been extensively reviewed to ensure that it meets all code requirements. The duplex meets or exceeds all applicable requirements.

IT WAS MOVED BY COMMISSIONER RUNOLFSON, SECONDED BY COMMISSIONER PROHASKA AND CARRIED 6-0-1 (WITH MONTESINOS ABSTAINING) to adopt Resolution no. PC 99-24, approving Cultural Heritage Permit 99-13, Ballard, a request to construct a new residential duplex located at 108 Santa Ana Lane.

Chair Montesinos resumed control of the meeting.

RESOLUTION NO. PC 99-24

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CULTURAL HERITAGE PERMIT 99-13, BALLARD, A REQUEST TO CONSTRUCT A NEW RESIDENTIAL DUPLEX LOCATED AT 108 SANTA ANA LANE

WHEREAS, on January 26, 1999, an application was filed by Frank Montesinos AIA, on behalf of O.J. and Bryan Ballard of 5774 Sycamore Ave. Rialto, 92377, and completed on February 25, 1999, for a Cultural Heritage Permit to allow construction of a new duplex on a vacant lot located at 108 Santa Ana Lane, the legal description being Lot 4, Block 9 of Tract 785; and

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure; and

WHEREAS, on February 25, 1999, the Design Review Sub-committee considered the proposed project and provided comments to the applicant; and

WHEREAS, on April 20, 1999, the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: This project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure.

Section 2: The architectural treatment for the project complies with the San Clemente General Plan and Pier Bowl Specific Plan and the architectural guidelines in the City's Design Guidelines in that the proposed duplex is compatible in scale, mass and form with the other building in the vicinity of the site.

Section 3: The project, as conditioned, complies with the San Clemente Zoning Ordinance and the Pier Bowl Specific Plan in that the height of the duplex complies with the 45 foot maximum height limit of the Residential High (RH) district and the front, rear and side setbacks comply with the required setbacks established for the RH district.

ATTACHMENT A

Section 4: The general appearance of the proposal is in keeping with the character of the neighborhood and is not detrimental to the orderly and harmonious development of the City in that the proposed duplex is compatible with the scale of other properties in the surrounding neighborhood.

Section 5: The proposed project preserves and strengthens San Clemente's historic identity as a Spanish Village in the building architectural design and proposed building materials are characteristic of the Spanish Colonial Revival style.

Section 6: The proposed project will not have negative visual or physical impacts upon the historic structure located at 109 Alameda Lane in that the building architectural design and proposed building materials are compatible with those of the historic structure.

Section 7: The Planning Commission of the City of San Clemente hereby approves Cultural Heritage Permit 99-13, Ballard, a request to allow the construction of a new duplex at 108 Santa Ana Lane, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on April 20, 1999.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on April 20, 1999, and carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT 1

CONDITIONS OF APPROVAL*
CULTURAL HERITAGE PERMIT 99-13, BALLARD

1. The owner or designee shall develop the approved project in conformance with the site plan, floor plans, elevations, sample materials board, and any other applicable submittals approved by the Planning Commission on April 20, 1999, subject to modifications by these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Planning Commission.

(PIng.)_____

2. The windows above the garage to the right of the first floor balcony along the Santa Ana Lane elevation shall be true divided pane glass.
3. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, the Uniform Fire Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Administrative Code, and the Uniform Codes as adopted by the City. (Bldg.)_____
4. Prior to issuance of building permits, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that Coastal Commission approval has been obtained for the project. (PIng.)_____
5. Prior to issuance of building permits, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect, nor shall permits be issued, unless such written consent is submitted to the City. (PIng.)_____

- * All Conditions of Approval are Standard, unless indicated as follows:
 - Denotes modified Standard Condition of Approval
 - ■ Denotes project-specific Condition of Approval

TO: PLANNING COMMISSION

FROM: Jason Martin, Associate Planner 

SUBJECT: Cultural Heritage Permit (CHP) 99-13, Ballard Duplex

ISSUE

Should the Planning Commission approve a request to construct a residential duplex at 108 Santa Ana Lane.

ENVIRONMENTAL REVIEW

The Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has determined the project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure.

BACKGROUND

Frank Montesinos AIA, on behalf of O.J. and Bryan Ballard, has submitted an application package, which proposes the construction of a residential duplex on the vacant lot located at 108 Santa Ana Lane. The subject site is located within the Residential High Density zone as designated in the Pier Bowl Specific Plan, and is located within 300 feet of a designated historic structure. (See the attached location map).

Generally, residential duplexes would be reviewed and approved administratively. However, because of the site's location within an architectural overlay zone (all properties in the Pier Bowl are within an architectural overlay zone) and its close proximity to designated historic buildings, special attention has been given to the design of this project under the Cultural Heritage Permit process.

The request was considered by the Design Review Sub Committee on February 25, 1999. At the DRSC meeting several property owners from the neighborhood made general comments and asked questions to clarify their understanding of the project. Issues identified at the meeting are outlined in the Analysis Section of this report.

