

CALIFORNIA COASTAL COMMISSION

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Staff: ALB-LB **ALB**
Staff Report: December 20, 2001
Hearing Date: January 7-11, 2002
Commission Action:

Item Tu 9b**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-00-474

RECORD PACKET COPY

APPLICANT: Richard Moriarty

AGENT: Fleetwood Joiner & Associates

PROJECT LOCATION: 2128 Mesa Drive, Newport Beach (Orange County)

PROJECT DESCRIPTION: Demolition of an existing single-family residence and construction of a new 12,957 square foot, three level (two above-ground floors totaling 7217 square feet and one 5740 square foot below-ground floor), single-family residence with a wine cave/basement and tunnel, 2727 square foot attached garage, swimming pool, vineyard replanting, and landscaping, and request for after-the-fact approval of a detached garage and pond/water feature on a 3.5-acre lot zoned Residential Agricultural (RA) directly inland of the Upper Newport Bay. Approximately 4200 cubic yards of grading (2100 cy cut and 2100 cy fill) is proposed for excavation and coverage of the wine cave/basement area. All cut material will be used on site to bury the new subterranean development. The slope will then be re-planted with vineyards.

LOCAL APPROVALS RECEIVED: City of Newport Beach Use Permit No. 3675 approved by the Planning Commission at its July 6, 2000 meeting and Approval in Concept from City of Newport Beach Planning Department dated November 9, 2000.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing residential development with an agricultural use adjacent to the Upper Newport Bay in the Santa Ana Heights Area of the City of Newport Beach. The project involves the demolition of an existing single-family residence and construction of a new single-family residence with wine cave/basement, attached garage, pool and landscaping. The project also involves a request for after-the-fact approval of existing development consisting of a detached garage and a pond/water feature. The major issues of the staff report include water quality, geologic hazard and preservation of environmentally sensitive habitat area (ESHA).

Staff recommends the Commission **APPROVE** the proposed development with nine (9) special conditions requiring 1) use of construction best management practices (BMPs); 2) appropriate disposal of construction debris; 3) submittal of a Water Quality Management Plan (WQMP); 4) submittal of a final landscaping plan for revegetation and monitoring; 5) evidence of conformance with geotechnical recommendations; 6) recordation of an assumption of risk deed restriction; 7) recordation of a future improvements deed restriction; and 8) maintenance of public access during construction; and 9) timely compliance with conditions of approval.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan (LUP) and Coastal Development Permit 5-01-044 (County of Orange). *Report on Geologic/Soils and Foundation Conditions for Proposed New Residence and Barn, 3 ½ Acre Site at 2128 Mesa Drive, Newport Beach (JN 98-104)* prepared by Ian S. Kennedy, Inc. dated May 13, 1999, as supplemented by the *Addendum Report on Geological/Soils and Foundation Conditions for Proposed Subterranean Structure and Wine Tunnel* prepared by Ian S. Kennedy, Inc. dated May 13, 2001.

I. STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP #5-00-474 pursuant to the staff recommendation.

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

RESOLUTION TO APPROVE THE PERMIT WITH CONDITIONS:

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

II. STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

1. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may enter the Delhi Channel or Upper Newport Bay;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters (including the Delhi Channel) during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into Upper Newport Bay and a pre-construction meeting to review procedural and BMP guidelines;
- (d) Construction debris and sediment shall be removed from construction areas adjacent to the Delhi Channel each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of in accordance with Special Condition No. 2.

2. Location of Debris Disposal Site

The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, an amendment to this permit shall be required before disposal can take place.

3. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a Water Quality Management Plan (WQMP) for the post-construction project site, including supporting calculations, prepared by a licensed water quality professional, and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Post-development peak runoff rates and average volumes shall not exceed pre-development conditions. The water quality professional shall certify that the proposed design would achieve that goal.
- (b) Appropriate structural and non-structural BMPs shall be designed to treat, infiltrate, or filter the runoff from all surfaces and activities on development site.

- (c) Runoff from all impervious surfaces, including roofs, parking areas, and driveways shall be collected and directed through a system of vegetated and/or gravel filter strips or other vegetated or media filter devices. Underground storage tanks may be installed to collect rainwater from the roof drains and the water may be used for landscape and vineyard irrigation, so long as the irrigation water is subsequently filtered. The filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff in excess of this standard from the building site in a non-erosive manner.
- (d) Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs.

All Landscaped Areas, Including Vineyards

- (e) The applicant shall minimize, to the maximum extent practicable any addition of nutrients, pesticides, sediment, and organic waste from the vineyards to receiving waters including but not limited to groundwater, Upper Newport Bay, and all waterways connecting to the Pacific Ocean. The applicant shall design the BMPs for the vineyards according to the EPA-recommended Best Management Practices for vineyards and agricultural facilities for erosion from cropland; application of nutrients to cropland; application of pesticides to cropland; and cropland irrigation.
- (f) All new vegetation in landscaped areas shall consist of drought tolerant, non-invasive plant species. New vegetation adjacent to the County's native revegetation area must consist of native, drought-tolerant plant species. All landscapers shall be trained in the use of such vegetation.
- (g) Include in the WQMP a list of chemicals and methods for their application that shall be employed in the vineyards and landscaped areas on site. Said chemicals shall not be toxic to fish or wildlife or persistent in the environment. Herbicides, if they are to be applied, shall be applied by hand application or by other methods that will prevent leakage, percolation or aerial drift into adjacent restoration areas. Pursuant to this:
 - 1. An Integrated Pest Management Program shall be designed and implemented for all of the proposed landscaping/planting on the project site. Because the project is located within the immediate watershed of Newport Harbor, where feasible and appropriate, alternatives to pesticides including, but not limited to, the following shall be employed:
 - a. Introduction of natural predators such as ladybugs, lacewings, garter snakes and toads. Also, some bacteria, viruses and insect parasites may be preferable to pesticides.
 - b. Weeding, hoeing and trapping manually.
 - c. Use of non-toxic, biodegradable, alternative pest control products.

2. Where pesticides and/or herbicides are deemed necessary in conjunction with the IMP program, the following shall apply:
 - a. All state and local pesticide handling, storage, and application guidelines, such as those regarding timing, amounts, method of application, storage and proper disposal, shall be strictly adhered to.
 - b. Pesticides containing one or more of the constituents listed as parameters causing impairment of the receiving waters for the proposed development (the Upper Newport Bay) on the California Water Resources Control Board's 1998 Clean Water Act Section 303 (d) list, or adopted updates of this list, shall **not** be employed. Products that shall not be employed are any determined by the Department of Fish and Game to be deleterious to the habitat or wildlife of the wetland.

Vineyards

- (h) The Water Quality Management Plan for the vineyard operations shall outline the Best Management Practices (BMPs) that will be implemented in order to minimize, to the maximum extent practicable, the application of pesticides, nutrients (fertilizers), and irrigation water to the vineyard, as well as erosion and sediment and irrigation water runoff from the vineyards. The WQMP shall follow the EPA's list of appropriate agricultural BMPs for vineyards and small croplands. Pursuant to the prior requirements, the BMPs shall include the following measures:
 1. Erosion controls: Where applicable, erosion control BMPs shall include conservation cover, conservation tillage, contour farming, critical area planting, and/or crop residue use; AND field borders, filter strips, grade stabilization structures, sediment basins, contour/field strip cropping, terraces, and/or water/sediment control basins; AND monitoring and maintenance schedules.
 2. Nutrient (Fertilizer) management: Develop a nutrient management plan based upon soil surveys, producer-documented yield histories, plant tissue testing, and/or manure testing. Use proper timing, formulation, and application methods to maximize plant utilization of nutrients and minimize loss to the environment.
 3. Pesticides: Implement an Integrated Pest Management strategy. Use non-toxic pesticides when chemical forms are necessary. Recalibrate pesticide spray equipment each spray season. Use anti-backflow devices on hoses used for filling tank mixtures. Use lower pesticide application rates than those called for on the label when pest problem can be adequately controlled using such lowered rates. Consider the use of organic farming techniques that do not rely on the use of synthetically compounded pesticides.
 4. Irrigation: BMPs shall include, at a minimum, vegetated filter strips to treat all the runoff from vineyard irrigation. Use an efficient irrigation system like drip or trickle, sprinkler, surface and subsurface, or field-ditch techniques to minimize runoff.

Ponds and Pool Areas

- (i) Pond water and pool water shall not be discharged into the storm drain system, Newport Bay, or any other receiving water. For maintenance and repair of the pond or pool structures, BMPs shall be utilized to ensure no pollutants are discharged to receiving waters. If drainage is necessary, pond water shall only be drained into a pipe connected to the sanitary sewer system.

- (j) Invasive aquatic plants shall at no time be used in the ponds or any water body constructed in the landscaped area. *Caluerpa taxifolia* shall not be used in the ponds or any aquariums on the property.

