

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



# Th4e

Filed: August 19, 2004  
49th Day: October 7, 2004  
180th Day: February 2, 2005  
Staff: DL-LB  
Staff Report: October 26, 2004  
Hearing Date: November 17-19, 2004  
Commission Action:

## RECORD PACKET COPY

### STAFF REPORT: CONSENT CALENDAR

**APPLICATION NUMBER:** 5-04-340

**APPLICANTS:** Jim and Beth Yoder

**AGENT:** Jack Garland

**PROJECT LOCATION:** 2415 Monte Carlo, San Clemente,  
Orange County

**PROJECT DESCRIPTION:** Demolition of an existing 1,811 sq.ft. single-family residence and construction of a new 3-level 3,3389 sq.ft. single-family residence with an attached 590 sq.ft. garage on a 12,098 sq.ft. lot on a lot adjacent to a coastal canyon.

**LOCAL APPROVALS RECEIVED:** City of San Clemente Planning Division Approval in Concept dated August 6, 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 five (5) 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); and 5) future improvements come back to the Commission for review. 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 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. 5-04-340. 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. 5-04-340 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

The proposed project site is located at 2415 Calle Monte Carlo in the City of San Clemente, Orange County (Exhibits 1 & 2). The site consists of a flat pad on the western side of the lot, which slopes down towards Montalvo Canyon to the east. Surrounding development consists of low-density single-family residences. The nearest public access is available at the Riveria access point, approximately ¼ mile west of the subject site (Exhibit 3). The site is designated as Residential Low (7 dwelling units per acre) in the certified Land Use Plan, and the proposed project is consistent with this designation.

The applicant proposes to demolish an existing single-family residence and construct a new two-story 3,389 sq.ft., single-family residence with an attached 590 sq.ft. garage. Approximately 300 cubic yards of exported material will result from excavation of a the new 655 lower level/basement. The exported material will be deposited outside of the coastal zone.

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. Both the existing development and the new residence will be set back more than 30% the depth of the lot, and will be located 15 feet from the canyon edge. Although the new residence will be located several feet closer to the canyon edge than the existing structure, the existing graded pad area is currently developed with landscaping and hardscaping, including a wall along the top of the canyon edge, and no encroachment beyond this existing wall is proposed. No new structures closer than 15 feet to the canyon edge are proposed. The project is consistent with the pattern of development in the surrounding area.

Typically, the Commission requires that all new accessory development be set back at least 5 feet from the top edge of the canyon slope. The existing wall along the canyon edge noted above does not conform to this typically required setback. The applicant is not proposing any work upon this existing wall. However, if future work upon or re-construction of the wall becomes necessary then more landward alignment of the wall would need to be considered to accommodate a setback from the canyon edge. No significant structures are proposed within the 15-foot space landward of the existing wall, thus, there would be ample area to re-align the wall more landward. Accordingly, the Commission imposes Special Condition 5 that notifies the permittee of the need to obtain a permit for future work on that existing wall.

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 Montalvo 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. As noted, the site is currently developed with hardscape and landscaping which will remain, and there is an existing wall between the top of the slope and the canyon which is also proposed to remain. An existing spa which is located adjacent to the canyon edge will be removed.

However, 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. 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 that increases slope stability. The Commission typically requires that applicants utilize native plant species, particularly along coastal canyons.

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.

Therefore, Special Condition #1 requires implementation of a landscaping plan using native plants appropriate to the habitat type adjacent to the canyon area. 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>.

In order to ensure that invasive, non-native species are not further introduced into the canyon, Special Condition #1 also requires the applicant to Because 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.

In order to ensure that invasive, non-native species are not further introduced into the canyon, Special Condition #1 also requires the applicant to implement a landscaping plan using native plants appropriate to the habitat type adjacent to the canyon area. Because 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 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.

## **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 work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms to Sections 30230 and 32031 of the Coastal Act.

