

CALIFORNIA COASTAL COMMISSION

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 Staff: ALB-LB **AB**
 Staff Report: January 29, 2004
 Hearing Date: February 18-20, 2004
 Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-03-455**APPLICANT:** Damon Kuntz**PROJECT LOCATION:** 231 West Marquita, San Clemente, Orange County

PROJECT DESCRIPTION: Foundation stabilization and repair at existing four-unit condominium complex, including installation of three (3) caissons and sixteen (16) pipe piles, on a coastal canyon lot. Approximately 10 cubic yards of grading (all cut) will be required for caisson installation. Excess material will be disposed of at an appropriate site outside the Coastal Zone. No vegetation removal or canyon disturbance is proposed.

LOCAL APPROVALS RECEIVED: Approval-in-Concept from the City of San Clemente Community Development Department dated July 28, 2003.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing to stabilize the foundation system of an existing condominium complex on a canyon lot. The site is located adjacent to Palizada Canyon, one of seven coastal canyons in San Clemente identified as containing environmentally sensitive habitat. Primary issues include assurance that the proposed development is consistent with the geologic hazard policies of the Coastal Act, as well as assuring that the development is consistent with protection of environmentally sensitive habitat areas (ESHA). The existing development is sited less than 15' from the canyon edge, inconsistent with current canyon setback policies contained in the San Clemente certified LUP. The certified LUP requires development to be set back at least 15' from the canyon edge and more than 15' from the line of native vegetation.

Staff is recommending **APPROVAL** of the proposed project subject to six (6) special conditions requiring: 1) conformance with geotechnical recommendations; 2) submittal of a drainage and runoff control plan showing roof and surface runoff directed toward the frontage street and away from the canyon edge wherever feasible; 3) conformance with construction responsibilities and submittal of a site access, staging, work area and equipment storage plan; 4) assumption of risk; 5) future development be submitted for review by the Commission or applicable certified local government agency; and 6) recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

SUBSTANTIVE FILE DOCUMENTS:

City of San Clemente certified Land Use Plan; Coastal Development Permit P-7-5-77-1338 (Ratkellis) and *Geotechnical Investigation, Document Review and Recommendations for Structure and Site Distress Mitigation at 231 W. Marquita, San Clemente, California.*

STAFF RECOMMENDATION:

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

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-03-455 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion 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:

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. Conformance of Design and Construction Plans To Geotechnical Recommendations

- A. The applicant shall comply with all recommendations contained in the *Geotechnical Investigation, Document Review and Recommendations for Structure and Site Distress Mitigation at 231 W. Marquita, San Clemente, California* prepared by Alan J. Jessup, P.E. dated May 25, 2003.
- B. The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved 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 required.

2. Drainage and Run-Off Control Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, a drainage and runoff control plan showing roof drainage and runoff from all impervious areas directed toward the frontage street and away from the canyon edge wherever feasible.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. General Construction Responsibilities

- A. The permittee shall comply with the following construction-related requirements:
 1. No work shall occur beyond the limits of the canyon edge. Prior to commencement of any work approved by this permit, a temporary barrier or work area demarcation (such as but not limited to flagging, staking or plastic mesh fencing) shall be placed between the construction areas and the canyon. All temporary flagging, staking, fencing shall be removed upon completion of the development.
 2. All areas disturbed and/or denuded by the project shall be re-vegetated with native or drought tolerant non-invasive vegetation for erosion control purposes or otherwise stabilized using non-vegetative erosion controls such as mulching or fiber rolls/ground cover.
 3. No construction materials, debris, or waste shall be placed or stored where it may encroach upon the adjacent canyon or enter any storm drain;