4. Final Landscaping Plan and Monitoring

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a final landscaping plan prepared by a licensed landscape architect or qualified resource specialist, which demonstrates the following:
 - (a) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;
 - (b) All plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
 - (c) Landscaped areas adjacent to the County Mesa Area native revegetation project and County riding arenas shall be planted and maintained for erosion control, water quality improvement (filtration) and native habitat enhancement purposes. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent native plant areas, all landscaping adjacent to the native revegetation project area shall consist of native, drought tolerant plants. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. Non-native, non-invasive, drought tolerant plants may be planted adjacent to the riding arena site.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- C. Five years from the date of issuance of Coastal Development Permit No. 5-00-474 the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed landscape architect or qualified resource specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

5. Conformance of Design and Construction Plans to Geotechnical Recommendations

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the *Report on Geologic/Soils and Foundation Conditions for Proposed New Residence and Barn, 3 ½ Acre Site at 2128 Mesa Drive, Newport Beach (JN 98-104)* prepared by Ian S. Kennedy, Inc. dated May 13, 1999, as supplemented by the *Addendum Report on Geological/Soils and Foundation Conditions for Proposed Subterranean Structure and Wine Tunnel* prepared by Ian S. Kennedy, Inc. dated May 13, 2001. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

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

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

7. Future Development Deed Restriction

- A. This permit is only for the development described in Coastal Development Permit No. 5-00-474. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements

to the development authorized by this permit, including but not limited to repair and maintenance activities identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-00-474 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development within the parcel. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. Maintenance of Public Access

The construction activities and staging of construction materials authorized pursuant to Coastal Development Permit No. 5-00-474 shall avoid obstruction of public access from Mesa Drive to the Upper Newport Bay available via the Department of Fish and Game (DFG) public access trail, as shown in Exhibit 3, to the extent possible.

In the event that the DFG trail is to be obstructed to free passage during construction, the applicant shall submit a public access mitigation plan for the review and approval of the Executive Director prior to trail closure, which includes the following:

- A time schedule specifying the duration of trail obstruction/closure;
- An alternative public access route between Mesa Drive and the Upper Newport Bay;
- Signage and/or personnel (i.e. flag men) informing the public of the alternative public access route; and
- Approval by the Department of Fish and Game

After construction, the DFG trail shall be restored to previously existing conditions and opened to unobstructed public use.

9. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Location, Description and Background

Project Location

The project site is located in the Santa Ana Heights Area of the City of Newport Beach, Orange County (Exhibits 1 & 2). The property abuts a vacant County right-of-way (site of future riding arenas), a Department of Fish and Game public access easement and the Delhi Flood Control Channel to the west; a residential property to the east; horse stables with Mesa Drive beyond to the north; and a County open space area and Upper Newport Bay to the south. The adjacent County open space area is the site of a recently approved native revegetation project (Exhibit 3). The Upper Newport Bay is located approximately 400 feet from the subject site. The site is an approximately 3.5 acre lot located in an area of predominately large lot residential properties designated R-A (Residential Agricultural). As specified in the City of Newport Beach Zoning Code, the RA district "provides areas for single family residential and light farming uses." The property owner currently runs a private vineyard and winery on the site. No public sales or tasting is allowed or proposed on site.

Project Description

The applicant is proposing to demolish an existing three-level, single-family residence and construct a new 7217 square foot, three-level, single-family residence with an attached 2727 square foot six-car garage and a 5740 square foot wine cave/basement in approximately the same location on the 3.5-acre lot (Exhibit 4). The existing residence, a tool shed (former stable) and gazebo are "pre-coastal" structures, constructed prior to passage of the Coastal Act in 1972. The new residence will be constructed into the hillside, with two above-ground floors, a below-ground wine cave/basement and a 184 foot long tunnel. A new swimming pool, vineyard replanting and landscaping is also proposed as part of the current project. Approximately 4200 cubic yards of grading (2100 cy cut and 2100 cy fill) is proposed for excavation and coverage of the wine cave/basement area. All cut material will be used on site to bury the new subterranean development. The slope will then be re-planted with vineyards.

The applicant is also requesting "after-the-fact" approval of a detached garage and a pond/water feature. These features were built without benefit of a coastal development permit due to a misinterpretation of the Coastal Zone boundary by City staff. The applicant was informed that only the southernmost portion of the property was located within the Coastal Zone. However, based on a Boundary Determination prepared by the Commission's Mapping Unit, almost the entire property is located within the Coastal Zone (Exhibit 5).

Prior Commission Action in the Subject Area

In August 2000, the Commission approved Coastal Development Permit 5-01-044 for closure and revegetation of the existing Mesa Area riding arena and establishment of a new day-use equestrian park, including a lunging arena and a riding arena adjacent to the Delhi Channel, directly west of the subject site. The project was approved with seven (7) special conditions requiring 1) use of construction best management practices (BMPs); 2) appropriate disposal of construction debris; 3) submittal of a final drainage and erosion control plan; 4) submittal of a manure management plan; 5) evidence of Regional Water Quality Control Board (RWQCB) approval; 6) submittal of a landscaping plan for revegetation and monitoring; and 7) maintenance of public access during construction. The permit has yet to be issued, as the special conditions have not been fulfilled.

B. Water Quality

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states, in pertinent part:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials.

Newport Harbor (Lower Newport Bay) is included on the Federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "impaired" means the quality of the water body cannot support the beneficial uses for which the water body has been designated – in this case secondary contact recreation and aquatic uses. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB), and confirmed by the U.S. Environmental Protection Agency. Further, the RWQCB has targeted the Newport Bay watershed, which would include the Upper Newport Bay, for increased scrutiny as a higher priority watershed under its Watershed Management Initiative. Consequently, projects which could have an adverse impact on water quality should be examined to assure that potential impacts are minimized.

1. Construction Impacts to Water Quality

As discussed previously, the applicant is proposing to carry out demolition, construction and substantial grading activities just east of the Delhi Channel, inland of the Upper Newport Bay. According to the agent, *"disruption to the site during construction will be minimized by careful phasing and project management. Some of the grape vines have been removed for construction to allow for the temporary stockpiling of dirt during excavation of the wine cave. As cave segments are completed, the dirt would be placed back around the cave and new excavation brought into the storage area. After construction, all excavated dirt will be replaced on the site and vines replanted in the existing vineyard and around the cave as shown on the site plan."*

Storage or placement of construction materials, debris, or waste in a location subject to wave erosion and dispersion or which may be discharged into coastal waters via runoff carried by the storm water system would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged to coastal waters may cause turbidity which can shade

and reduce the productivity of eelgrass beds and foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, Special Condition No. 1 outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. The condition ensures that debris will not be allowed to enter the Delhi Channel of Upper Newport Bay. Also, since the applicant has indicated that the contractor will have the discretion of selecting a disposal site at the time of construction, Special Condition No. 2 requires that the applicant dispose of all demolition and construction debris at an appropriate location outside of the coastal zone and informs the applicant that use of a disposal site within the coastal zone would require an amendment or new coastal development permit.

Only as conditioned for appropriate storage of construction materials and equipment does the Commission find that the proposed development is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

2. Post-Construction Impacts to Water Quality

The proposed project involves residential and agricultural development that has the potential to affect current drainage patterns and water quality in the subject area. The project involves subterranean development, which requires substantial grading and excavation of the existing hillside. Approximately 4200 cubic yards of grading (2100 cy cut and 2100 cy fill) is proposed for wine cave/basement and tunnel excavation and burial. While the type of runoff will not change, the pattern and amount of runoff will change as a result of site grading and the reconfiguration of irrigation lines. As such, the proposed development will affect the amount and direction of runoff currently entering the Upper Newport Bay. Consequently, appropriate erosion control measures are required.

The applicant has submitted a Drainage Plan prepared by JRV Engineering showing runoff from impervious surfaces being directed toward new area drains. In a written project description, the agent states that the applicant will install underground storage tanks to collect rainwater from the roof drains and use this water for landscape and vineyard irrigation. According to the agent, grape vines are drought tolerant and require very little irrigation. In addition, the agent states that the existing vineyard is *"dry farmed with a drip irrigation system. The entire on-site irrigation system is currently controlled by an existing sophisticated time clock which automatically shuts off the flow of water if it senses a break in the irrigation system. Any runoff that could possibly occur will be dispersed through heavily landscaped areas in order to control erosion."* While these measures appear consistent with water quality improvement efforts, a comprehensive Water Quality Management Plan (WQMP) has not been submitted for Commission review. Therefore, the Commission imposes Special Condition No. 3.

Special Condition No. 3 requires the applicant to submit a Water Quality Management Plan (WQMP) prepared by a licensed water quality professional incorporating structural and non-structural Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The special condition requires site runoff to be collected and directed in a non-erosive manner through vegetated areas for filtration purposes prior to off-site discharge. This will serve to control erosion and sedimentation of the channel. The special condition requires the applicant to minimize the reduction of nutrients, pesticides, sediment and organic waste from the vineyards to receiving waters. Lastly, new landscaping must consist of drought tolerant, non-invasive plant species. Only native plant species will be allowed adjacent to the County's Mesa Area revegetation project. (The use of native and drought tolerant plant species will be discussed further in Section D, ESHA.) Lastly, Special Condition 3 prohibits the

discharge of pool and pond water and the use of invasive aquatic plants (including *caluerpa taxifolia*) in the pond/water feature.

Only as conditioned for submittal of a WQMP that incorporates structural and non-structural BMPs does the Commission find the proposed development to be consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

C. Geologic Stability

1. Coastal Act Policies

Section 30253 of the Coastal Act states:

New development shall:

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

2. Project Site Geotechnical Report

The applicant submitted a geotechnical report prepared by Ian S. Kennedy dated May 13, 1999. The geotechnical testing included logging of seven exploratory boring type excavations and laboratory tests of soil samples. The report provides *"a description of the geologic and seismic setting, a presentation of data developed in the course of investigation, a discussion of prospects for the future performance of the sites, and recommendations for design and construction."*

As discussed in the report, the vicinity and the subject property is composed of sediments that *"accumulated relatively recently in Newport Bay"* (in geologic time). According to the report, *"the recent sediments are underlain by older sedimentary rocks of the sort that are exposed in nearby bluffs. Those have been assigned to the Monterey formation which is of marine origin and of late Miocene age."* The surface of the Monterey bedrock formation beneath the site is believed to be a gently sloping bench cut by wave erosion. At present, the lot is situated on a broad terrace overlooking the Back Bay area of Newport Beach. The surface of the lot is nearly level on the upper portion and slopes at a 3:1 to 1 ½ :1 to the flood control channel.