**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.

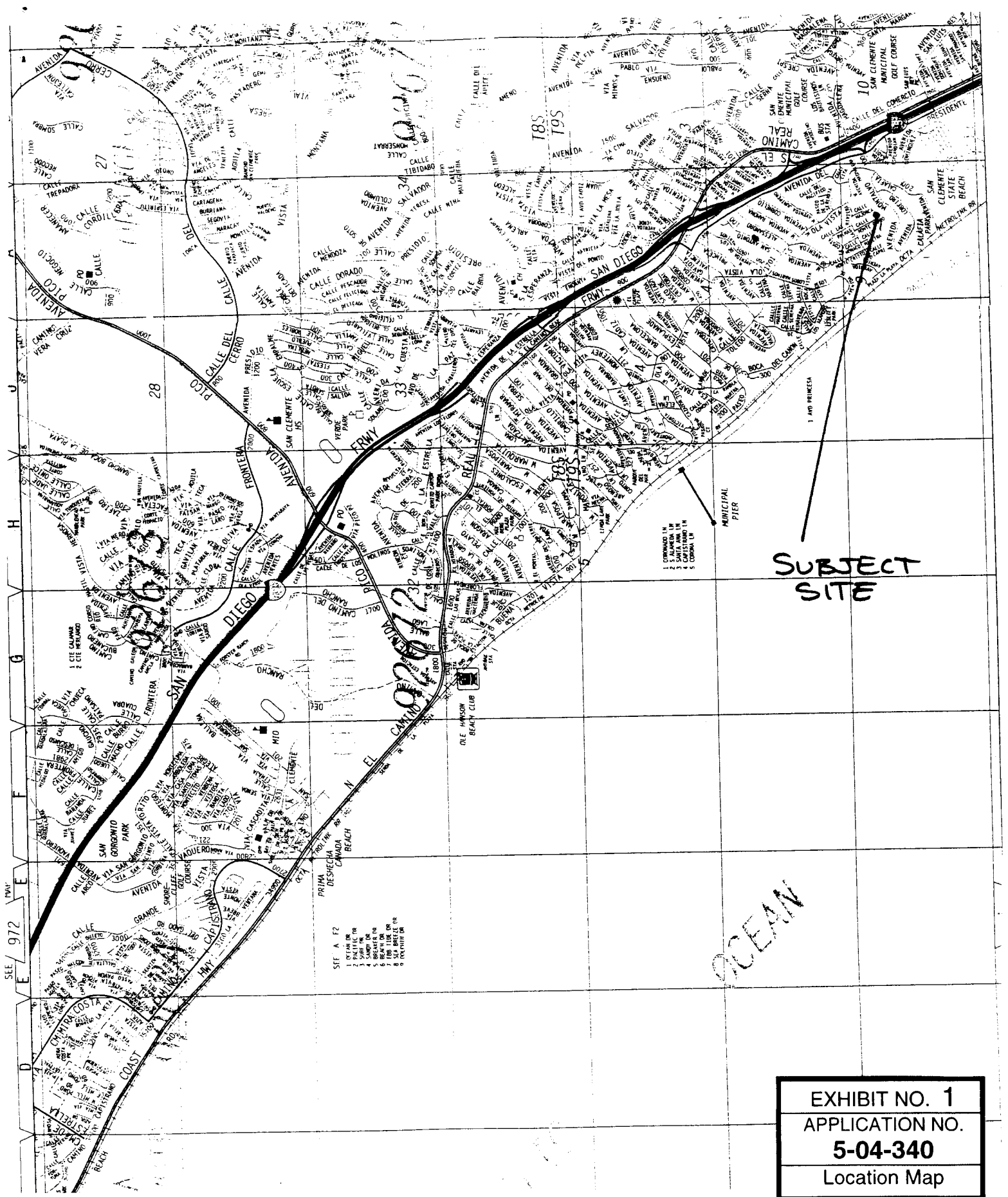
**E. LOCAL COASTAL PROGRAM**

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.