The required public hearing notice has been conducted for the application. As of the date of this report preparation no comments either in support, or against, have been received from the public regarding this project.

ANALYSIS AND CONCLUSION

Project Description

The project is proposed on one, of the few remaining, vacant lots in the Pier Bowl area. The subject site is an interior, "through" lot with established multi-family residential uses on either side. The project is a residential duplex. The applicant has indicated that the project would be homes for himself and his son. No separate ownership, although allowable under the San Clemente Zoning Ordinance, is proposed at this time

The site has frontage on two streets: Santa Ana Lane and Capistrano Lane. The proposed development is oriented towards the west and ocean/pier views. The site slopes and drains down in a westerly direction to Santa Ana Lane from Capistrano Lane at an estimated gradient of 20%. The building is proposed with 5 foot side yard setbacks on both sides, and 10 foot setbacks from both Santa Ana Lane and Capistrano Lane. Garages are recessed and setback 18 feet from the property line. Two, two-car garages area proposed, one for each unit, and on each of the two street frontages. Excluding the ground-floor garages, the building is 2 stories on Capistrano Lane and 4 stories on Santa Ana Lane. The height of the buildings has been calculated in accordance with the required "averaging" method identified in the San Clemente Zoning Ordinance. The maximum height of the building is 43 feet 4 inches.

Architecturally the proposed building exhibits many elements of the traditional, Spanish Colonial Revival style. They include wrought-iron, wood, and ceramic tile accents; an arched main entrance doorway and arched windows; architectural niches; tiled stair risers and a curvilinear stair case; a smooth Mission style finish; wood paned windows; and clay tile roofing materials with exposed rafter tails.

Design Review Sub Committee (DRSC)

The project architect, who sits on the City's DRSC, excused himself from his committee member role during the DRSC's consideration of the item. He assumed the role as representative for the applicant, and presented the project to the DRSC.

The DRSC considered the project and discussed several issues. Much of the discussion was in response to comments and questions made by several surrounding property owners. In particular clarification was given regarding the projects proposed height and its compliance with City standards. The applicant used prepared photo analysis to illustrate the proposed

project relative to the built environment. That analysis will be at the meeting for Planning Commission consideration.

It was highlighted that on the taller building elevation, progressively increased building setbacks for the top three stories and a high degree of building articulation are proposed and would do much to lessen the perceived mass of the building.

Ultimately, the DRSC concurred that the proposed architecture was of a high quality and well suited for the area. They did comment that one of the lower level windows on the Santa Ana Lane elevation and visible to the public view should be paned glass. The applicant concurred. A condition of Approval is being recommended accordingly.

In conclusion, staff believes that the project meets all the required findings for the cultural heritage permit. The design of the project with the proposed architectural features (i.e. traditional materials and design elements, progressively increased setbacks for upper floors, and the high degree of building articulation) will complement the pedestrian orientation of the Pier Bowl and the Spanish Colonial Revival style architecture of the nearby historic structure. Additionally, the project complies with all identified requirements of the San Clemente Zoning Ordinance and the Pier Bowl Specific Plan including those relating to height, lot coverage, setbacks, and on-site parking.

ALTERNATIVES/IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with Staff and conditionally approve CHP 99-13 which would result in the construction of a residential duplex, as described in this report, on a vacant lot in the Pier Bowl located at 108 Santa Ana Lane..
2. The Planning Commission, at its discretion, can recommend additions, or modifications to the request, which would result in any revisions being incorporated accordingly.
3. The Planning Commission can deny CHP 99-13.

RECOMMENDATION

Staff recommends that the Planning Commission approve CHP 99-13 subject to the attached Resolution and Conditions of Approval included as Attachment A.

Attachments:

- A. Resolution with Conditions of Approval
- B. Location Map
- C. Plans

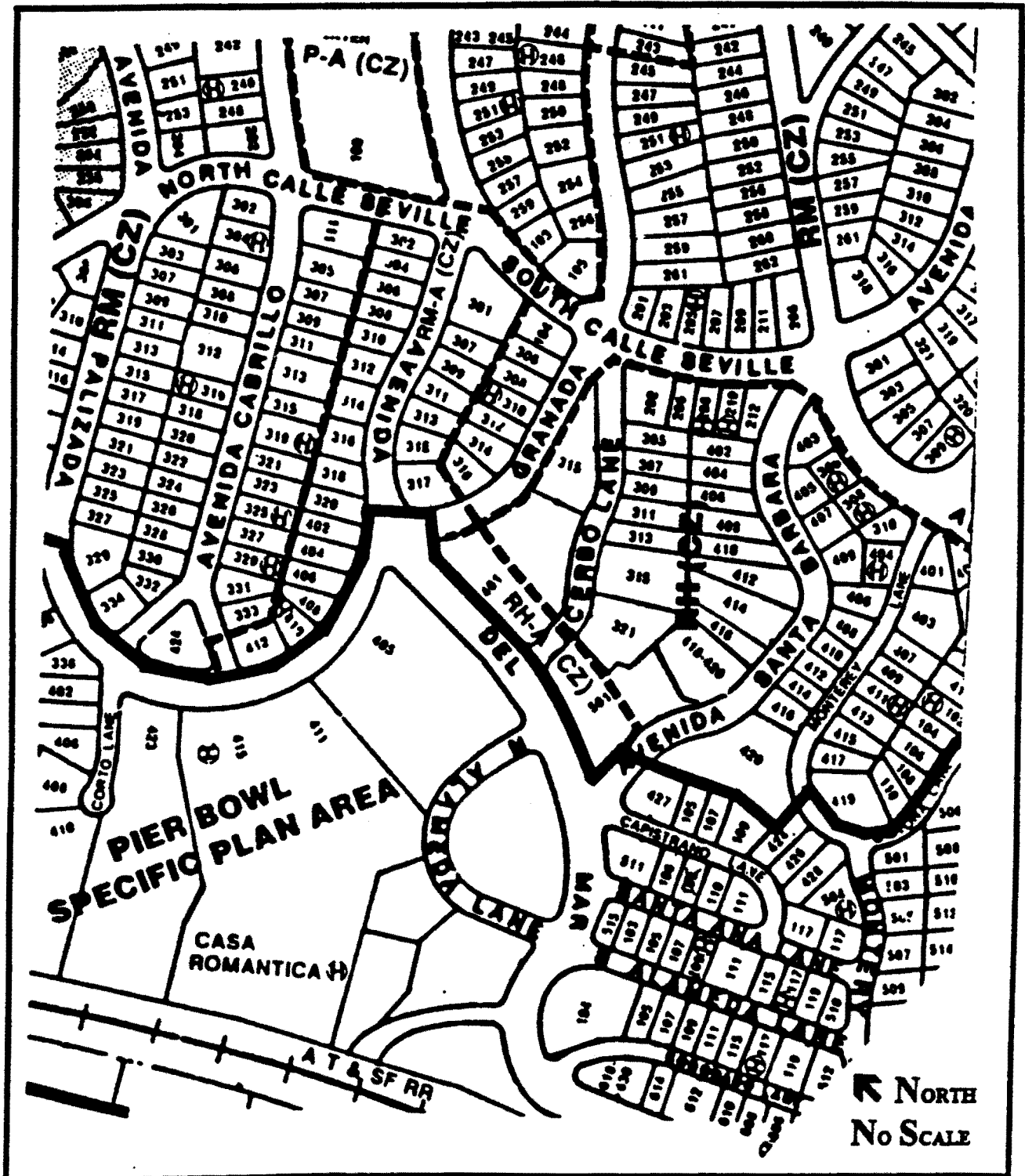


CITY OF SAN CLEMENTE

PLANNING DIVISION

LOCATION MAP

CASE NO. - Cultural Heritage Permit (CHP) 99-13



RESOLUTION NO. PC 99-24

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY
OF SAN CLEMENTE, CALIFORNIA, APPROVING CULTURAL HERITAGE
PERMIT 99-13, BALLARD, A REQUEST TO CONSTRUCT A NEW
RESIDENTIAL DUPLEX LOCATED AT 108 SANTA ANA LANE**

WHEREAS, on January 26, 1999, an application was filed by Frank Montesinos AIA, on behalf of O.J. and Bryan Ballard of 5774 Sycamore Ave. Rialto, 92377, and completed on February 25, 1999, for a Cultural Heritage Permit to allow construction of a new duplex on a vacant lot located at 108 Santa Ana Lane, the legal description being Lot 4, Block 9 of Tract 785; and

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine this project categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure; and

WHEREAS, on February 25, 1999, the Design Review Sub-committee considered the proposed project and provided comments to the applicant; and

WHEREAS, on March 16, 1999, the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the applicant, and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: This project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303 because it involves the construction of a new small structure.

Section 2: The architectural treatment for the project complies with the San Clemente General Plan and Pier Bowl Specific Plan and the architectural guidelines in the City's Design Guidelines in that the proposed duplex is compatible in scale, mass and form with the other building in the vicinity of the site.

Section 3: The project, as conditioned, complies with the San Clemente Zoning Ordinance and the Pier Bowl Specific Plan in that the height of the duplex complies with the 45 foot maximum height limit of the Residential High (RH) district and the front, rear and side setbacks comply with the required setbacks established for the RH district.

Section 4: The general appearance of the proposal is in keeping with the character of the neighborhood and is not detrimental to the orderly and harmonious development of the City in that the proposed duplex is compatible with the scale of other properties in the surrounding neighborhood.