The report states that no faults are located on the property and no evidence of slumps or landslides was found. However, the report notes that a possible perched ground water condition was encountered and states that the upper soils are porous and unsuitable for foundation support in their present condition. Nonetheless, the report concludes, *"development as proposed can be feasible and safe from a geotechnical viewpoint provided it is done in accordance with the conclusions and recommendation provided herein during the design and construction phases to assure conformance with these requirements."* (Recommendations are discussed in the subsequent section.)

3. Project Analysis/Special Conditions

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

Geotechnical Recommendations

The geotechnical report states that the construction of the proposed residence is feasible provided the applicant complies with the recommendations contained in the report. The geotechnical report includes recommendations focusing on foundation design, grading and drainage. The report recommends a foundation system consisting of conventional foundation footings placed on compacted fill soils and/or a caisson and grade beam system that would transfer the structural loads to the bedrock at depth. The applicant has submitted foundation plans showing use of a caisson and grade beam system.

As discussed previously, a substantial amount of grading (4200 cubic yards) is proposed for wine cave/basement and tunnel excavation. The subterranean room excavations will have a depth of 28 feet and the tunnel depth varies from 1 foot to 27 feet below the proposed finished adjacent grades. The proposed 184 foot long tunnel will extend across and under the existing driveway to the proposed new residence. The geotechnical report provides recommendations for site excavation and construction of basement/tunnel retaining walls, including a recommendation that *"construction excavations will have to be inspected by an engineering geologist or soils engineer in order to confirm the estimate of subsurface conditions upon which the preliminary recommendations were made."*

Since the recommendations provided by the geotechnical consultant include measures to mitigate any adverse geologic effects, the Commission finds that Special Condition 5 ensures that the consulting geotechnical expert has reviewed the development plans and verified their conformance with the geotechnical recommendations. As such, Special Condition 5 guarantees that the final development plans are consistent with Section 30253 of the Coastal Act.

Landscaping

Developments on sloping lots (typically bluffs and coastal canyons) are required to submit landscaping and irrigation plans consisting primarily of native, drought-tolerant plants, which help to improve slope stability. Review of landscaping plans is necessary to assure that appropriate plant species are selected and limited watering methods are applied. Appropriate vegetation can help to stabilize slopes. Native, drought-tolerant plants common to the local area do not require watering after they become established, have deep root systems which tend to stabilize soils, are spreading plants and tend to minimize the erosive impact of rain, and provide habitat for native animals. Landscaping that involves in-ground irrigation may lead to overwatering or sprinkler line breaks that can contribute to slope instability. Therefore, review and approval of final landscaping and irrigation plans is necessary prior to the issuance of a coastal development permit.

The geotechnical report recommends *"new graded slopes should be planted as soon as possible to prevent additional raveling."* No other landscaping recommendations are provided. The applicant has submitted a general landscape plan and a written description of existing landscaping on the 3.5-acre site. Much of the existing landscaping will remain, including that located around the water feature along the eastern portion of the property. New landscaping will include the relocation of vineyards over the completed wine tunnel slope and landscaping surrounding the new residence and pool. As described by the applicant's agent, the new vineyards will be *"planted parallel to existing contours using jute erosion control netting for the grape cover crop."*

Irrigation currently exists on site and is proposed to serve the newly replanted vineyard and landscaped areas. According to the agent, grape vines are drought tolerant and irrigation will be limited to a drip system along the vineyards. The existing on-site irrigation system is controlled by an *"sophisticated time clock which automatically shuts off the flow of water if it senses a break in the irrigation system."* The geotechnical report did not identify irrigation as a concern at the subject site. As proposed, the need for water application will be minimized and potential breaks in irrigation lines will easily be detected.

While the applicant has provided a general landscaping plan and described much of the proposed landscaping activities in writing and verbally, a final plan has not been submitted. A detailed plan showing the type and location of all vegetation to be planted along new graded slopes and around the new residence and swimming pool is required. The plan submitted does not list the vegetation types proposed for the bermed area around the new pool, nor does it describe landscaping proposed for the western property boundary next to the future riding arena. The new pool will be located adjacent to the County's Mesa Area native revegetation project that was approved by the Commission under CDP 5-01-044. To limit non-native encroachment into the native revegetation area, it is necessary that only native plant species be allowed directly adjacent to the Mesa Area revegetation project. The vineyards will be planted on the western portion of the property adjacent to the future riding arena, which was approved under the same permit. To limit non-native encroachment into the riding arena area, only non-invasive, drought tolerant plant species may be utilized in the new landscaping and vineyard replanting areas.

To ensure that non-native plant species do not encroach into the adjacent County property, the Commission imposes Special Condition 4, which requires the submittal of a final landscaping plan. The final plan must demonstrate that only drought tolerant native or non-invasive plant species be planted within the new landscaping areas. The special condition allows non-native, non-invasive ornamental plants to be utilized and allows the use of a drip irrigation system with the controls specified above. The condition requires that the plantings be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan. In addition, the condition specifies that only native plant species shall be allowed adjacent to the County Mesa Area revegetation project. Lastly, the condition requires the applicant to submit a 5-year landscape monitoring report, prepared by a licensed landscape architect or qualified resource specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. These requirements are necessary to protect nearby environmentally sensitive habitat area (ESHA) and to minimize erosion from uncontrolled site runoff.

Site Drainage

As noted above, the geotechnical report provides recommendations regarding site drainage. These recommendations are provided by the geologist in order to avoid any adverse effects that improper site drainage may have upon site stability. For instance, improper site drainage could cause an area subject to slope creep and/or failure to activate and cause damage to the structure. Excessive water infiltration at the subject site will result in potentially hazardous conditions. The geologist's recommendations regarding site drainage are designed to avoid such adverse effects. The geotechnical report recommends that *"runoff water collected should be conducted to the street by non-erosive drainage devices and surface drainage facilities to the street below."*

Grading and drainage plans have been submitted which illustrate how site drainage will be accomplished. The drainage plan (prepared by JRV Engineering) shows how runoff from impervious surfaces will be diverted toward area drains in a non-erosive manner. The applicant is also proposing to install underground storage tanks to collect rainwater from the roof drains and use this water for landscape and vineyard irrigation. However, the plan as currently submitted does not incorporate Best Management Practices (BMPs) designed to control the volume, velocity

and pollutant load of runoff leaving the developed site. Special Condition 3, discussed previously, requires the applicant to submit a Water Quality Management Plan, which includes measures to treat and/or filter the pollutant load from the project site. As such, a new drainage plan must be submitted for the review and approval of the Executive Director. The new drainage plan must incorporate the water quality measures identified in Special Condition 3, while meeting the requirements of the geologic report.

Assumption of Risk and Future Improvements

Although the proposed project will be constructed in conformance with the geologic recommendations, risk from development on a coastal canyon is not eliminated entirely. While the project is deemed entirely adequate at this time to minimize any potential hazard, future protection and repair may be required as subsurface conditions change. Therefore, the standard waiver of liability condition has been attached through Special Condition 6. By this means, the applicant is notified that the residence is being built in an area that is potentially subject to geologic hazard that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. Finally, recordation of the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability.

Finally, in order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability, environmentally sensitive habitat area and/or public access concerns expressed in this staff report, the Commission finds that the applicant shall comply with Special Condition 6, a future development deed restriction. This deed restriction will ensure that the applicant and all successors and assigns are aware that a coastal development permit is required for future development at the site. Future development includes, but is not limited to, structural additions, landscaping and fencing. (ESHA and Public Access will be discussed in the following sections.)

4. Conclusion/Project Consistence with Coastal Act

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

D. Environmentally Sensitive Habitat Area (ESHA)

Section 30240(b) of the Coastal Act states:

- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The subject site drains to the Delhi Channel, which drains to the Upper Newport Bay. The Upper Newport Bay is a designated ecological reserve. As such, it has been identified as an environmentally sensitive habitat area in the City's certified LUP. Consequently, it is imperative

that the project be sited and designed so as not to result in adverse impacts to the sensitive resources of the Upper Newport Bay. As discussed in the previous section, water quality impacts are of particular concern. Also important is the revegetation of the adjacent Mesa Area. Past equestrian use on the Mesa damaged the native vegetation. The County's project (approved by the Commission in June 2001) involves the reestablishment of native plantings along the Mesa.

The proposed project involves new residential development and landscaping adjacent to the Mesa Area revegetation project to the south. The subject site is also located directly east of the future riding arena site, adjacent to the Delhi Channel. The riding arena area is currently devoid of vegetation. As vegetation can serve to filter contaminants from runoff prior to entering a water body, the Commission imposed a condition on 5-01-044 that requires the County to create vegetated areas around the new riding and lunging arenas. As discussed in Section B (Water Quality), vegetative filters may be used to capture runoff leaving the subject site and entering the County property. Special Condition No. 4 requires submittal of a final landscaping that includes the use of drought-tolerant, non-invasive plant species and requires solely native species adjacent to the County's native revegetation area.

The special conditions of this staff report are designed to protect and enhance the Upper Newport Bay an environmentally sensitive habitat area. Therefore, as conditioned, the Commission finds that the proposed development is consistent with Section 30240(b) of the Coastal Act and the policies of the certified LUP.