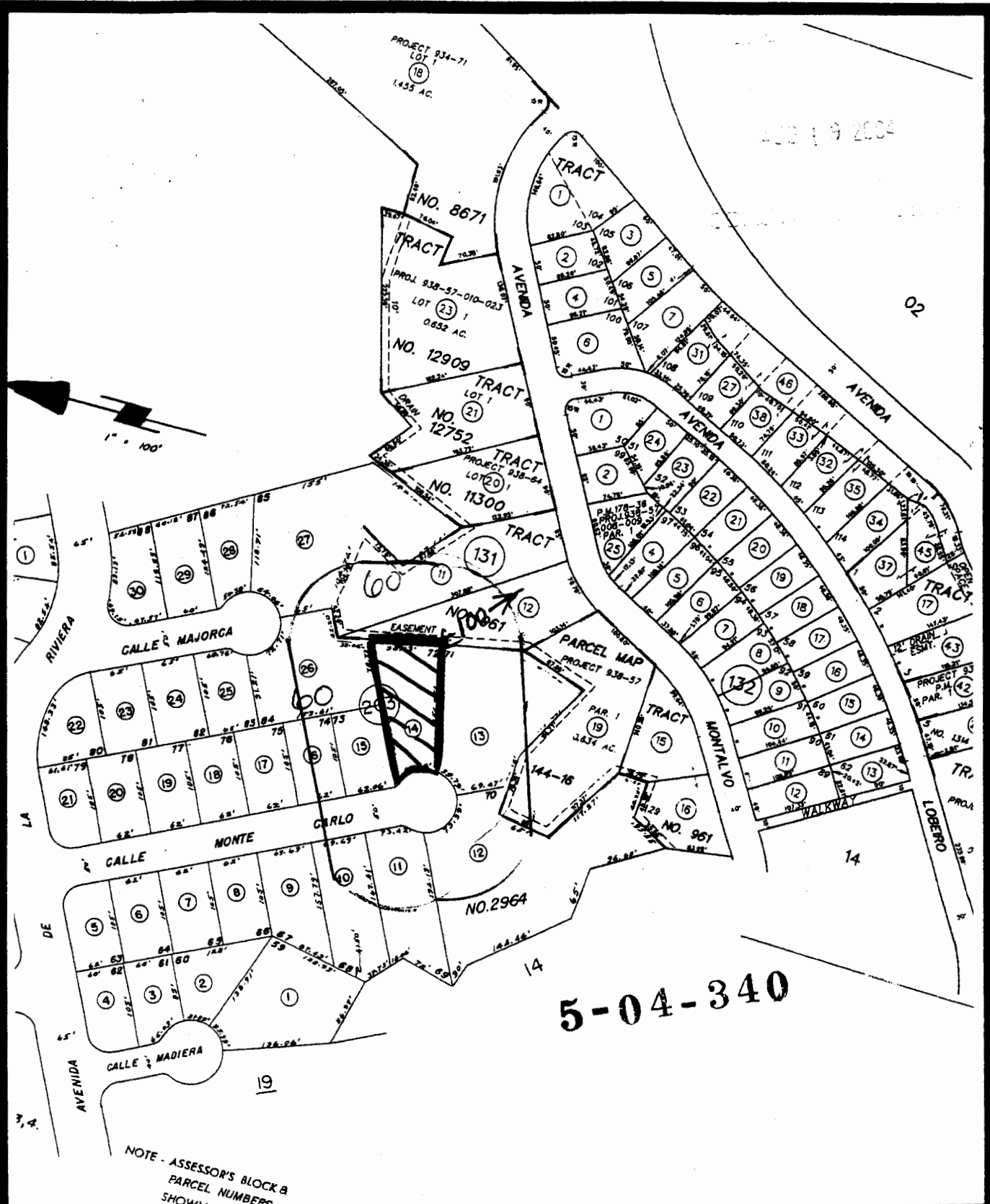
**SUBJECT SITE**

OCEAN

- SEE A F2
- 1 OCEAN
  - 2 BEACH
  - 3 PARK
  - 4 CLUB
  - 5 GOLF COURSE
  - 6 RESTAURANT
  - 7 HOTEL
  - 8 MUSEUM
  - 9 THEATER
  - 10 CINEMA
  - 11 STADIUM
  - 12 CONVENTION CENTER
  - 13 OFFICE BUILDING
  - 14 RETAIL STORE
  - 15 RESIDENTIAL DEVELOPMENT
  - 16 INDUSTRIAL DEVELOPMENT
  - 17 UTILITY
  - 18 TRANSPORTATION
  - 19 RECREATION
  - 20 CULTURAL
  - 21 EDUCATIONAL
  - 22 GOVERNMENT
  - 23 RELIGIOUS
  - 24 HISTORICAL
  - 25 LANDMARK
  - 26 MONUMENT
  - 27 STATUE
  - 28 FOUNTAIN
  - 29 GARDEN
  - 30 PARKWAY
  - 31 TRAIL
  - 32 BIKEWAY
  - 33 WALKWAY
  - 34 CARTWAY
  - 35 CROSSWALK
  - 36 CROSSING
  - 37 INTERSECTION
  - 38 JUNCTION
  - 39 DIVERSION
  - 40 CLOSURE
  - 41 CONSTRUCTION
  - 42 MAINTENANCE
  - 43 EMERGENCY
  - 44 HAZARD
  - 45 DANGER
  - 46 WARNING
  - 47 NOTICE
  - 48 SIGN
  - 49 MARKER
  - 50 POST
  - 51 BUOY
  - 52 LIGHTHOUSE
  - 53 TOWER
  - 54 BEACON
  - 55 SIGNAL
  - 56 LIGHT
  - 57 SOUND
  - 58 SMELL
  - 59 TASTE
  - 60 FEEL
  - 61 HEAR
  - 62 SEE

EXHIBIT NO. 1
APPLICATION NO.
<b>5-04-340</b>
Location Map
Page 1 of 1
California Coastal Commission