Section 5: The proposed project preserves and strengthens San Clemente's historic identity as a Spanish Village in the building architectural design and proposed building materials are characteristic of the Spanish Colonial Revival style.

Section 6: The proposed project will not have negative visual or physical impacts upon the historic structure located at 109 Alameda Lane in that the building architectural design and proposed building materials are compatible with those of the historic structure.

Section 7: The Planning Commission of the City of San Clemente hereby approves Cultural Heritage Permit 99-13, Ballard, a request to allow the construction of a new duplex at 108 Santa Ana Lane, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on March 16, 1999.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on March 16, 1999, and carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT 1

CONDITIONS OF APPROVAL*
CULTURAL HERITAGE PERMIT 99-13, BALLARD

1. The owner or designee shall develop the approved project in conformance with the site plan, floor plans, elevations, sample materials board, and any other applicable submittals approved by the Planning Commission on March 16, 1999, subject to modifications by these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Planning Commission.

(Plng.)_____

2. The windows above the garage to the right of the first floor balcony along the Santa Ana Lane elevation shall be true divided pane glass.
3. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, the Uniform Fire Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Administrative Code, and the Uniform Codes as adopted by the City. (Bldg.)_____
4. Prior to issuance of building permits, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that Coastal Commission approval has been obtained for the project. (Plng.)_____
5. Prior to issuance of building permits, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect, nor shall permits be issued, unless such written consent is submitted to the City. (Plng.)_____

* All Conditions of Approval are Standard, unless indicated as follows:

- Denotes modified Standard Condition of Approval
- ■ Denotes project-specific Condition of Approval

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P. O. BOX 1450

LONG BEACH, CALIFORNIA 90801

213/590-5071 714/846-0648

COASTAL DEVELOPMENT PERMITApplication Number: P-2-28-77-312Name of Applicant: Mr. & Mrs. Jack Schroeder1675 Angelus Avenue, Los Angeles, CA 90026Permit Type: ☐ Emergency
☒ Standard
☐ AdministrativeDevelopment Location: 110 Capistrano Lane, San Clemente, CADevelopment Description: Construct a four-story duplex with an outdoor
spa, conditioned not to exceed 20 feet from the centerline of the
frontage road (Capistrano Lane).

I. The South Coast Commission finds that:

A. The proposed development, or as conditioned, is:

1. In conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of local government to prepare a local coastal program in conformity with said chapter.
2. If located between the nearest public road and the shoreline of any body of water in the coastal zone is in conformity with public access and public recreation policies of Chapter 3, California Coastal Act of 1976.
3. That there are/are no feasible alternatives, or mitigation measures, as provided in the California Environmental Impact Act, available which would substantially lessen adverse impact that the development as finally proposed has on the environment.

*EXHIBIT #1, P. 5***EXHIBIT No. 6a**

Application Number: 5-00-111

CDP No. P-2-28-77-312

California Coastal
Commission

II. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

Prior to issuance of permit, applicant shall submit revised plans
reducing the height to 20 feet from centerline of frontage road
(Capistrano).

Condition/s Met On 4/12/77 By ej ef

III. Whereas, at a public hearing, held on April 4, 1977 at
(date)
Huntington Beach by a 12 to 0 vote permit application
number P-2-28-77-312 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a copy of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on
April 18, 1977.



M. J. Carpenter
Executive Director

I, _____, permittee/agent, hereby acknowledge
receipt of Permit Number P-2-28-77-312 and have accepted its contents.

(date)

(signature)

EXHIBIT #1, P. 6

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 590-3071 (714) 846-0648

510 Monterey
RECEIVED
MAY 10 2000

COASTAL DEVELOPMENT PERMIT

CALIFORNIA
COASTAL COMMISSIONApplication Number: P-7-11-77-1324Name of Applicant: M. J. Easton7738 S. Vale Drive, Whittier, CA 90602Permit Type: ☐ Emergency
☒ Standard
☐ AdministrativeDevelopment Location: 122 Santa Ana Lane, San Clemente, CADevelopment Description: Construct a four-story duplex with a two-
and three-bedroom unit, attached four-car garage, 36 feet above center-
line of Alondra and 23½ feet above centerline of Santa Ana, with condition.

I. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

Prior to issuance of permit, applicant shall submit revised plans
limiting the height of the project to 36 feet above centerline of
Alondra and 23½ feet above centerline of Santa Ana.Condition/s Met On August 30, 1977By ml

EXHIBIT No. 6b

Application Number: 5-00-111

CDP No. P-7-11-77-1324

California Coastal
Commission

1. The South Coast Commission finds that:
- A. The proposed development, or as conditioned, is:
1. In conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of local government to prepare a local coastal program in conformity with said chapter.
 2. If located between the nearest public road and the shoreline of any body of water in the coastal zone is in conformity with public access and public recreation policies of Chapter 3, California Coastal Act of 1976.
 3. That there are/are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the development as finally proposed may have on the environment.
- III. Whereas, at a public hearing, held on August 11, 1977 at Huntington Beach by a unanimous ~~to~~ vote permit application number P-7-11-77-1324 is approved.
- IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.
- V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.
- VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.
- VII. Issued on behalf of the South Coast Regional Commission on August 30, 1977.