E. Public Access and Recreation

Section 30210 states, in pertinent part:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed development, which occurs between the nearest public road and the sea, includes the construction of a new residence with subterranean features and substantial grading. The site is adjacent to a wide, vacant swath of land owned by the County of Orange used for equestrian, biking, and pedestrian purposes. A Department of Fish and Game (DFG) public accessway exists along the western perimeter of the project site leading from Mesa Drive to the Upper Newport Bay (Exhibit 3). Obstruction of the DFG's trail would adversely affect public access to the Santa Ana Heights Regional Trail and Upper Newport Bay Bikeway.

The applicant takes access to the subject site from either the County right-of-way or from a prescriptive easement across a neighboring residential property. The site has no private driveway. During construction of the proposed residence, equipment and material storage may hinder access to the regional trail and/or the Mesa Connector Trail by obstructing the DFG trail along the Delhi Channel. To assure that construction activities do not affect public access during this period, the Commission imposes Special Condition No. 8.

Special Condition No. 8 requires the applicant to avoid obstruction of the DFG public access trail during construction. The condition restricts the placement of equipment or material in such a manner that would obstruct continued public access along the trail without first obtaining approval

of a public access mitigation plan. If obstruction or closure of the trail is necessary, the applicant must submit a plan for the review and approval of the Executive Director which includes a time schedule, alternative public access, signage and DFG approval. As conditioned, the project is consistent with Section 30210 of the Coastal Act. Therefore, the Commission finds that the proposed development is consistent with the public access and recreation provisions of the Coastal Act.

F. Scenic and Visual Resources

Section 30251 of the Coastal Act states, in relevant 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...

The project will result in the creation of a new residence with vineyards in an area of rural, large lot residential development. The proposed project will not obstruct public views either to or from public vantage points such as the Upper Newport Bay or the adjacent County riding arena site. The site of the proposed project is a broad terrace overlooking the Upper Newport Bay within the Santa Ana Heights neighborhood. The site is currently developed with a three-level single family residence. The new residence is proposed in approximately the same location. As such, the project will not create a new adverse visual impact or obstruct views to or along the Bay. Additionally, as viewed from the Upper Newport Bay inland, the project will not create adverse visual impacts due to its substantial setback from the County's regional trail and bikeway. The existing wire fence will remain along the western property line, adjacent to the future County riding arena area. No new fencing or wall is proposed. Therefore, the project will not create an adverse visual impact when viewed from the County property below.

Landform alteration will occur during excavation of the wine cave and tunnel. As such, temporary visual impacts will occur during construction. However, once complete, the tunnel and cave will be buried and replanted with vineyards. Therefore, no permanent visual impacts will remain.

Accordingly, the proposed project will not obstruct views to or from the Upper Newport Bay, will minimize alteration of natural landforms and is visually compatible with the character of the surrounding area. Therefore, the Commission finds the proposed development to be consistent with Section 30251 of the Coastal Act.

G. Land Use Plan

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. Pursuant to Section 30604(a), the permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a local coastal program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan (LUP) was effectively certified on May 19, 1982. The proposed development, as conditioned, is consistent with the policies of the certified Land Use Plan and Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program

(Implementation Plan) for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

H. Unpermitted Development

Development has occurred on site without benefit of the required coastal development permit, including construction of a detached garage and pond/water feature on a lot between the first public road and the sea, adjacent to the Upper Newport Bay. Consequently, the work that was undertaken constitutes development that requires a coastal development permit.

To ensure that the unpermitted development component of this application is resolved in a timely manner, Special Condition 9 requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. The Executive Director may grant additional time for good cause.

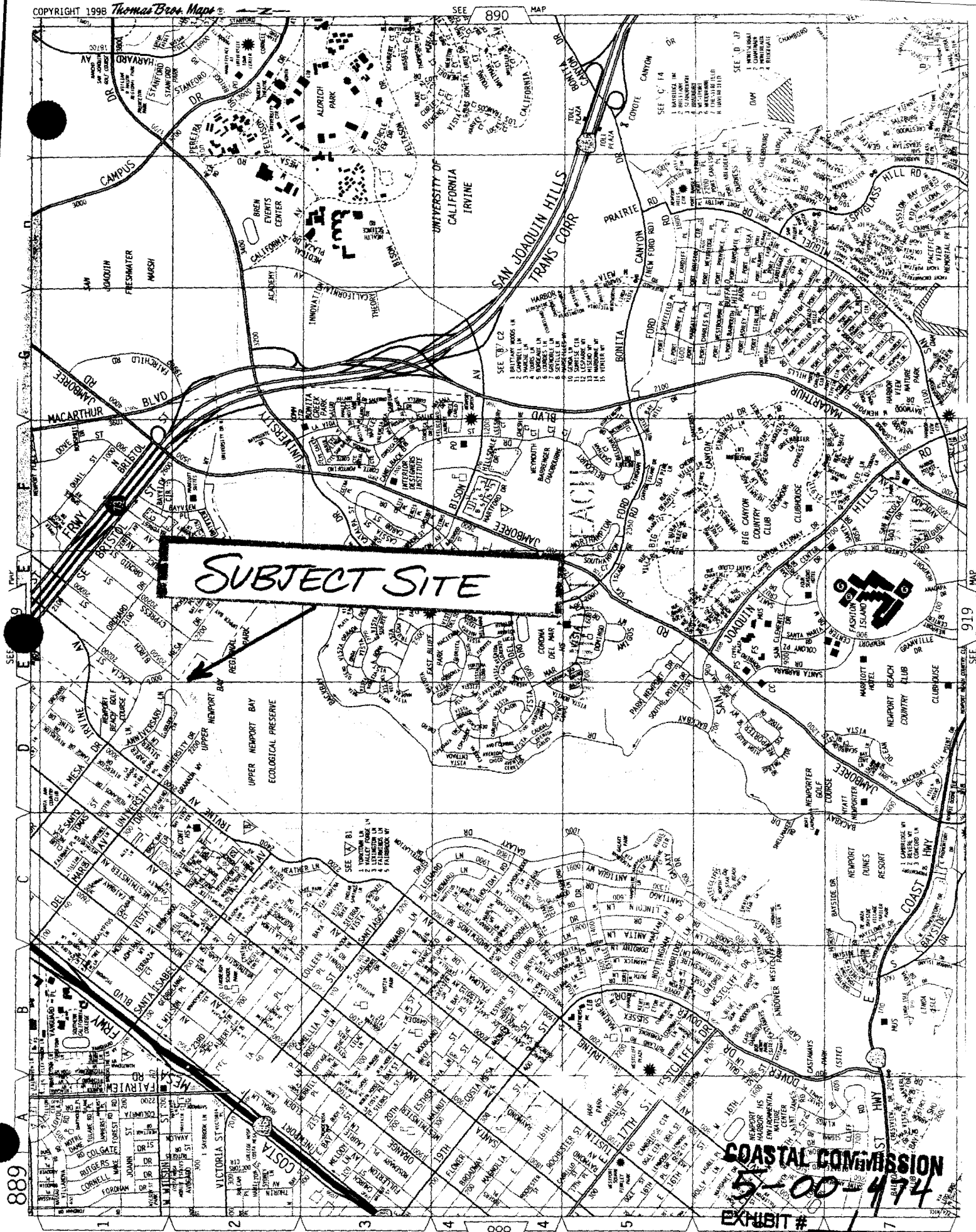
Consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. The certified Newport Beach Land Use Plan was used as guidance by the Commission in reaching its decision. Approval of this 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.

I. California Environmental Quality Act (CEQA)

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

The project is located within a residential/agricultural area. Development already exists on and around the subject site. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with policies of the Coastal Act: 1) use of construction best management practices (BMPs); 2) appropriate disposal of construction debris; 3) submittal of a Water Quality Management Plan (WQMP); 4) submittal of a final landscaping plan for revegetation and monitoring; 5) evidence of conformance with geotechnical recommendations; 6) recordation of an assumption of risk deed restriction; 7) recordation of a future improvements deed restriction; 8) maintenance of public access during construction; and 9) timely compliance with conditions of approval.

As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA.



COASTAL COMMISSION
5-00-474

EXHIBIT #

PAGE 1 OF 1

ORANGE CO.

South Coast Region

NOV 29 2000

CALIFORNIA
COASTAL COMMISSION

37

38

MESA

TRACT

FOR LOT 103
NEWPORT BEACH GOLF COURSE
119 ① 1-343 AC.

119

310

NO 706

TRACT

UNIVERSARY LANE

LANE

LANE

VERSARY

C.