2004 19 2004



5-04-340

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

ASSESSOR'S MAP BOOK 60 PAGE 20 COUNTY OF ORANGE

EXHIBIT NO. 2
APPLICATION NO.
<b>5-04-340</b>
Assessor's Parcel Map

Page 1 of 1

**Ownership Map**

PREPARED BY  
917 GLENVIEW DRIVE  
LAGUNA BEACH CA 92651

California Coastal Commission

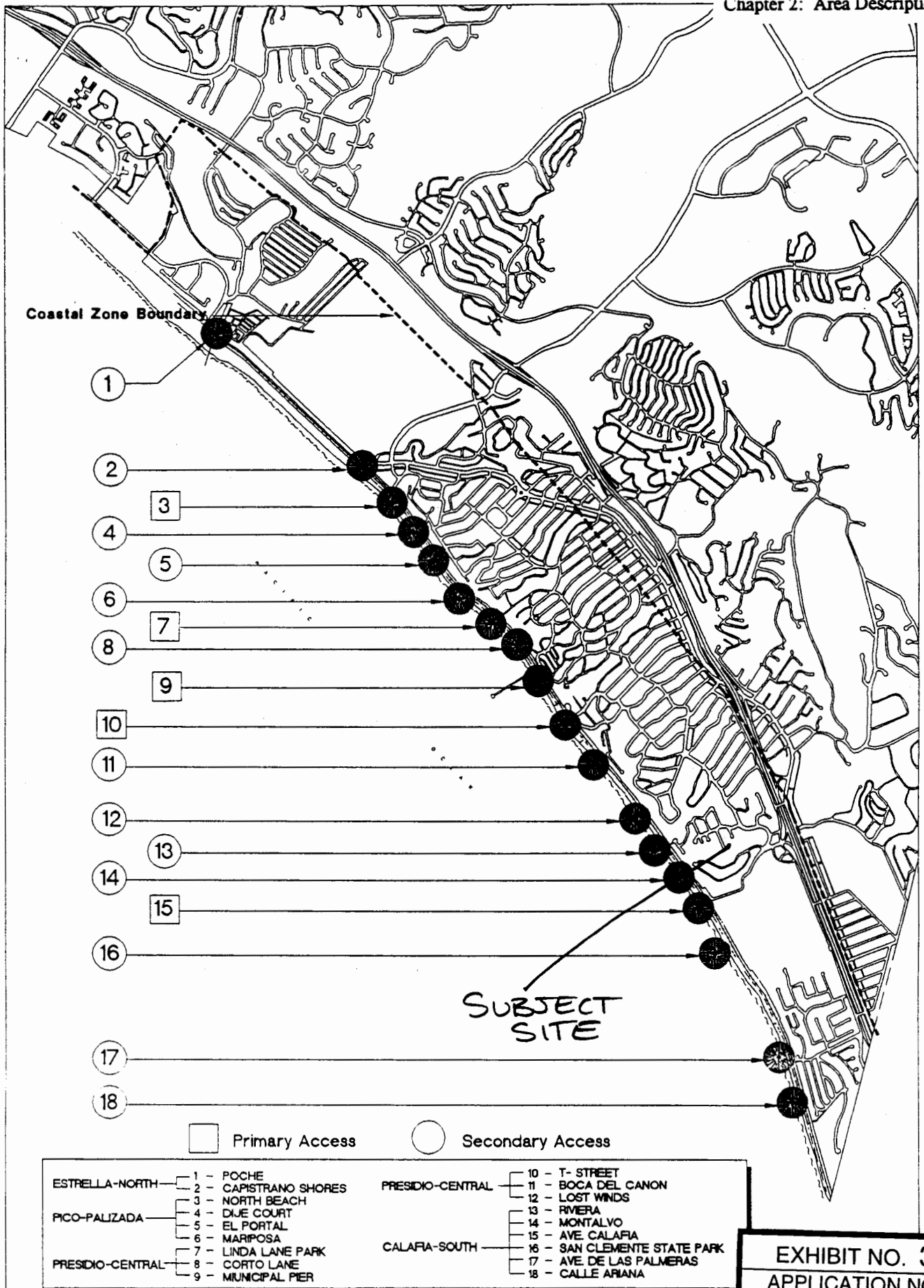
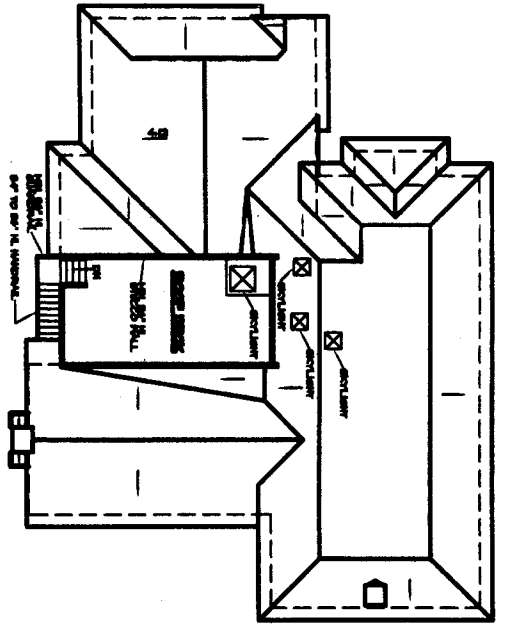