M. J. Carpenter
M. J. Carpenter
Executive Director

I, Mrs. M. J. Easton, permittee/agent, hereby acknowledge receipt of Permit Number P-7-11-77-1324 and have accepted its contents.

Sept. 1, 1977
(date)

Mrs. M. J. Easton
(signature)

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1450

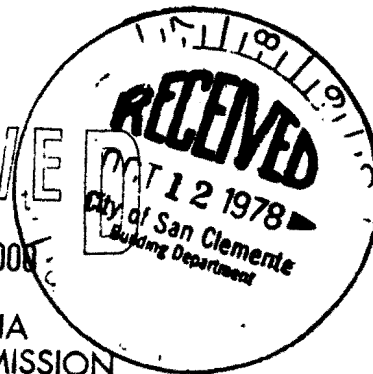
LONG BEACH, CALIFORNIA 90801

(213) 590-5071 (714) 846-0648

11 October 1978

RECEIVED

MAY 10 2008

CALIFORNIA
COASTAL COMMISSION

Mr. Harry Marcus
Chief Building Inspector
City of San Clemente
100 Avenida Presidio
San Clemente, CA 92672

Re: Permit Application P-77-1324

11-10-785

Dear Mr. Marcus:

This letter is to confirm the many conversations between your office and ours regarding the height of the building under construction at 122 Santa Ana Lane (our P-77-1324). The permit issued by our office conditioned the height of the building to 36 feet above the centerline of "Alondra" (a typographical error on our part; it should be Alameda) and 23½ feet above the centerline of Santa Ana. The permitted height was designed to preserve the views of the ocean and pier from dwellings further up the hill. As such, we consider conformance to the conditioned Santa Ana height to be of greater importance than the Alameda ("Alondra") height.

From staff's calculations at the site (in the presence of some dozen San Clemente officials, citizens and interested observers), we determined that the building is 23' 3-3/8" in height above the centerline of Santa Ana Lane (as measured from curb to curb). This is below the conditioned height. We understand that the building height on Alameda is roughly 38' and we all agree this is above the conditioned height. The building under construction, however, is the one that we approved, and we believe that the error in height on Alameda is due to an error in the calculation of the slope. The intent of the permit condition is being met, and, therefore, we see nothing to be gained by the filing of a violation report. It is important that the intent of permit conditions are met and we believe that the intent of the height condition placed

Mr. Harry Marcus

-2-


11 October 1

on P-1324 is being met.

If you have any further questions, please do not hesitate to call our office.

Sincerely yours,

SOUTH COAST REGIONAL COMMISSION


M. J. Carpenter
Executive Director

MJC:dn

cc: Jim Chase
Mr. Dennison
Mr. & Mrs. M. J. Easton

CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION
666 E. OCEAN BOULEVARD, SUITE 3107
P.O. BOX 1430
DONG BEACH, CALIFORNIA 90801
(213) 590-5071 (714) 846-0648

Correction
COASTAL DEVELOPMENT PERMIT

RECEIVED

MAY 10 2000

CALIFORNIA
COASTAL COMMISSION

Application Number: P-12-2-77-2353

Name of Applicant: John Hartfield

31732 Via Perdiz, Coto de Caza, CA 92678

Permit Type: ☐ Emergency
☒ Standard
☐ Administrative

Development Location: 123 Coronado Lane, San Clemente, CA

Development Description: Construction of a 3-story over garage level,
triplex with 8 on-site parking spaces, jacuzzi and solar panels.

Twenty six feet above average finished grade and thirty six above
centerline of frontage road on a 5470 sq. ft. lot in an R-4 zone.

I. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

1. Prior to issuance of permit, applicant shall submit: a. revised plans indicating: 1) height not to exceed 26 feet above average finished grade, and 2) one guest and two to one parking on site, and b. a deed restriction for recording limiting the use of the structures to three units.
2. Developer shall notify staff upon completion of framing and shall not proceed beyond that point until the Executive Director has verified that the development conforms to the Commission approved plans.

Condition/s Met On May 5, 1978

By L.F.

EXHIBIT No. 6c

Application Number: 5-00-111

CDP No. P-12-2-77-2353

California Coastal
Commission

II. The South Coast Commission finds that:

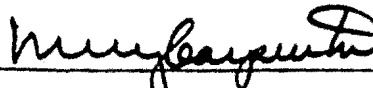
A. The proposed development, or as conditioned;

1. The developments are in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976.
2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

III. Whereas, at a public hearing, held on January 9, 1978 at Huntington Beach by a 8 to 3 vote permit application number P-12-2-77-2353 is approved.