4. Construction materials, chemicals, debris and sediment shall be properly contained and secured on site or upon adjacent existing paved areas to prevent the unintended transport of material, chemicals, debris, and sediment into habitat areas and coastal waters by wind, rain or tracking. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs selected shall be maintained in a functional condition throughout the duration of the project. A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines.
5. Disposal of debris and excess material. Debris and excess material shall be disposed or recycled at a legal disposal/recycling site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required. No debris or excess material shall be placed on or within the adjacent canyon.
6. Debris and sediment shall be removed from the construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into habitat areas and coastal waters.
7. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a site access, staging, work area and equipment storage plan(s) which conforms with the requirements of subsection A.1 through A.7. of this special condition. The permittee shall undertake development in accordance with the approved final plan(s). Any proposed changes to the approved final plan(s) shall be reported to the Executive Director. No changes to the approved final plan(s) shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledge and agrees (i) that the site may be subject to hazards from slope creep and soil movement; (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; and (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 any injury or damage due to such hazards.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-03-455. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-03-455. Accordingly, any future improvements to the development authorized by this permit, including but not limited to a change in the intensity of use (including a change in the physical number of residential units or a change in the number of parking spaces) and repair and maintenance 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. 5-03-455 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The proposed development is located at 231 W. Marquita in the City of San Clemente, Orange County (Exhibits 1 & 2). The project site is adjacent to Palizada Canyon, which is identified in the City of San Clemente Certified Land Use Plan (LUP) as one of seven environmentally sensitive coastal canyon habitat areas (Exhibit 3). The surrounding development consists of single- and multi-family residences. The project site is located on an inland lot, which is not between the first public road and the sea. The nearest coastal access is available at Linda Lane Park, approximately one-quarter mile from the subject site (Exhibit 4).

The proposed development consists of foundation stabilization and repair at an existing four-unit condominium complex, including installation of caissons and pipe piles along the southeastern perimeter of the structure. Specifically, the structure will be lifted, leveled and stabilized by means of sixteen (16) pipe piles and three (3) cast-in-place concrete caissons and grade beams. Approximately 10 cubic yards of grading (all cut) will be required for caisson installation. Excess material will be disposed of at an appropriate site outside the Coastal Zone. No vegetation removal or canyon disturbance is proposed. No work (beyond interior slab repairs) is proposed to the existing condominium complex. Project plans are provided in Exhibit 5.

The canyon edge travels along the eastern and southern portions of the site in an irregular pattern. As shown on Exhibit 6, the applicant's property extends approximately to the center of the canyon bottom. All proposed development would occur on the existing building pad, approximately 8- 20' inland of the designated canyon edge. The structure, approved by the Commission in 1977, is sited approximately 10' from the canyon edge at its closest point. By current standards established in the certified LUP, development must be sited at least 15' from the canyon edge. As such, the structure is non-conforming to current standards. Portions of the proposed foundation system will encroach approximately 2' further into the required canyon setback. However, no work is proposed beyond the canyon edge. An existing retaining wall located along the canyon slope will remain undisturbed. The applicant indicates that all staging and storage of material and equipment will occur on the buildable pad. Construction access is available from the frontage street.

B. PRIOR COMMISSION ACTION AT THE SUBJECT SITE

On August 11, 1977, the Commission approved Coastal Development Permit P-7-5-77-1338 (Ratkellis) for the construction of a two-story, four-unit condominium with eight parking spaces, 12 feet above the centerline of the frontage road at the subject site. The permit included special conditions that required 1) a 10-foot setback from the buildable pad as defined by the canyon edge; 2) a reduced number of dwelling units to four units based on the smaller building pad and associated reduction in gross structural area; and 3) landscaping and adequate revegetation of canyon slopes and terraces.

C. GEOLOGIC STABILITY

1. Coastal Act Policies

Section 30235 of the Coastal Act states, in pertinent part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

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

New development shall:

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

2. Project Site Geotechnical Report

The applicant submitted a geotechnical report prepared by Alan J. Jessup, P.E. dated May 25, 2003. The geotechnical investigation included: site inspections, floor level survey data, filed exploration and laboratory testing.

