

**CALIFORNIA COASTAL COMMISSION**

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**Th4b**

Filed: September 1, 2004  
 49th Day: October 20, 2004  
 180th Day: February 28, 2005  
 Staff: KFS-LB  
 Staff Report: October 28, 2004  
 Hearing Date: November 17-19, 2004  
 Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-04-187

**APPLICANTS:** Ingolf and Susan Hermann

**AGENT:** Michael Luna and Associates

**PROJECT LOCATION:** 1708 Calle de los Alamos, San Clemente, Orange County

**PROJECT DESCRIPTION:** Demolition of an existing single-family residence and construction of a new two-story 3,592 square foot, single-family residence with an attached garage (totaling 646 sq. ft.) on a lot adjacent to a coastal canyon. Approximately 105 cubic yards of imported material will be used to fill a low point on the property.

**LOCAL APPROVALS RECEIVED:** City of San Clemente Planning Division Approval in Concept dated May 10, 2004.

**SUBSTANTIVE FILE DOCUMENTS:** City of San Clemente Certified Land Use Plan (LUP)

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project with six (6) special conditions, which require 1) submittal of a final landscaping plan; 2) evidence of approval from OCFA; 3) submittal of a final grading and drainage plan; 4) compliance with construction-related best management practices (BMPs); 5) future improvements come back to the Commission for review; and 6) the applicant to abandon a prior permit approval that is still valid for the site. The primary issues associated with this development are canyon habitat enhancement and water quality.

**LIST OF EXHIBITS:**

1. Location Map
2. Assessors Parcel Map
3. Coastal Access Points Exhibit
4. Project Plans
5. Coastal Canyon Exhibit

**MOTION:**            *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

**STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION:**

**I.        APPROVAL WITH CONDITIONS**

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

**II.       STANDARD CONDITIONS:**

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

III. **SPECIAL CONDITIONS:**

1. Submittal of Final Landscaping Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) sets of a final landscaping plan prepared by an appropriately licensed professional which demonstrates the following:

- (a) All areas affected by construction activities not occupied by structural development (i.e. the residence or deck) shall be revegetated for habitat enhancement and erosion control purposes;
- (b) All non-native plants shall be removed from the construction area adjacent to the canyon;
- (c) Landscaped areas in the rear yard (canyon-facing) areas shall be planted and maintained for erosion control and native habitat enhancement purposes. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent existing native plant areas, all landscaping adjacent to the canyon shall consist of drought tolerant plants native to coastal Orange County and appropriate to the habitat type. Invasive, non-indigenous plant species that tend to supplant native species shall not be used;
- (d) Landscaped areas in the front yard (street-facing) area shall consist of native or non-invasive non-native drought tolerant plant species;
- (e) All planting will be completed within 60 days after completion of construction;
- (f) No permanent in-ground irrigation systems shall be installed on the canyon-facing portion of the site. Temporary above ground irrigation is allowed to establish plantings.
- (g) All vegetation shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscaping plan.

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 legally required.

2. Orange County Fire Authority Approval

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide to the Executive Director a copy of a permit issued by the Orange County Fire Authority (OCFA) or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the OCFA. Such changes shall not be incorporated into the project

until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

3. Submittal of Final Grading and Drainage Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) sets of a final grading and drainage plan prepared by an appropriately licensed professional. The plan shall incorporate the following criteria:
- (a) Runoff from all roofs, patios, driveways and other impervious surfaces and slopes on the site shall be directed to dry wells or vegetated/landscaped areas to the maximum extent practicable within the constraints of City requirements.
  - (b) Where City code prohibits on-site infiltration, runoff shall be collected and discharged via pipe or other non-erosive conveyance to the frontage street to the maximum extent practicable. Runoff from impervious surfaces that cannot feasibly be directed to the street shall be discharged via pipe or other non-erosive conveyance to a designated canyon outlet point to avoid ponding or erosion either on- or off- site;
  - (c) Runoff shall not be allowed to pond adjacent to the structure or sheet flow directly over the sloping surface to the canyon bottom; and
  - (d) The functionality of the approved drainage and runoff control plan shall be maintained throughout the life of the development.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. 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 storm drain system leading to the Pacific Ocean;
- (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 during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;

(d) Construction debris and sediment shall be removed from construction areas 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 outside the coastal zone, as proposed by the applicant.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-04-187. 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. 5-04-187 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Abandon Coastal Development Permit 5-03-197

- A. By acceptance of coastal development permit 5-04-187, the applicant agrees to abandon any and all rights and entitlements that may exist pursuant to coastal development permit 5-03-197 approved by the Coastal Commission.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, written evidence that 5-03-197 has been abandoned.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

The proposed project site is located at 1708 Calle de los Alamos in the City of San Clemente, Orange County (Exhibits 1 & 2). The site is a gradually sloping lot leading to Toledo Canyon. Surrounding development consists of low-density single-family residences. The nearest public access is available at the Boca del Canon access point, less than ¼ mile south of the subject site (Exhibit 3). The subject site is designated RL (residential low density) on the certified Land Use Plan and the proposed use is consistent with that land use designation.