A.S. 110-1

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BLK 51

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PARCEL MA

COASTAL COMMISSION

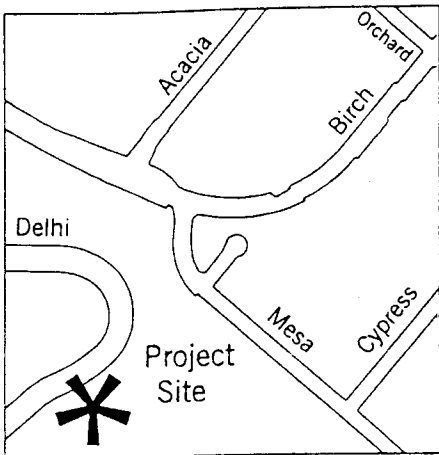
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EXHIBIT # 2

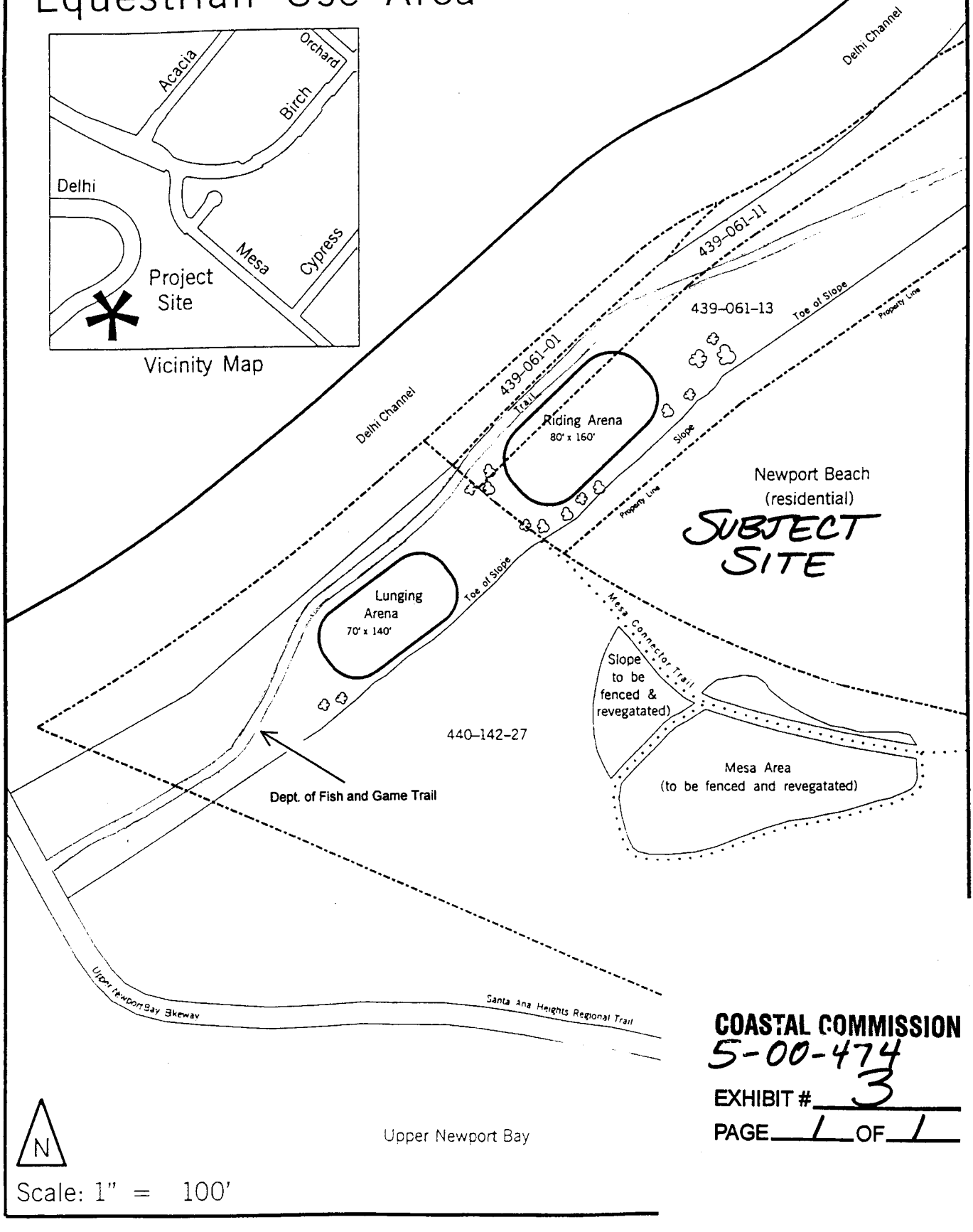
PAGE 1 OF 1

Ownership Map

Santa Ana Heights Equestrian Use Area



Vicinity Map



Scale: 1" = 100'

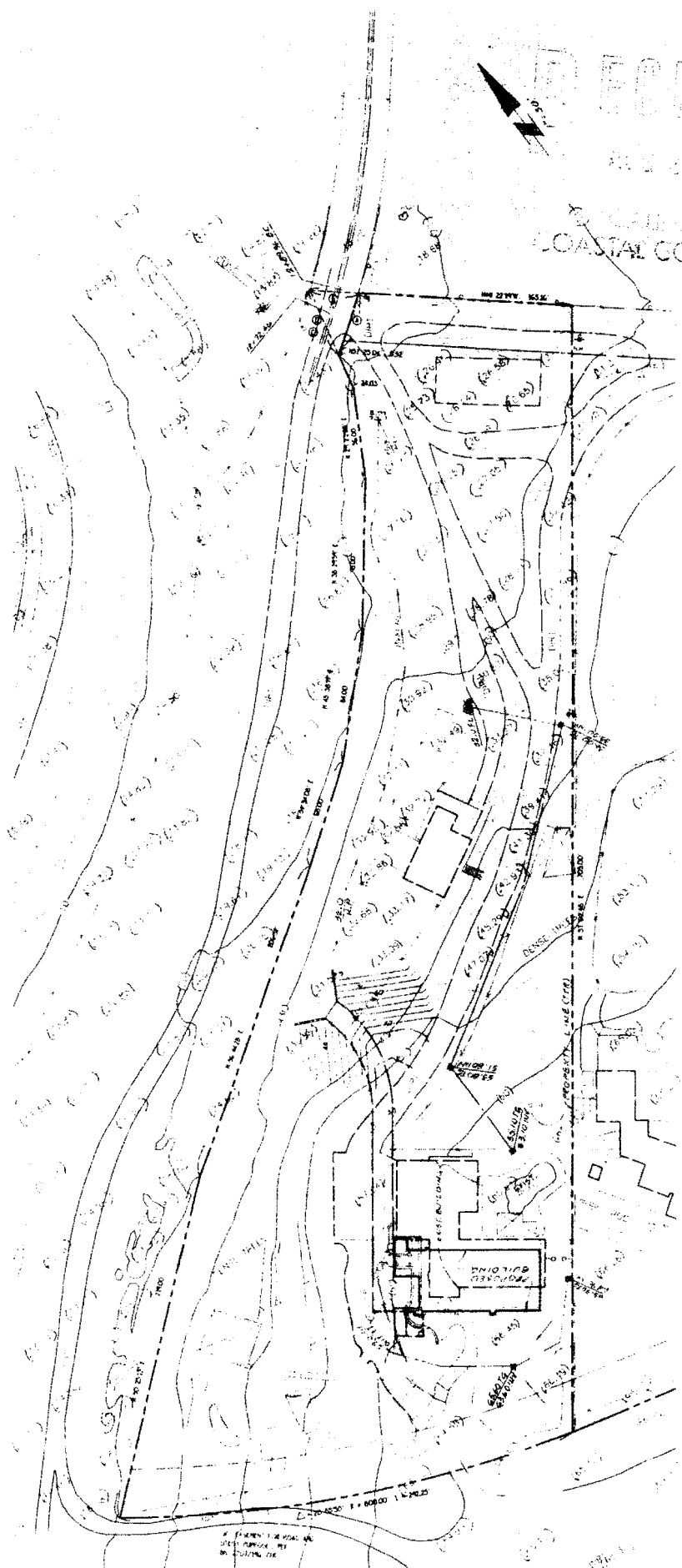
Upper Newport Bay

COASTAL COMMISSION

5-00-474

EXHIBIT # 3

PAGE 1 OF 1



CONSTRUCTION NOTES

1. CONST. AREA DRAIN WITH 12" x 12" GRATE
2. CONST. 4" DIAMETER PVC SCH. 40
3. CONST. RIP-RAP, SIZE 6" (5" & 6")

LEGEND

EG	TOP OF GRADE
FL	FLOW LINE
IN	INVERT
PA	PAVING CONTOUR
20' ±	EXISTING ELEVATION
51.20'	PROPOSED ELEVATION
— 40' —	PROPOSED CONTOUR