FIGURE 2-5

**CITY OF SAN CLEMENTE  
COASTAL ACCESS POINTS**



**EXHIBIT NO. 3**  
**APPLICATION NO.**  
**5-04-340**  
 Coastal Access Points  
 Page 1 of 1



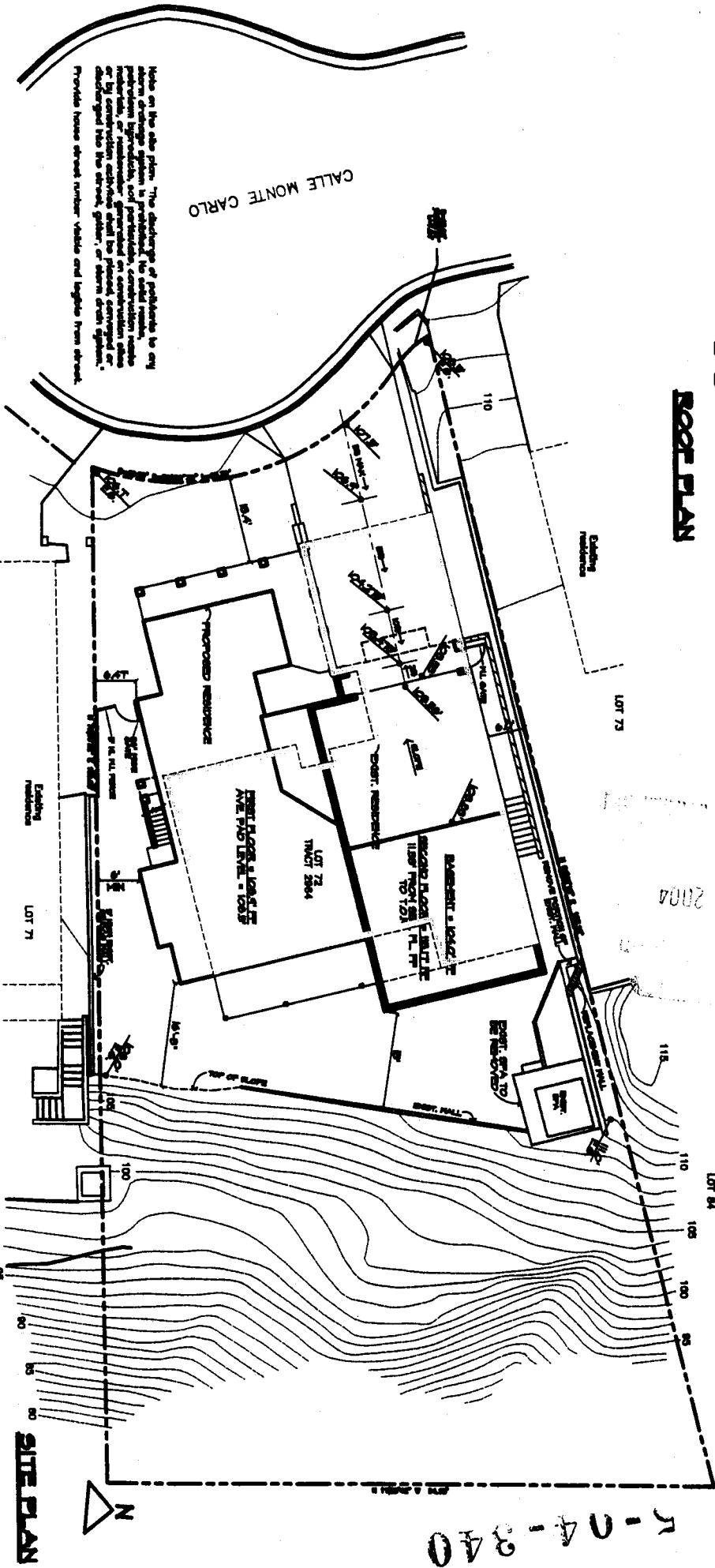
**ROOF PLAN**

**PROJECT INFORMATION**

STREET ADDRESS: 2ND MONTE CARLO, SAN CLEMENTE, CA 92723  
 LOCAL JURISDICTION: LOT 73, TRACT 2844, LOT 74, TRACT 2844  
 TYPE OF CONSTRUCTION: V.M.  
 OCCUPANCY: R.B. (U)  
 THIS PROJECT SHALL COMPLY WITH THE 2001 CBC, CBC, CBC, AND CBC.  
 LOT AREA: 118,000 SQ. FT.  
 BUILDING COVERAGE: 100%  
 DIST. RESOURCES: 100%  
 PROPOSED RESOURCES: 100%  
 EXISTING RESOURCES: 100%  
 TOTAL RESOURCES: 100%  
 TOTAL COVERED FLOOR AREA: 100%  
 TOTAL COVERED FLOOR AREA: 100%