The applicant proposes to demolish an existing single-family residence and construct a new two-story (24 feet high above existing grade), 3,592 square foot, single-family residence with an attached garage (totaling 646 sq. ft.) on a lot adjacent to a coastal canyon, as shown in Exhibit 4. Approximately 105 cubic yards of imported material will be used to fill a low point on the property.

The City's certified LUP (Policy VII.15), to which the Commission may look for guidance, requires new development on coastal canyon lots to be set back as follows:

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

*The development setback shall be established depending on site characteristics.”*

The proposed development conforms to the canyon setback policies in the certified LUP, as development will be set back more than 30% the depth of the lot and 20 to 36 feet from the canyon edge. Due to the configuration of the lot, the canyon edge is located beyond the applicant's property line. A new retaining wall, flagstone pavers, and landscaping described more fully below will be located within 20 feet of the canyon edge, while a new deck will be at least 36 feet from the edge of the canyon. The project is consistent with the pattern of development in the surrounding area and will not result in canyonward encroachment.

San Clemente's certified LUP advocates the preservation of native vegetation and discourages the introduction of non-native vegetation in coastal canyons. While no rare or endangered species have been reported to exist within the coastal canyon habitat of San Clemente, the City has designated all coastal canyons, including Toledo Canyon, as environmentally sensitive habitat areas (ESHA), as depicted in Exhibit 5. The coastal canyons act as open space and potential wildlife habitat, as well as corridors for native fauna. Decreases in the amount of native vegetation due to displacement by non-native vegetation have resulted in cumulative adverse impacts upon the habitat value of the canyons. As such, the quality of canyon habitat must be assessed on a site-by-site basis.

The canyon adjacent to the subject site is considered somewhat degraded due to the presence of both native and non-native plant species. No portion of the applicant's site contains resources that rise to the level of ESHA. The rear (canyon-facing) portion of the site is currently developed with an existing deck and ornamental landscaping. Immediately beyond the applicant's canyonward property line is a concrete block wall erected by a neighboring property owner. A low point exists between the adjacent block wall and the applicant's existing grade-level deck. According to the applicant, this area is subject to flooding. As such, the applicant proposes to construct a new retaining wall along the rear perimeter of the property, backfill the low point of the site, and place flagstone pavers and landscaping atop the new grade. In addition, the proposal includes a new deck area that will be located at least 36 feet from the edge of the canyon.

The applicant has submitted a landscape plan that proposes to use mostly non-native, non-drought tolerant plant species. To decrease the potential for canyon instability, deep-rooted, low water use, plants, preferably native to coastal Orange County, should be selected for general landscaping purposes in order to minimize irrigation requirements and saturation of underlying soils. In addition, since the proposed development is adjacent to a coastal canyon where the protection and enhancement of habitat values is sought, the placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.caleppc.org/>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications. In the areas on the canyonward side of the lot, landscaping should consist of plant species native to coastal Orange County only. Elsewhere on the site, while the use of

native plants is still encouraged, non-native plant species that are drought-tolerant and non-invasive may be used.

Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" (a.k.a. WUCOLS) prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the canyon slope. Drought resistant plantings and minimal irrigation encourage root penetration which increases slope stability. The applicant has submitted a planting plan that includes mostly non-native, non-drought tolerant plants. The Commission typically requires that applicants utilize native plant species, particularly along coastal canyons.

In addition, since the site is located adjacent to a canyon, the plans must also be submitted to the Orange County Fire Authority (OCFA) for review to confirm that appropriate plant materials, from a fire management perspective, are used and to ensure that development is carried out in conformance with OCFA requirements.

During construction, the applicant will be required to implement best management practices (BMPs) designed to minimize erosion and prevent debris from entering the adjacent canyon or storm drain system. After construction, roof and surface runoff from new impervious areas should, ideally, be directed to dry wells or vegetated/landscaped areas. However, the Commission recognizes that, at present, City codes mandate directing certain types of runoff, such as roof runoff, to the street. Until there is a reconciliation between City codes and the goal of maximizing on-site treatment and infiltration of runoff for water quality purposes, site runoff should be directed to dry wells or vegetated/landscaped areas to the maximum extent practicable but within the constraints of City requirements. A drainage and runoff control plan must be submitted for review and approval by the Executive Director prior to permit issuance.