- V. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.
- V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.
- VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on May 5, , 197 8 .


M. J. Carpenter
Executive Director

I, _____, permittee/agent, hereby acknowledge receipt of Permit Number _____ and have accepted its contents.

(date)

(signature)

420 Monterey Lane, #1D
San Clemente
CA 92672

California Coastal Commission
Attn: Ann Kramer
200 Oceangate, Suite 1000
Long Beach
CA 90802

RECEIVED
MAY 01 2000

April 23, 2000

CALIFORNIA
COASTAL COMMISSION

Dear Ann:

I am strongly opposed to the development of a 4-storey duplex property currently under construction on Santa Ana Lane, San Clemente, CA. This property backs onto Capistrano Lane in what is known as the Pier Bowl area. This area has considerable historical significance. If construction proceeds as planned, not only will it tower above neighboring 2-storey properties, but also will inhibit public view of the ocean and pier from both Monterey Lane and Del Mar (the main street leading to the pier and beach).

From what I understand, this property will comprise a garage level, 4 more levels plus the roof and a viewing deck. If it were designed differently so that it conformed to neighboring properties, and was built to the same height, it would not affect public views from neighborhood streets.

The property is not in character with neighboring properties and will forever damage the quaint and charming nature of the area, as well as blocking views from public streets and private property. The ocean view will be completely obstructed in the vicinity of numbers 419 and 420 on Monterey Lane.

I believe the construction must be stopped as currently planned. The builder must be required to follow a more reasonable alternative design to blend with the neighborhood and not obstruct views of the ocean and pier. Failure to halt this construction will permanently scar the seascape, an unfortunate blunder for residents and visitors of San Clemente, CA.

Sincerely,

Andrew J. Perry

Andrew J. Perry

EXHIBIT No. 7

Application Number: 5-00-111

**Examples of Objection
Letters Received**



California Coastal
Commission

California Coastal Commission
South Coast Area
P.O. Box 1450
200 Oceangate - 10th Floor
Long Beach, CA 90802-4416
Attn: Ann Kramere

RECEIVED
South Coast Region
MAY 15 2000
CALIFORNIA
COASTAL COMMISSION

May 11, 2000

RE: Joseph and Carol Ballard
Application #5-00-111

In regards to the above mentioned property and request for permission to continue building at 108 Capistrano Lane in San Clemente, please stop this building from completion as planned.

When approaching the beach from Avenida Del Mar or Granada this structure is totally out of place. The roofline is not in conformity with other homes and condominiums in the area. I understand plans call for another story and half (possibly a sun deck) to still be built.

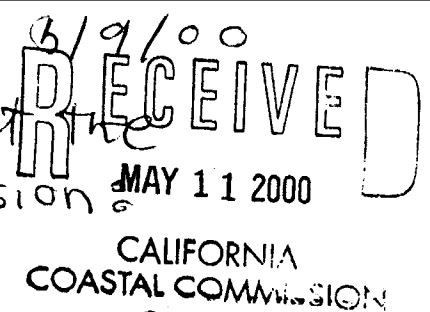
San Clemente depends on tourism for income and visitors to the city. This building blocks views of the ocean and pier. Few cities enjoy the ambiance of San Clemente, please help to keep the views we enjoy intact.

Thank you for your time and for considering this request to deny the application.


Lacy Kirk

420 Monterey Lane
San Clemente, CA 92672

To whom It may concern at the
California Coastal Commission



I oppose the construction of a
four or five story building at
108 Capistrano Lane in San Clemente.
(Orange County) This one building if
completed as tall as planned, will not
fit in with the neighborhood of other
moderately sized & height buildings.

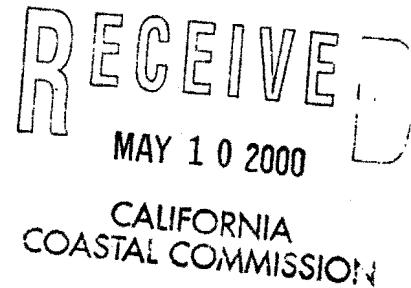
Should 108 Capistrano be allowed
to tower above the rest of the neighborhood,
local citizens & visiting tourists will
lose that beautiful view that currently
can be enjoyed as you enter the Pier
Bowl on Del Mar avenue.