The property site is an irregularly-shaped parcel with a level building pad, which descends to a natural drainage course beyond the canyon edge (Exhibit 4). The subsurface investigation indicates the site contains compacted fill overlying bedrock. The report states, "*possible localized slope creep, foundation soil movement by tree root pull and compressive foundation soils have been identified as having an adverse effect on a portion of the residence in the form of structure out of levelness, and separations/cracks in slabs, walls and ceilings.*" As discussed in the report, foundation soils have likely moved from the effects of tree roots causing structural settlement. Infiltration of excessive water through irrigation and rainfall are also believed to have contributed to foundation soil movement. The report describes all slopes tending to "*exhibit creep, toward the descending direction.*" A tilted pine tree exists in the southeastern corner, possibly contributing to foundation movement through root lifting.

The geotechnical investigation concludes that the distress to the structure is "*primarily a result of long-term effects (settlement and lateral movement) of foundation soil compression and possible slope creep.*" To minimize the potential adverse effects of slope creep and future foundation and slab movements, the geotechnical consultant states that a portion of the residence can be lifted, leveled and stabilized by means of pipe piles and cast-in-place concrete caissons and grade beams. (Specific recommendations are discussed in the subsequent section.)

3. Project Analysis/Special Conditions

Section 30235 of the Coastal Act allows protective devices to be permitted when required to protect existing structures. As described in the geotechnical investigation, the proposed project is necessary to protect the existing condominium complex from adverse effects resulting from further slope creep and foundation soil movement.

As described previously, the existing condominium complex was allowed to be constructed 10' from the canyon edge at its closest point. As currently sited, a portion of the development is inconsistent with the required 15' setback from the canyon edge. The applicant asserts, and the geotechnical report supports, that installation of the proposed foundation stabilization system is necessary to protect the existing structure from geologic hazard. The new foundation system will consist of a series of caissons and piles installed around the perimeter of the structure, which is sited 10-20' from the canyon edge. A new caisson installed approximately 8' from the canyon edge will exacerbate the non-conformity by encroaching an additional 2' into the canyon setback. According to information provided by the applicant, this encroachment into the setback is unavoidable and necessary to protect the existing development, consistent with Section 30235 of the Coastal Act.

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. The geotechnical report includes recommendations regarding foundation design, construction and drainage. As states in the geotechnical investigation, *"the proposed foundation system remediation should have no geotechnical adverse effect on the subject or adjacent properties. The remediation is intended to stabilize the structure, and not to improve subsurface foundation soil conditions. The site is considered grossly stable, and geotechnically suitable for the intended remediation."*

Since the recommendations provided by the geotechnical consultant include measures to mitigate any adverse geologic effects, the Commission finds that Special Condition 1 ensures that the consulting geotechnical expert has reviewed the development plans and verified their conformance with the geotechnical recommendations. As such, Special Condition 1 guarantees that the development plan is consistent with Section 30253 of the Coastal Act.

Since the manner in which the site drains is important to site stability, plans must be submitted to document how site drainage will be accomplished. 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 site drainage may have upon site stability. For instance, improper site drainage could cause the area subject to slope creep identified by the geologist to activate and cause damage to the structure. The geologist's recommendations regarding site drainage are designed to avoid such adverse effects. As stated in the geotechnical investigation, *"site surface drainage should be checked and corrected as necessary to prove positive flow away from the structure and away from the top of slopes, and toward the nearest drainage facilities. The use of roof eave gutters and down spouts, graded swales and area drains, is warranted."* Special Condition 2 requires the applicant to submit a drainage and runoff control plan showing roof drainage and runoff from all impervious areas directed toward the frontage street and away from the canyon edge wherever feasible.

To ensure that construction activities are carried out in a manner that ensures geologic stability of the site, the Commission imposes Special Condition 3. Special Condition 3 outlines construction

responsibilities and requires submittal of a site access, staging, work area and equipment storage plan. The condition prohibits the applicant from working beyond the canyon edge and requires the applicant to replant any vegetation disturbed during construction. The condition also includes guidelines for debris removal and proper drainage. This will serve to minimize erosion of the slope, consistent with geotechnical recommendations.