Prior landowners Jim and Linda Ritch obtained approval of Coastal Development Permit application 5-03-197 for the construction of a 4733 square foot single-family residence on the subject site in September 2003. The permit for this development has not been issued, as the applicant's have not completed compliance with the prior-to-issuance permit conditions. However, this permit will not expire until September 2005. Under the present application, 5-04-187, a new landowner seeks approval for a smaller residential structure that will be located more landward from the canyon than the development previously authorized at this site. The applicant has indicated their intention of abandon all development rights under Coastal Development Permit 5-03-197 if the project now proposed under Coastal Development Permit Application 5-04-187 is approved. The Commission imposes a special condition that carries out the applicants' intention to abandon the development rights granted under Coastal Development Permit 5-03-197.

**B. HABITAT, RECREATION AND PARK IMPACTS**

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms to Section 30240(b) of the Coastal Act.

**C. WATER QUALITY**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

**D. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed, the development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

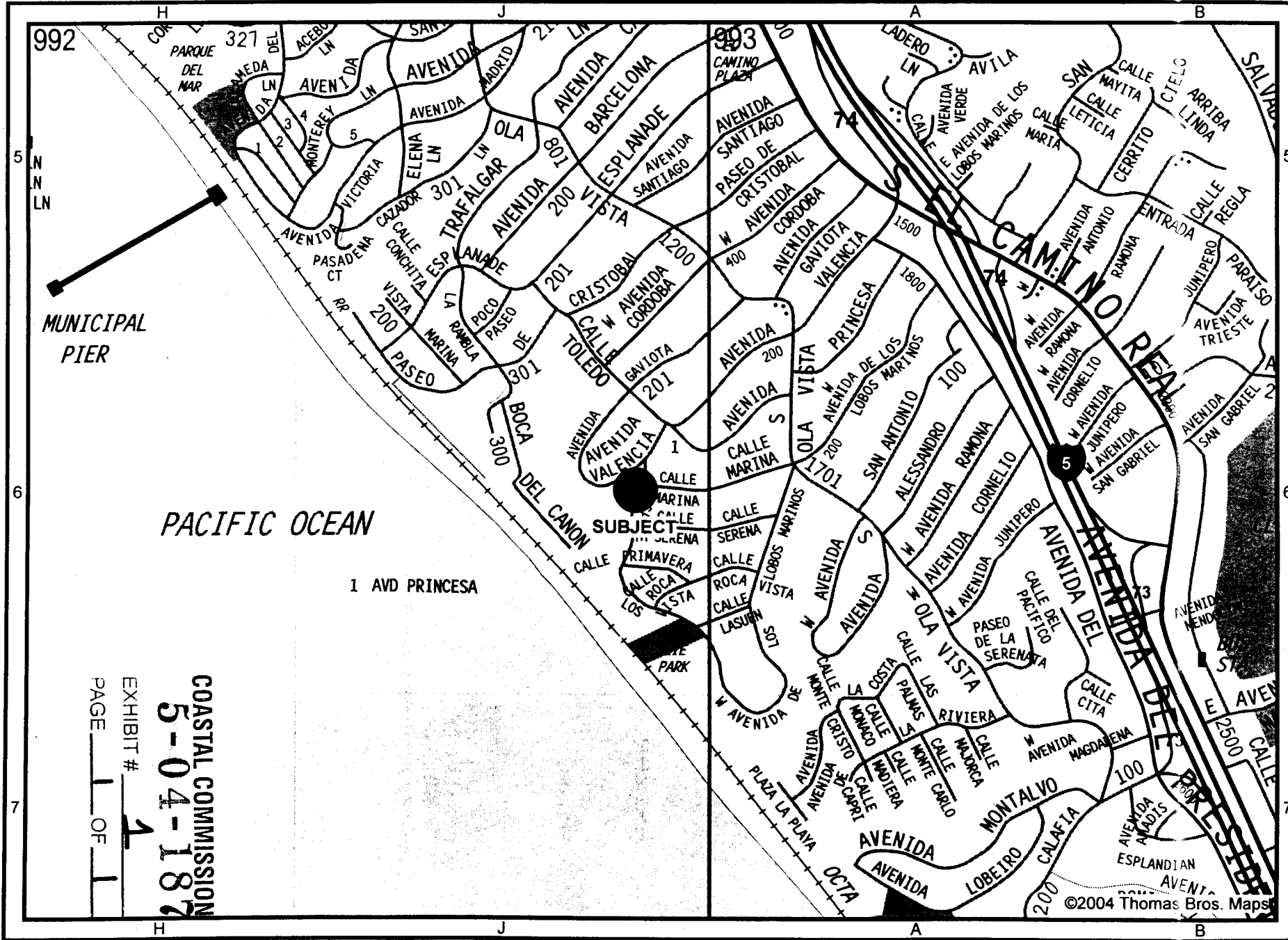
**E. LOCAL COASTAL PROGRAM**

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. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, 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.