Enjoyment of the beautiful ocean
views is a right for all citizens &
visitors. This should not be put in jeopardy
by one self indulgent builder owner, Joseph
Ballard, application #5-00-111.
Sincerely,

Marilyn L. Bell
424 Monterey Lane #A
San Clemente CA 92672
(949) 364-8282

May 8, 2000

Anne Kramer, Coastal Program Analyst
South Coast District, California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach, CA 90802



RE: 109 (corrected from 108) Santa Ana Lane, San Clemente, CA
Coastal Commission Reference Number: 5-00-111

Dear Ms. Kramer:

Enclosed please find copies of correspondence from the California Coastal Commission, and copies of the Coastal Development Permits for the properties located at 510 Monterey and 512 Monterey. Please note that these 2 properties are located within one block of the subject property (on Santa Ana and Alameda Lanes) and that, **despite the City zoning maximum height limit of 45 feet at the time**, the Coastal Commission's documents stated the following:

510 Monterey Lane:

"Prior to issuance of permit, applicant shall submit revised plans limiting the height of the project to 36 feet above centerline of Alondra (actually is "Alameda"), and 23 ½ feet above centerline of Santa Ana." See "Coastal Development Permit Application Number: P-7-11-77-1324;

512 Monterey Lane:

"1. Prior to issuance of permit, applicant shall submit: a. Revised plans indicating" 1) height not to exceed 26 feet above average finished grade",See Coastal Development Permit Application Number: P-12-2-77-2353

We are requesting this information be considered, along with previously supplied information, which show California Coastal Commission precedents established in the Pier Bowl area reducing height limits from the maximum allowed by City Zoning Ordinances which were in effect at the time.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Evelyn W. Winkel".

Evelyn W. Winkel
427 Avenida Santa Barbara
San Clemente, Ca 92672

May 11, 2000



California Coastal Commission
South Coast Area
P.O. Box 1450
200 Oceangate, 10th Floor
Long Beach, Ca. 90802-4416

Re Construction Project at 108 Capistrano Lane,
San Clemente (Orange County)
Application #5-00-111

Attention: Ann Kramere

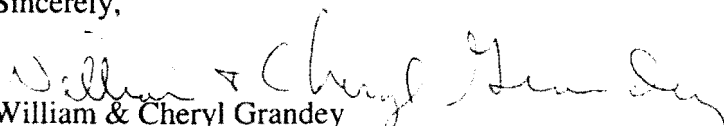
At this time we are writing to express our concerns regarding the above-mentioned building under construction.

We have been coming to San Clemente with our families for over 20 years and have especially appreciated that this city has maintained its quaint appearance.