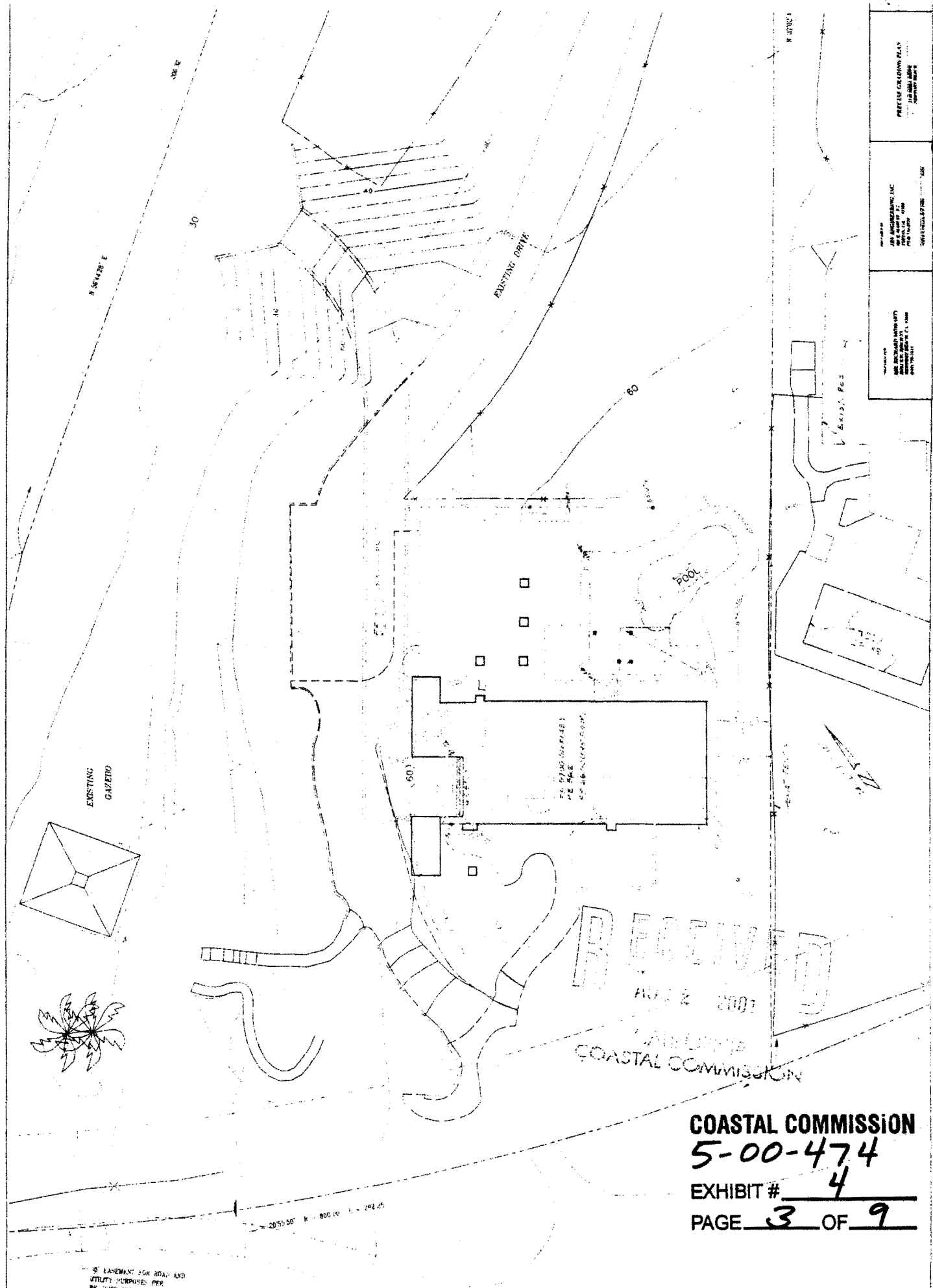
COASTAL COMMISSION
5-00-474
EXHIBIT # 4
PAGE 2 OF 9



MR. RICHARD MORIARTY
 2024 S.W. 10TH STREET
 NEW PORT BEACH, FL 32464
 (904) 261-1111

IRV ENGINEERING, INC.
 10001 MONTELEONE
 SUITE 200
 HOUSTON, TEXAS 77056
 (713) 244-7474
 DATE: 11/14/07

DRAINAGE PLAN
2128 MESA DRIVE
NEW PORT BEACH



PREPARED BY
JAN ENGINEERING, INC.
JAN ENGINEERING, INC.
1111 N. W. 11th Ave.
Fort Lauderdale, FL 33304
Phone: (305) 555-1234

DATE: 11/15/01

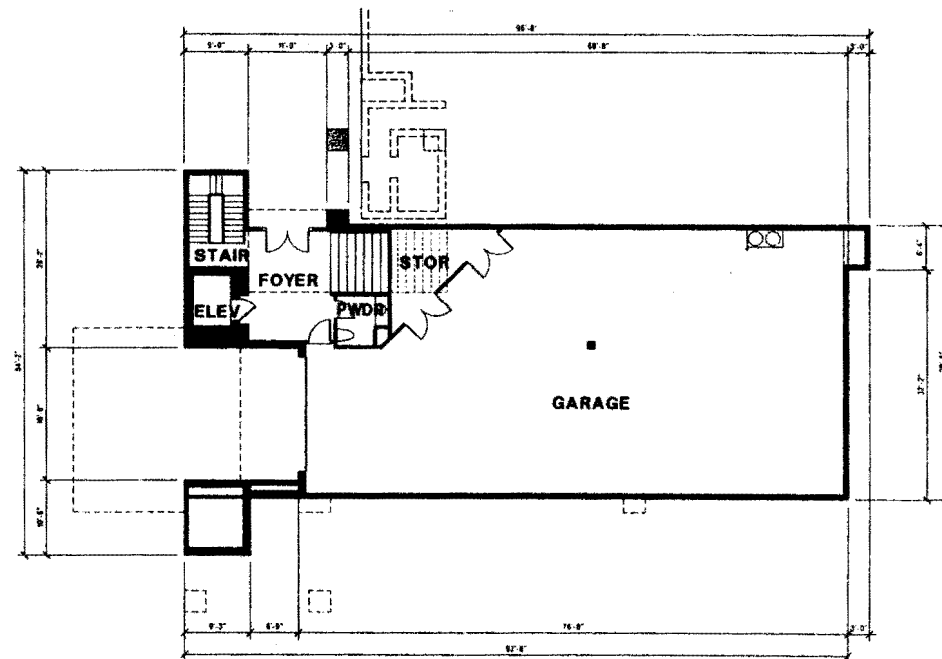
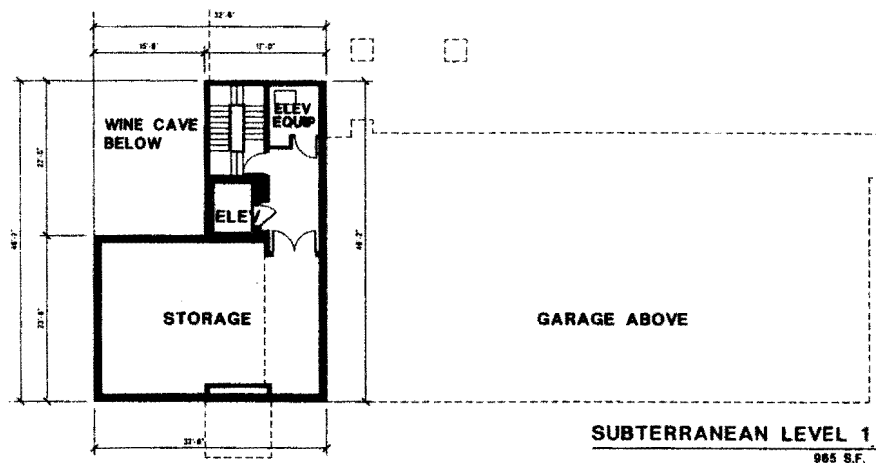
PROJECT: 5-00-474

REVISION: 1

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LABORING
COASTAL COMMISSION

COASTAL COMMISSION
5-00-474
EXHIBIT # 4
PAGE 3 OF 9

10' EASEMENT FOR ROAD AND
UTILITY PURPOSES PER
BK 7207 196 C.R.



BASEMENT PLAN

MORIARTY RESIDENCE

2128 MESA DRIVE
NEWPORT BEACH, CALIFORNIA

568 S.F. DWELLING
2,727 S.F. GARAGE

THIS OFFENSE AND THE PROPERTY IS
LOANED PRODUCT PLASTICS S.
JAMES AND ARE NOT TO BE USED
WITHOUT AN WRITTEN PERMISSION



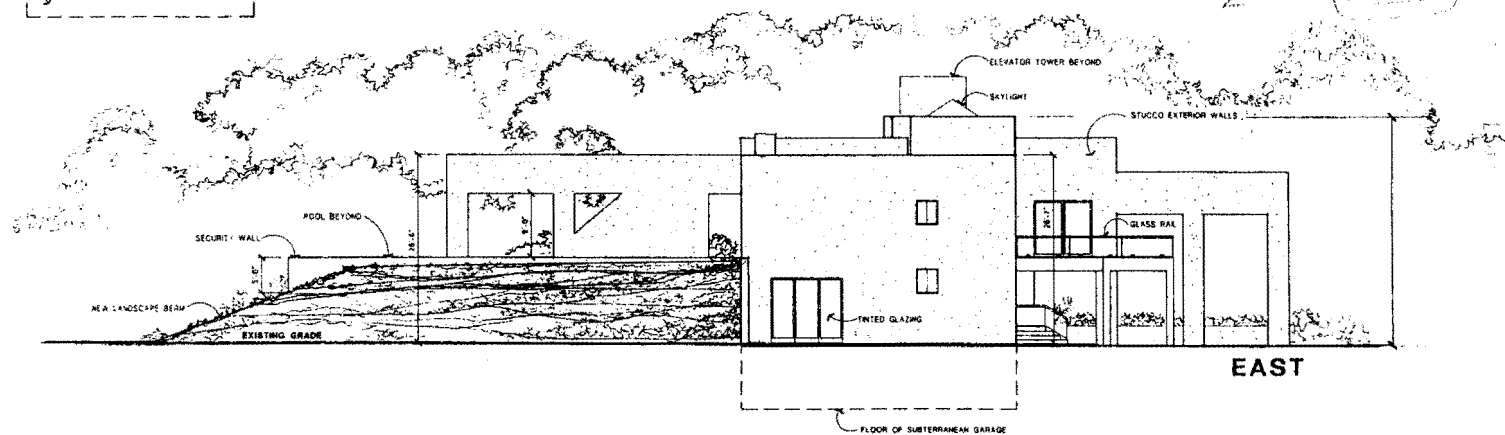
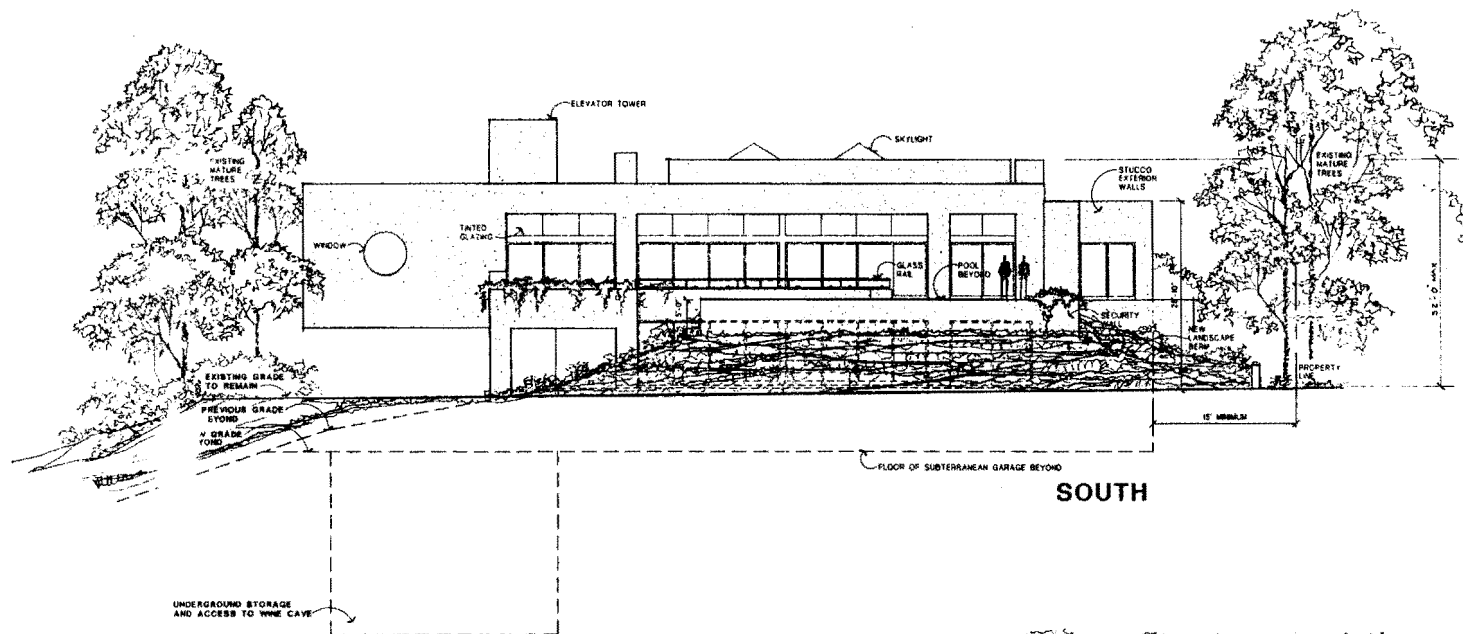
**FLEETWOOD B. JOINER
AND ASSOCIATES**
PLANNING AND ARCHITECTURE
9070 CAMPUS DRIVE SUITE 101
NEWPORT BEACH, CA. 92660
(949) 840-0909