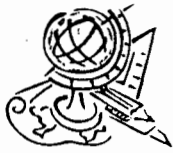
**F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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





● SUBJECT: 1708 Calle De Los Alamos, San Clemente, CA 92672, 992J6



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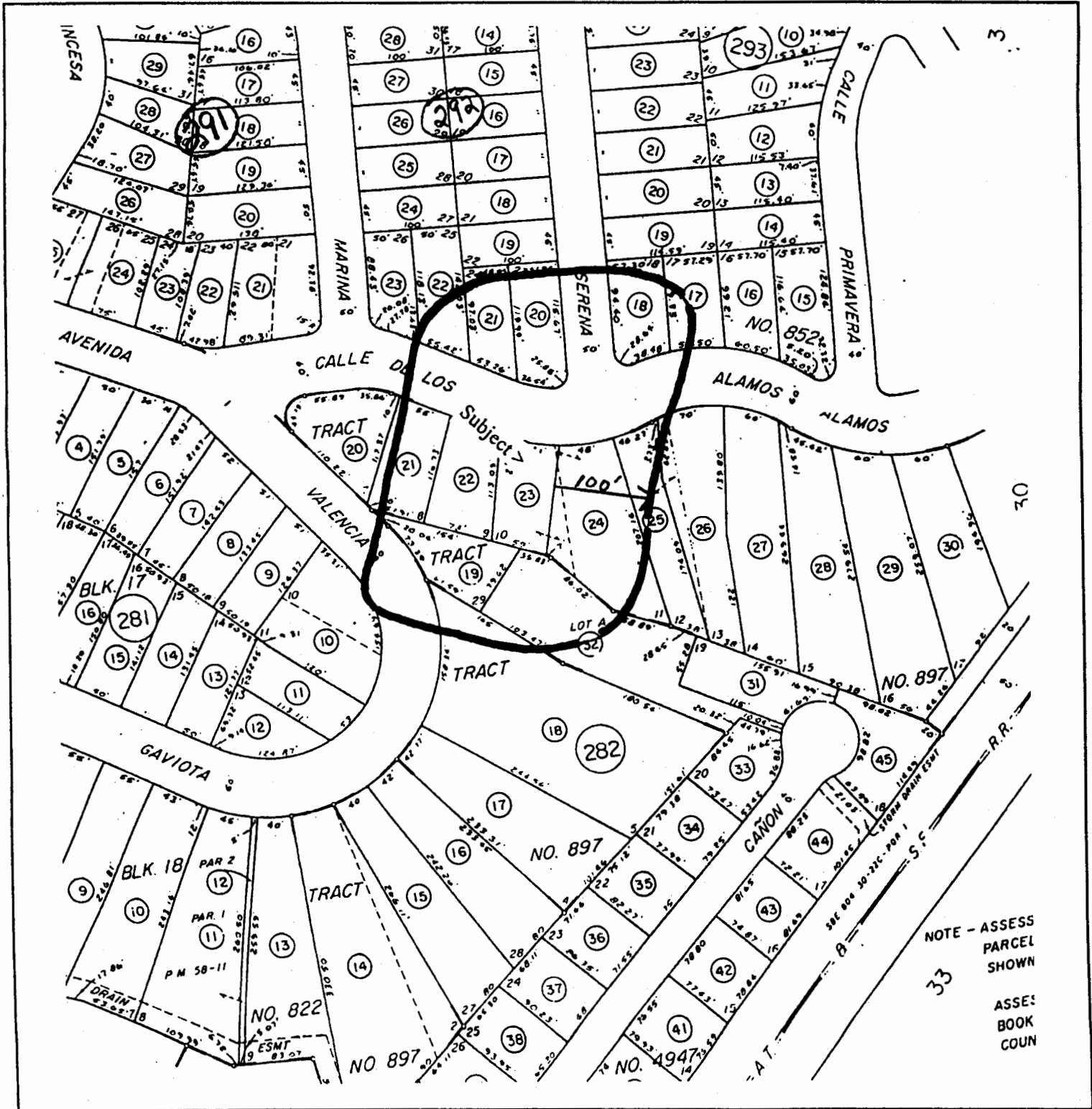
5-04-187