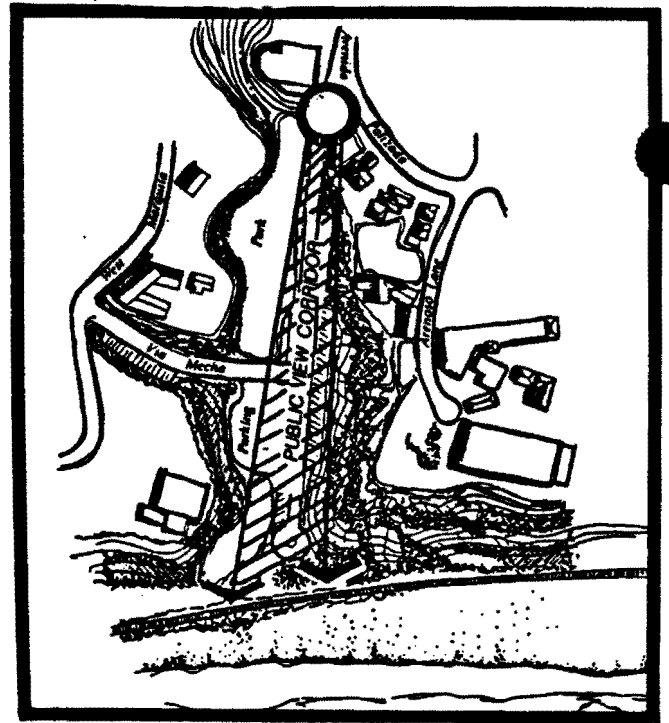
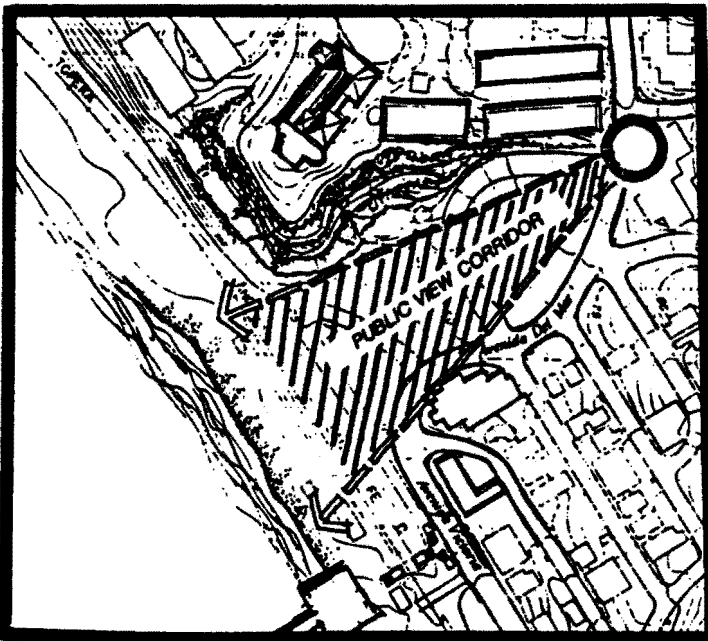
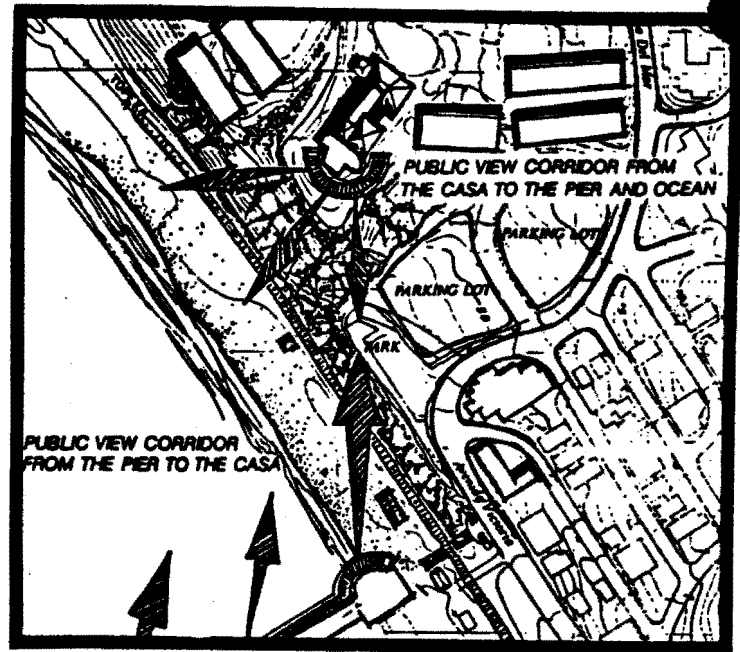
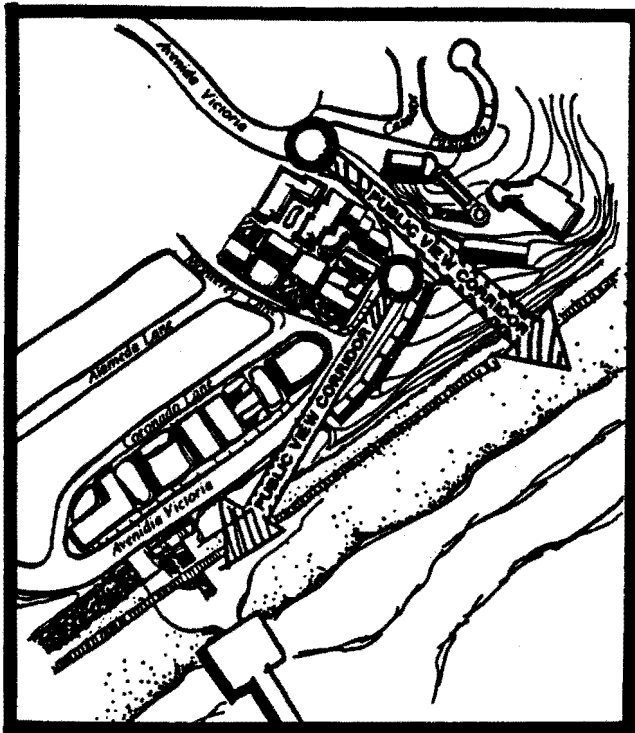
It appears to us that this construction substantially exceeds the height limitations placed on the buildings on each side of it. Due to what we feel is an improper and possibly illegal height, it will obstruct the view from Del Mar, Granada and most likely other surrounding streets. It is specifically the beauty of the view of the pier and adjacent areas that makes this such an attractive and scenic panorama. It is likely that the view from the pier looking back toward the foothills could also be affected.

For these reasons we would request that the application for new construction (#5-00-111) be restricted to a height not to exceed that of the adjacent buildings.

Sincerely,


William & Cheryl Grandey
1254 Valparaiso Dr. East
Placentia, Ca. 92870

Chapter 3: Goals, Objectives, and Policies



PIER BOWL SPECIFIC PLAN

EXHIBIT No. 8

Application Number: 5-00-111

View Corridor Figure from
Pier Bowl Specific Plan



California Coastal
Commission

VIEW CORRIDORS

FIGURE 5



SUBJECT SITE

ADJACENT STRUCTURE

EXHIBIT No. 9a

Application Number: 5-00-111

Site Photo



California Coastal
Commission



EXHIBIT No. 9b

Application Number: 5-00-1

Site Photo



California Coastal
Commission

SUBJECT SITE



EXHIBIT No. 9c

Application Number: 5-00-111

Site Photo



California Coastal
Commission



EXHIBIT No. 9d

Application Number: 5-00-1

Site Photo



California Coastal
Commission



EXHIBIT No. 9e

Application Number:

Site Photo



California Coastal
Commission