Although the proposed project will be constructed with geotechnical approval, 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 hazards may arise as subsurface conditions continue to change. Therefore, the standard waiver of liability condition has been attached through Special Condition 4. By this means, the applicant is notified that the structure is 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.

In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability concerns expressed in this staff report, the Commission finds that the applicant shall comply with Special Condition 5, a future development requirement. This condition will ensure that the applicant and all successors and assigns are aware that a coastal development permit or amendment to the current permit is required for development at the site.

Finally, Special Condition 6 requires recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report. This deed restriction will provide notification to any future landowner of the hazards present at the site and the special conditions of this permit that pertain to the property.

4. Conclusion/Project Consistency 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 geotechnical recommendations; 2) submit a drainage and runoff control plan showing roof and surface runoff directed toward the frontage street and away from the canyon edge wherever feasible; 3) assume the risk of development; 4) return to the Commission (or applicable certified local government) for future improvements; and 5) record a deed restriction against the property, referencing all of the Special Conditions contained in this staff report. 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

1. Coastal Act and Land Use Plan (LUP) Policies

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.*

San Clemente's certified Land Use Plan (LUP) discusses the importance of coastal canyons and states:

In most cases, coastal canyons are designated for natural open space, which limits potential development and helps to ensure preservation.

Policy VII.12 of the certified LUP states:

Encourage activities which improve the natural biological value, integrity and corridor function of the coastal canyons through vegetation restoration, control of alien plants and animals, and landscape buffering.

Policy XV.13 of the certified LUP states:

The removal of native vegetation and the introduction of non-native vegetation in the canyons shall be minimized. The use of native plant species in and adjacent to the canyons shall be encouraged.

The policy in the certified LUP concerning setbacks on coastal canyons is found in Chapter 3, Section 302 G, policy VII.15, and states:

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.

2. Site Analysis

The proposed development is located adjacent to Palizada Canyon, one of seven coastal canyons designated as Environmentally Sensitive Habitat Area (ESHA) in the certified LUP. Palizada Canyon is located north of the San Clemente Pier. The proposed development is inconsistent with LUP canyon setback policy "a" above, as the structure is sited 10' from the canyon edge. There is not a definitive "line of native vegetation" on the subject site, as native and ornamentals are interspersed along the canyon slope. As such, setback policy "b" cannot be applied. Additionally, due to the configuration of the subject parcel and location of nearby residences, the stringline concept cannot be applied. Therefore, setback policy "c" cannot be applied.

The property site is an irregularly shaped, canyon-fronting parcel with a distinct canyon edge. The site topography is presented in Exhibit 6. The property line is located beyond the canyon edge to the southeast. The northwestern portion of the site is a level building pad. Vegetation in the adjacent canyon consists of a mixture of natives and exotics.

The plans provided by the applicant show that the proposed foundation work will be carried out on the building pad only. No work is proposed beyond the canyon edge and no staging of equipment or material will occur within the canyon. No vegetation removal is proposed. Nonetheless, the proposed project will encroach into the required 15' setback from the canyon edge. As such, the Commission imposes Special Condition 3, which outlines construction responsibilities intended to prevent adverse impacts to the adjacent canyon.

As discussed previously, the existing development is non-conforming in regard to canyon setback. The existing development was allowed to be constructed 10' from the canyon edge. While the existing development is non-conforming relative to setbacks, and the proposed project will exacerbate the non-conformity, the encroachment into the setback is unavoidable and is necessary to protect the existing development. Furthermore, the presence of the stabilization structure is not anticipated to have an adverse impact upon the habitat present in the canyon and compliance with the special conditions will assure the development won't directly impact any native vegetation.

3. Special Conditions

The previous section on geologic hazards includes findings to support six special conditions: conformance with geologic recommendations, submittal of a drainage and runoff control plan, conformance with construction responsibilities; assumption of risk; future development be submitted to the Commission for permit amendment; and recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report. These conditions are necessary to ensure compliance with Section 30253 of the Coastal Act concerning geologic stability.