EXHIBIT # 2

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APN: 692-282-23  
100' Radius

Subject Address: 1708 Calle De Los Alamos  
San Clemente, Ca 92672



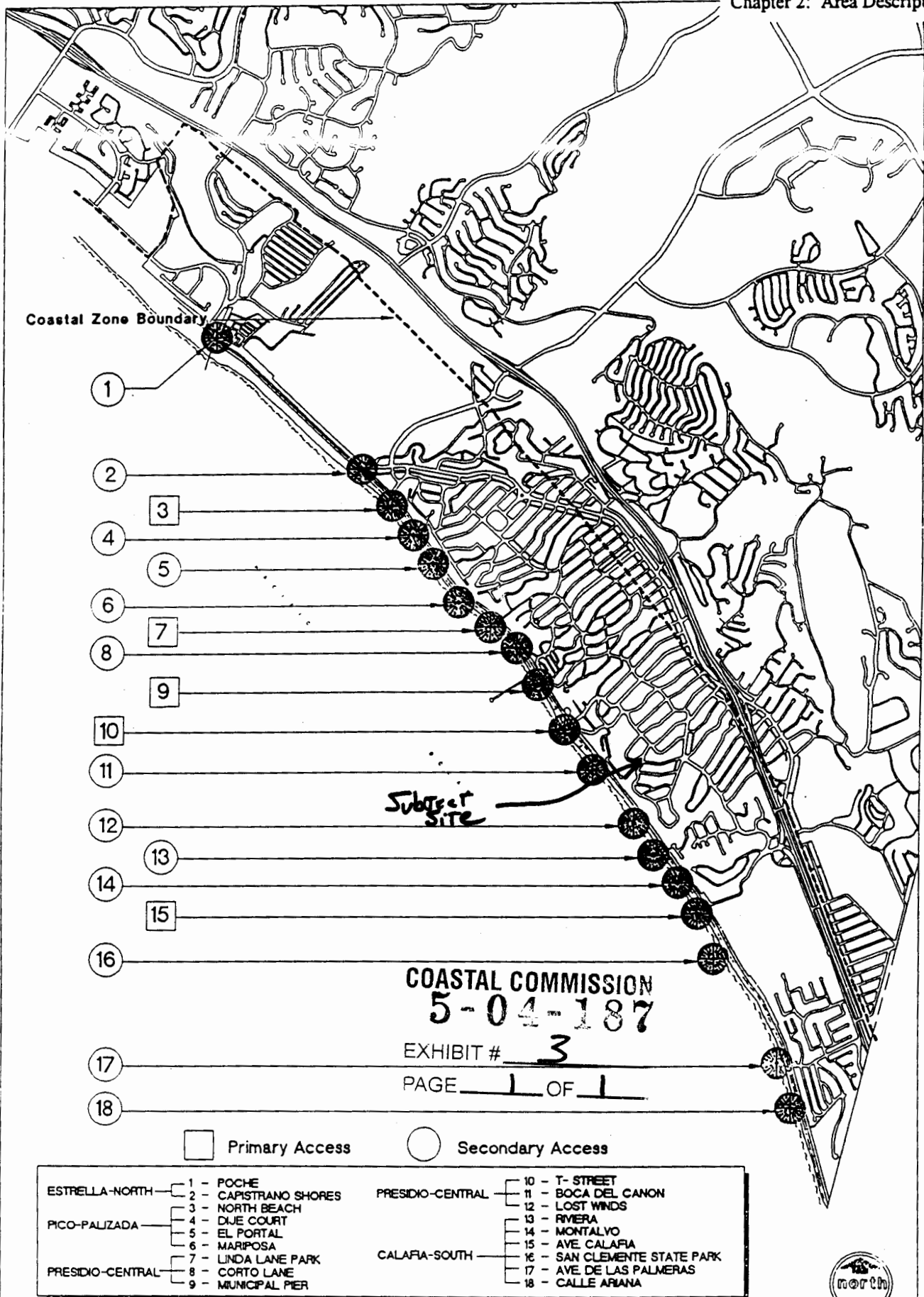


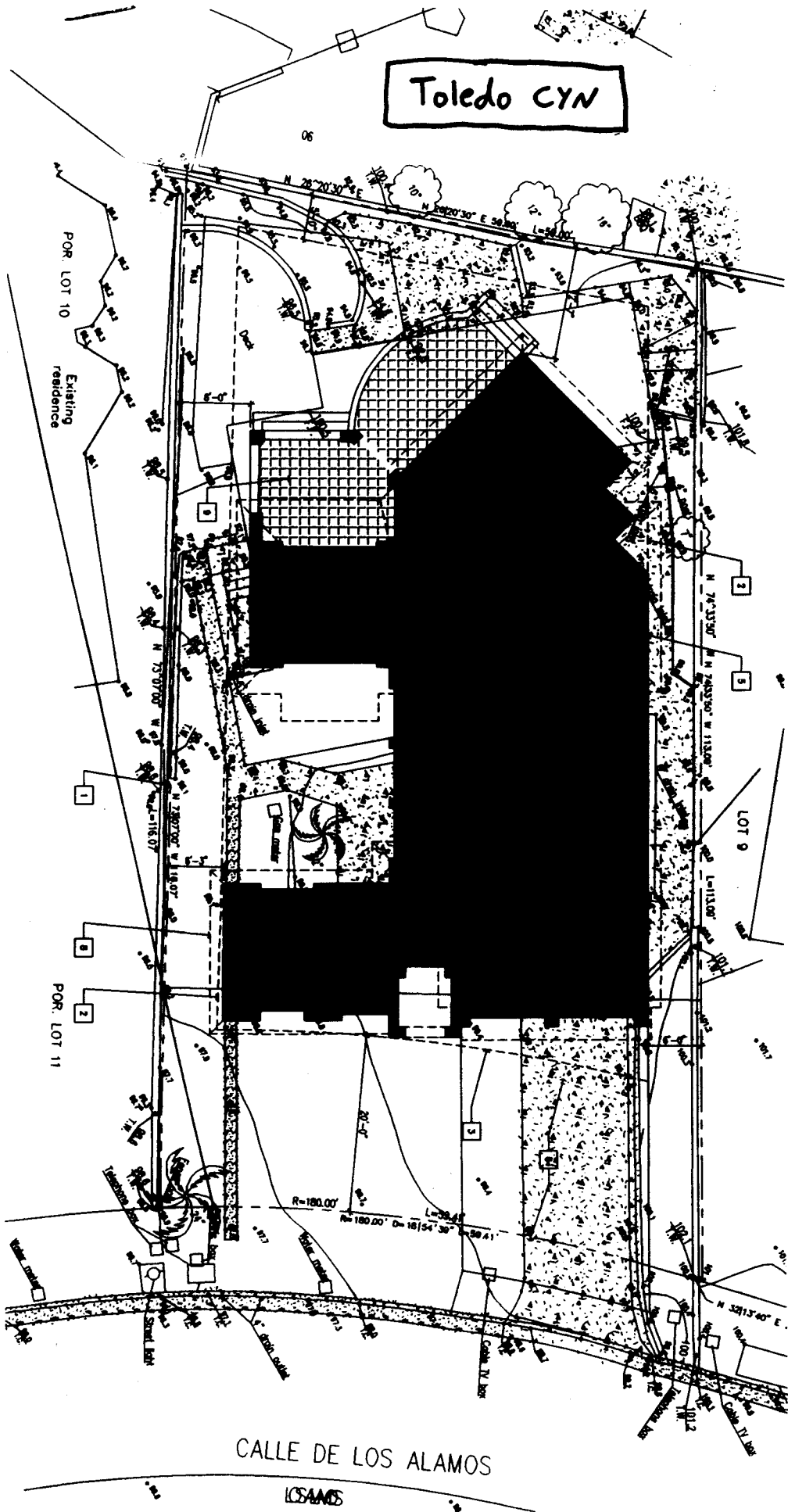
FIGURE 2-5