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EXHIBIT # 4
PAGE 5 OF 9



MORIARTY RESIDENCE
2128 MEBA DRIVE
NEWPORT BEACH, CALIFORNIA

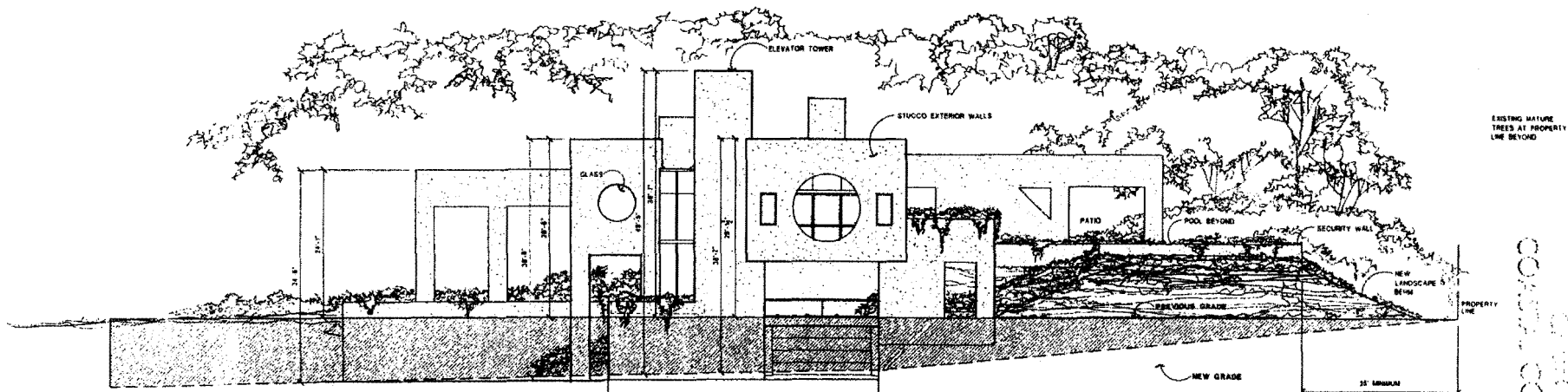


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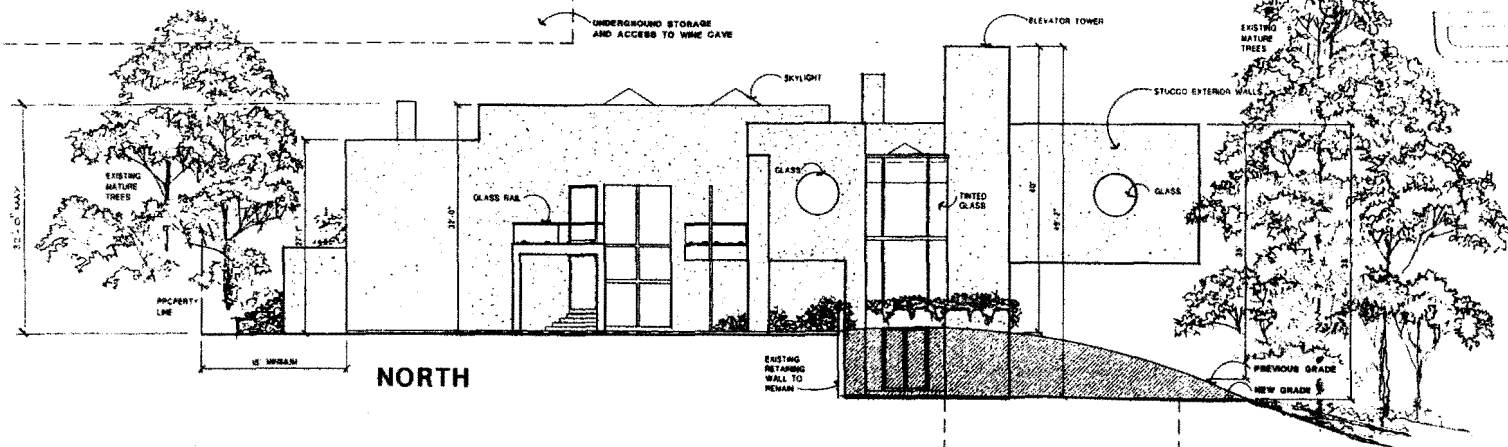


**FLEETWOOD B. JOINER
AND ASSOCIATES**
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3014 CAMPUS DRIVE, SUITE 101
NEWPORT BEACH, CA 92660
(949) 640-0606

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EXHIBIT # 4
PAGE 8 OF 9
S-00-474



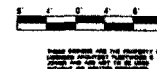
WEST



NORTH

MORIARTY RESIDENCE

2128 MESA DRIVE
NEWPORT BEACH, CALIFORNIA

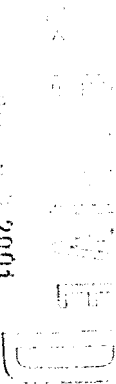


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NEWPORT BEACH, CA 92660
(949) 840-0000

COASTAL COMMISSION
EXHIBIT # 4
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COASTAL COMMISSION

APR 20 2001



CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



February 21, 2001

To: Anne Kramer, CCC - Long Beach

From: Darryl Rance, Mapping/GIS Program *DR*

Cc: Teresa Henry, CCC - Long Beach

Subject: Coastal Zone Boundary Determination No. 08-2001, APNs 439-061-14, City of Newport Beach, Orange County.

You have requested that we provide you with a Coastal Zone Boundary Determination for Assessor Parcel Number 439-061-14, City of Newport Beach, Orange County.

Enclosed is a copy of a portion of the adopted Coastal Zone Boundary Map No. 145 (Newport Beach Quadrangle) with the approximate location of the subject property indicated. See Exhibit 1. Also included is a Site Plan exhibit that depicts the subject property with the coastal zone boundary added. See Exhibit 2.