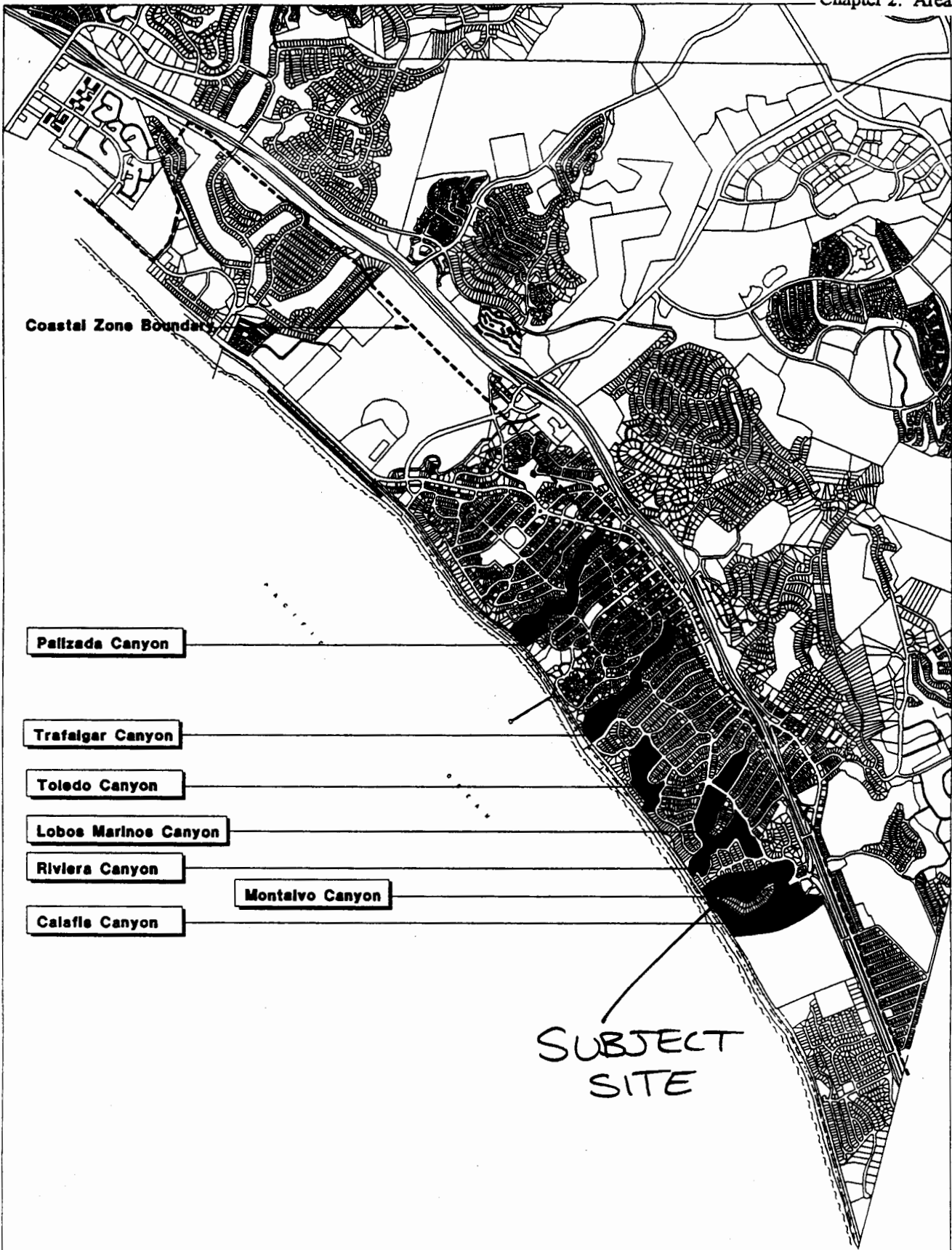
APR 19 2004

**EXHIBIT NO. 4**  
**APPLICATION NO.**  
**5-04-340**  
 Site Plan  
 Page 1 of 1  
 California Coastal Commission



Note on the site plan: The design of buildings to any  
 storm drainage system is prohibited. To avoid runoff,  
 pervious landscapes and pervious construction materials  
 shall be used. The design of buildings to any storm  
 drainage system shall be provided, approved or  
 designed into the street, gutter, or storm drain system.  
 Provide house street number: visible and legible from street.

**SITE PLAN**



**FIGURE 2-1**

EXHIBIT NO. 5
APPLICATION NO.
<b>5-04-340</b>
Coastal Canyons
Page 1 of 1