**CITY OF SAN CLEMENTE**  
**COASTAL ACCESS POINTS**



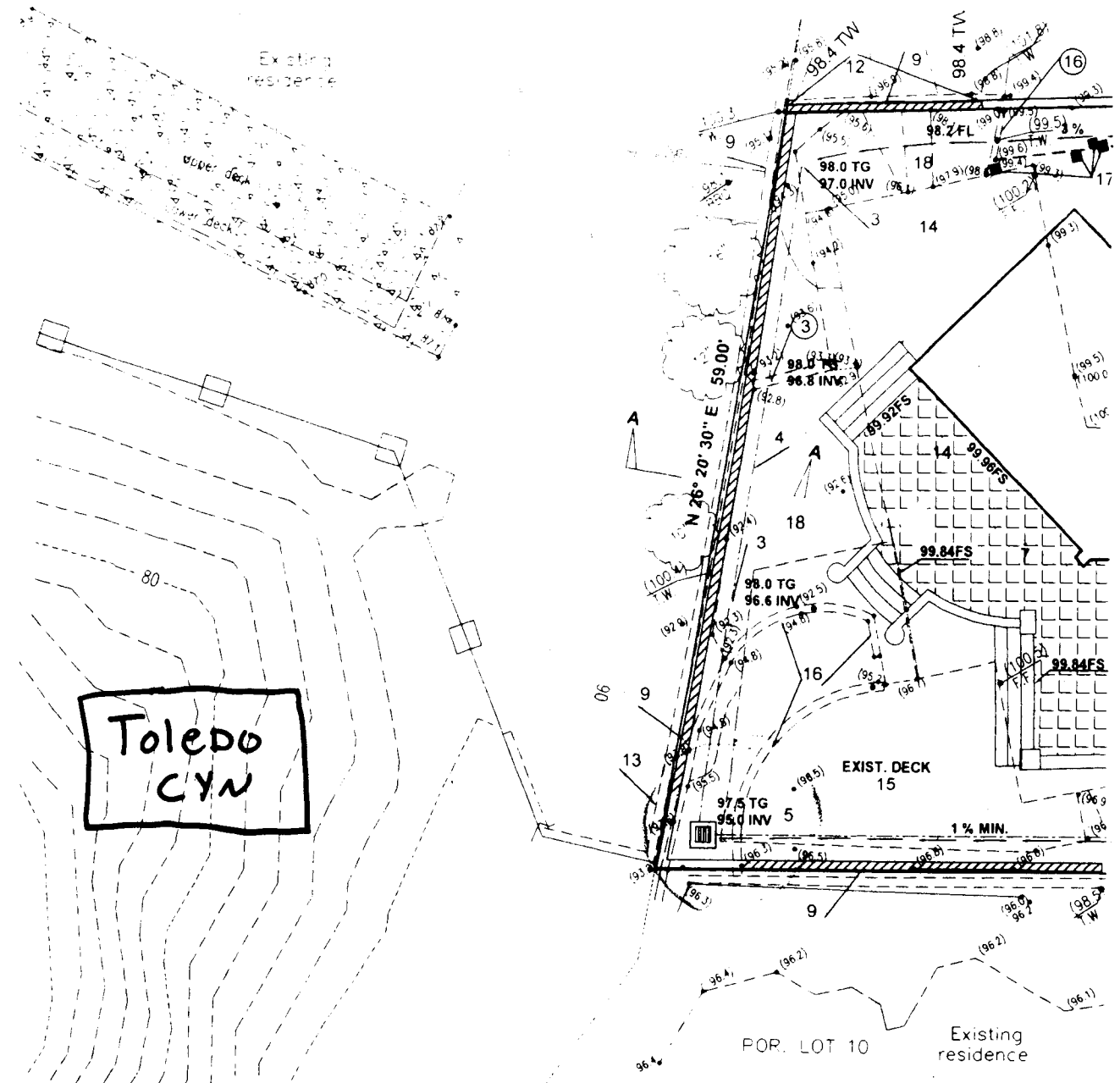
Toledo CYN



SITE PLAN  
HERMANN RES.