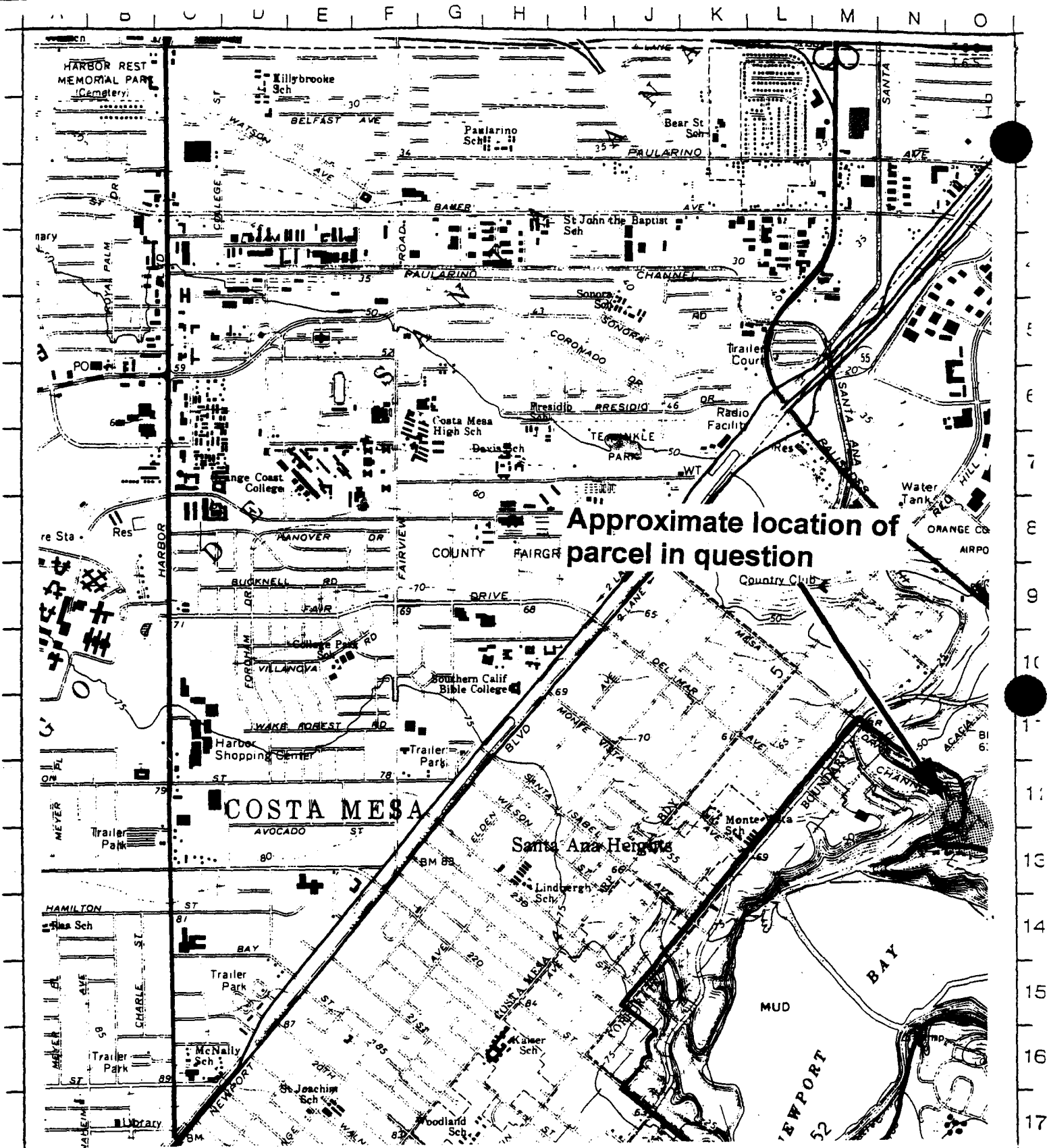
Based on the information provided and available in our office, Orange County APN 439-061-14 appears to be bisected by the coastal zone boundary in the manner indicated on Exhibit No. 2. Development that is proposed within the Coastal zone on APN 439-061-14 would require coastal development permit authorization from the California Coastal Commission.

The Coastal Commission's permit jurisdiction is based on the existence of tidelands, submerged lands and public trust lands. The information available indicates that the area in question appears to be located, in part, on tideland, submerged land and, or land that is potentially subject to the public trust. Based on this information the Coastal Commission is asserting jurisdiction over those portions of Orange County APN 439-061-14 which may be located on tideland, submerged lands and or land that may be subject to the public trust.

Please contact me at (415) 904-5335 if you have any questions regarding this determination.

Enclosures

COASTAL COMMISSION
5-00-474
EXHIBIT # 5
PAGE 1 OF 3



Approximate location of
parcel in question

BD No. 08-2001
APN 439-061-14



Orange County
California Coastal Commission

Portion of Coastal Zone Boundary
Map No. 145 (Newport Beach Quadrangle)

COASTAL COMMISSION
County of Orange

5-00-474

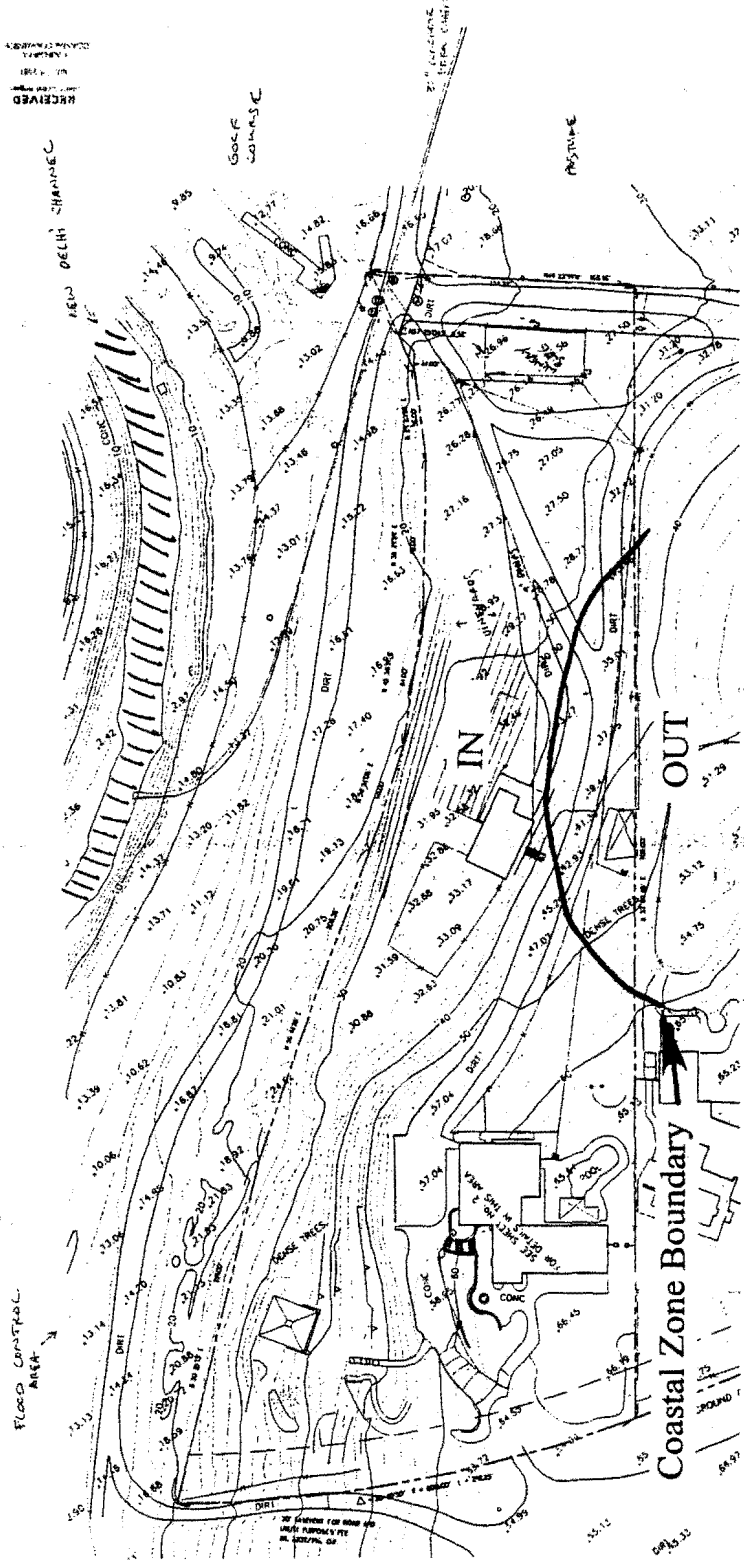


County of Orange

EXHIBIT # 5
PAGE 2 OF 3

EXHIBIT 1

EXHIBIT 2

[illegible]

THEY WERE CONSIDERED OF 2 SPECIES. BOTH PREPARED BY ME
ON WEEKLY AT BUREAU



Paula C. C. C.

BOUNDARY ESTABLISHMENT
SOUTHEAST BROWARD REGION IS AREA RECORDS OF SURVEY
NO. 67 - NOW FILED IN BOOKS 174 PAGE 27.
OF RECORDS OF SURVEYS IN THE OFFICE OF THE
CRANE COUNTY ASSessor

BASIS OF BEARINGS

THE CENTERLINE OF ROAD DRIVE IS SHOWN ON RECORD OF SURVEY NO. 17 - 1904 AS BEING ABOUT 19 FEET WEST, WAS USED AS THE BASIS OF BEARING FOR THIS MAP.

VERTICAL DATUM

LOCATED AT THE SOUTHEAST PART OF THE INTERSECTION
OF ROAD 1000 AND CHINESE STREET, ST. JOSEPH'S
COUNTY, NEW YORK. ELEVATION 140-21-77.

[illegible]

it appears correct. One does not immediately see how
small 3 ft. segments in line with our index yield
a power factor as, however, set on a concrete pad
level with the ground, indicating a final point.

17E. 600mg/day.
Cm-21-71 (LVE = 62.6%) CMV IgM / Oct 9 1980 ABJ)

VERTICAL DATUM
CLARK MEYER ANOMALY 64-21-730

DATE OF PHOTOGRAPH: MARCH 24, 1944

LEGEND

F3	FRESH SURFACE
F4	TOP OF WALL
F5	TOP OF CURB
F6	FRESH FLOOR
B1	BREAKING
B2	CRACK
B3	POTHOLE



COASTAL COMMISSION
5-00-474

EXHIBIT # 5
PAGE 3 OF 3

BD No. 08-2001
APN 439-061-14
Orange County