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EXHIBIT # 4a  
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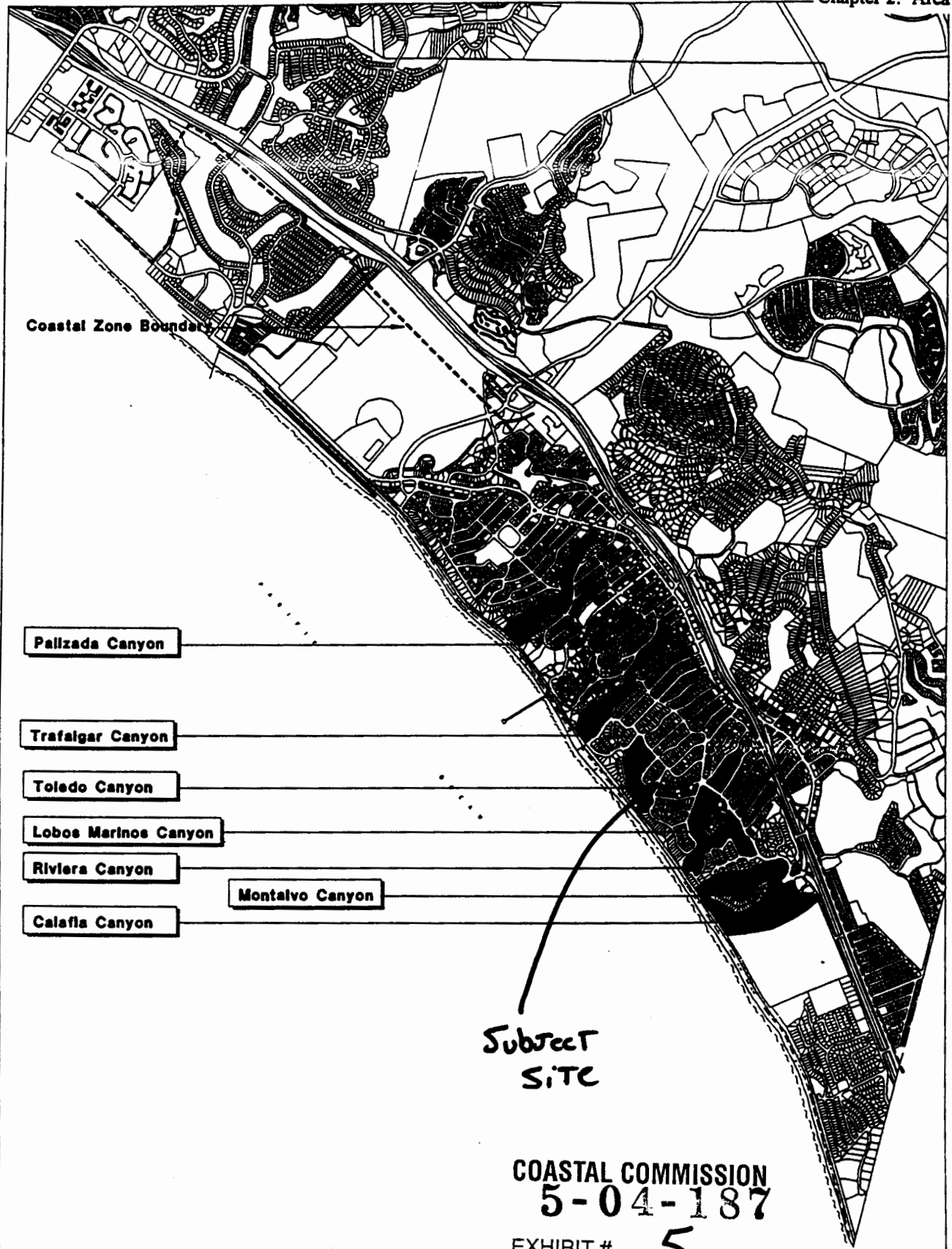
**CONSTRUCTION NOTES**

- 1 CONST. 6" CONCRETE DRIVEWAY (JOINTS, BASE AND REINFORCEMENT PER SOILS AND/OR STRUCTURAL ENGINEER)
- 2 CONST. DRIVEWAY APPROACH PER CITY STANDARD ST-9
- 3 CONST. AREA DRAIN 4" Ø PER NDS # 11 (ROUND GRATE)
- 4 CONST. 4"Ø PVC PIPE, SCH. 40 OR APPROVED EQUAL
- 5 CONST. SUMP PUMP PER CRANE DEMING 3122-309-09-311 OR APPROVED EQL
- 6 CONST. 4" THICK CONCRETE PAVEMENT (JOINTS, BASE AND REINFORCEMENT PER SOILS AND/OR STRUCTURAL ENGINEER)
- 7 CONST. DECORATIVE PAVERS PER ARCHITECTURAL PLANS
- 8 CONST. OUTDOOR FIREPLACE PER ARCHITECTURAL PLANS
- 9 CONST. RETAINING WALL PER SEPARATE PLAN CHECK AND PERMIT
- 10 REMOVE EXIST. CURB AND GUTTER
- 11 REMOVE 1 FT. WIDE EXIST. AC PAVEMENT AND REPLACE WITH 12" DEEP AC PAVEMENT
- 12 REMOVE PORTION EXIST. WALL
- 13 EXIST. WALL PROTECT IN PLACE
- 14 REMOVE EXIST. STRUCTURE
- 15 REMOVE EXIST. DECK
- 16 REMOVE EXIST. WAL
- 17 REMOVE EXIST. AREA DRAIN
- 18 REMOVE EXIST. PAVEMENT
- 19 EXIST. TREE, PROTECT IN PLACE

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EXHIBIT # 46

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Palizada Canyon

Trafalgar Canyon

Toledo Canyon

Lobos Marinos Canyon

Riviera Canyon

Montalvo Canyon

Calafia Canyon

Subject Site

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EXHIBIT # 5

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FIGURE 2-1



# CITY OF SAN CLEMENTE

COASTAL CANYONS/ ENVIRONMENTALLY SENSITIVE HABITAT AREAS