San Clemente's certified Land Use Plan (LUP) advocates the preservation of native vegetation and discourages the introduction of non-native vegetation. 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 would result in an adverse impact upon habitat value of the canyons. Palizada Canyon has been designated by the City of San Clemente as an environmentally sensitive habitat area (ESHA). Special Conditions 2, 3 and 5 ensure that the proposed development, which is adjacent to the canyon, does not have any significant adverse effect on environmentally sensitive habitat area. Special Condition 2 requires the submittal of a drainage plan demonstrating that runoff be directed toward the frontage street, thereby reducing potential soil movement and erosion. As such, adverse impacts from sedimentation to the designated environmentally sensitive habitat area will be prevented. Special Condition 3 requires the applicant to comply with specific construction responsibilities, which will ensure protection of the canyon habitat. Special Condition 5, the future development special condition, ensures that no development, including landscaping, takes place that would adversely impact the existing designation of the adjacent Palizada Canyon as an environmentally sensitive habitat area.

4. Consistency with Section 30240 and Land Use Plan (LUP) Policies

The proposed development is adjacent to Palizada Canyon, which is identified in the certified LUP as an Environmentally Sensitive Habitat Area (ESHA). The special conditions of this staff report (future development and erosion control plan) are designed to enhance Palizada Canyon as 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. 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.

Storage or placement of construction materials, debris, or waste in a location 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 release of lubricants or oils from machinery may be 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 3 outlines construction-related requirements to provide for the safe storage of demolition materials and the safe disposal of construction debris. The condition ensures that debris will not be allowed to enter the storm water system via the drainage course within Palizada Canyon.

Only as conditioned for implementation of construction BMPs does the Commission find that the proposed development consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

F. LOCAL COASTAL PROGRAM

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

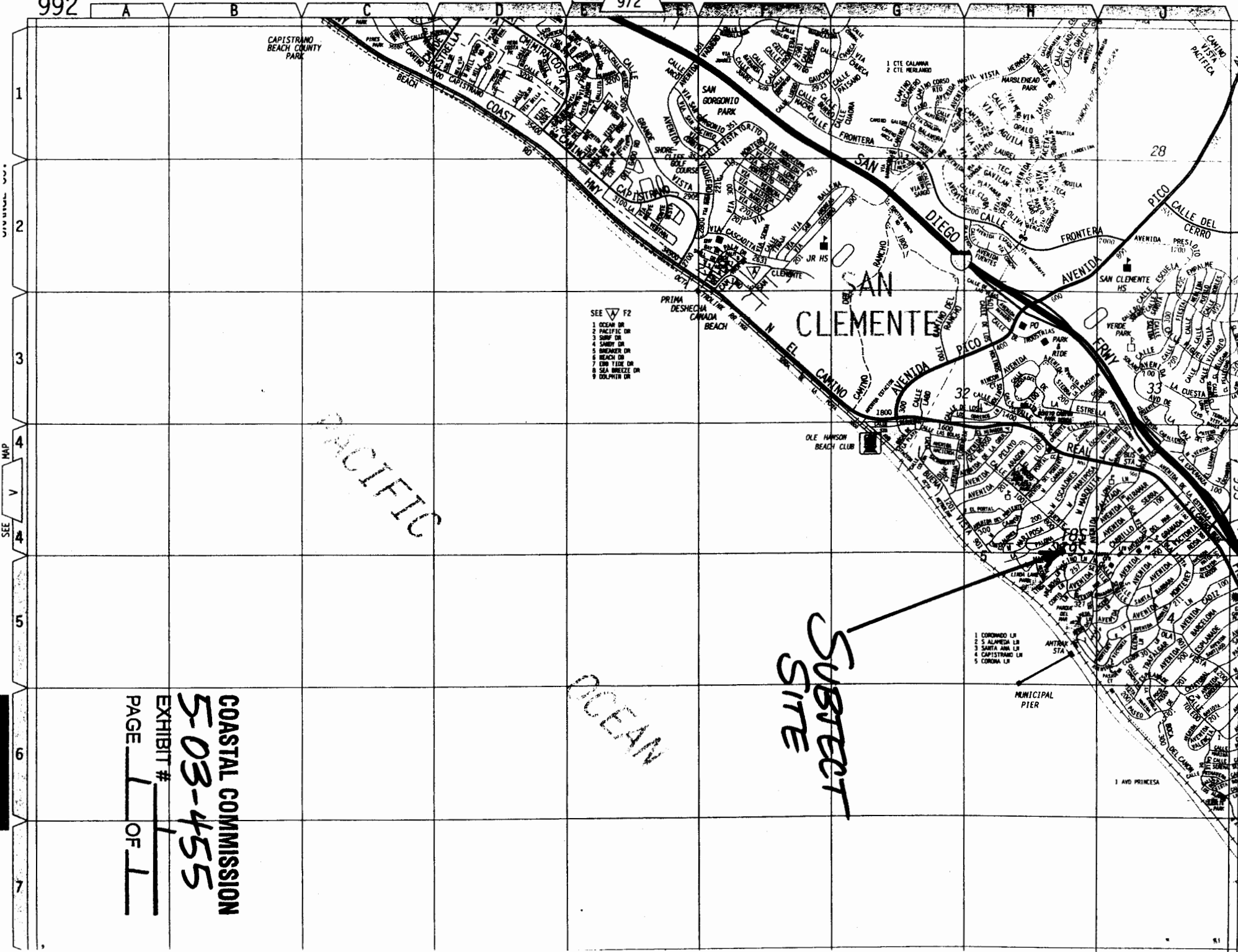
The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998 the Commission certified with suggested modifications the IP portion of the Local Coastal Program. The City did not accept the suggested modifications within six months and therefore the Commission's approval of the IP portion of the LCP is no longer effective. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding enhancement of native vegetation, and geological stability. Therefore, approval of the proposed development will not

prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

G. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

The proposed project has been conditioned in order to be found consistent with the geologic hazards, water quality and environmentally sensitive habitat policies of the Coastal Act. Mitigation measures, in the form of special conditions, require 1) conformance with geotechnical recommendations; 2) submittal of a drainage and runoff control plan showing roof and surface runoff directed toward the frontage street and away from the canyon edge wherever feasible; 3) conformance with construction responsibilities; 4) assumption of risk; 5) future development be submitted to the Commission (or applicable certified local government) for permit amendment or new permit; and 6) recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report, will minimize all adverse effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



- SEE ∇ FZ
- 1 OCEAN DR
 - 2 PACIFIC DR
 - 3 SURF DR
 - 4 SANDY DR
 - 5 BREAKER DR
 - 6 BEACH DR
 - 7 TIDE DR
 - 8 SEA BREEZE DR
 - 9 DOLPHIN DR

- 1 CORONADO LN
- 2 S ALAMEDA LN
- 3 SANTA ANA LN
- 4 CAPISTRANO LN
- 5 CORONA LN

PACIFIC

OCEAN

SUBJECT SITE

COASTAL COMMISSION
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SECTION 1

SECTION 2

SECTION 3

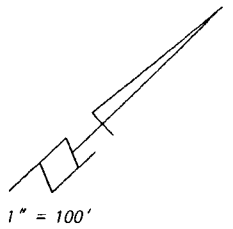
SECTION 4

SECTION 5

SECTION 6

SECTION 7

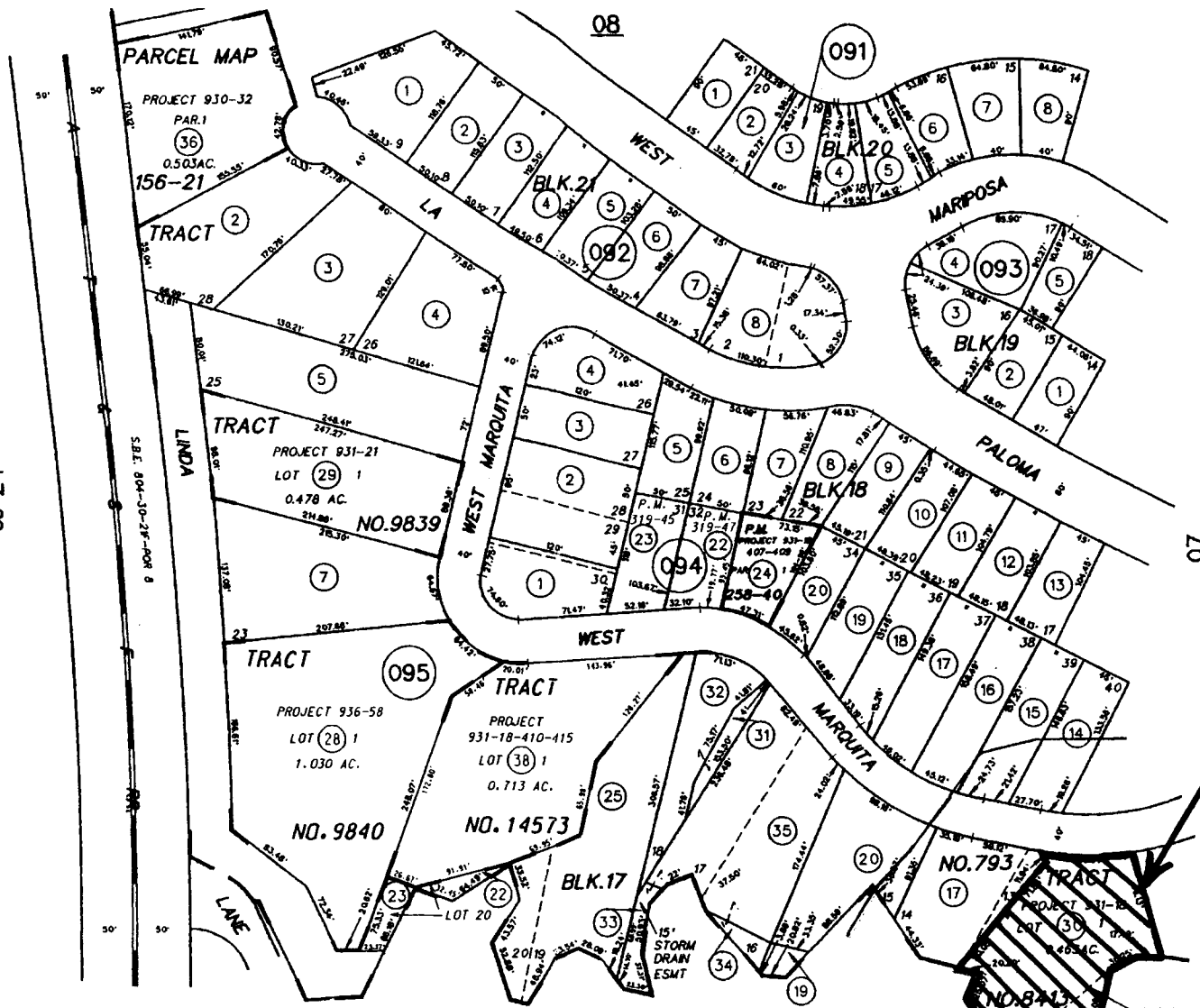
SEE 993 MAP



1" = 100'

RECEIVED
South Coast Region
OCT 23 2003
CALIFORNIA
COASTAL COMMISSION

SUBJECT
SITE



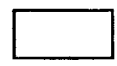
TRACT NO. 793	M.M. 24-1 TO 5 INC.
TRACT NO. 8413	M.M. 410-13,14
TRACT NO. 9840	M.M. 425-31,32
TRACT NO. 9839	M.M. 447-38,39
TRACT NO. 14573	M.M. 792-18-19
PARCEL MAP	P.M. 156-21, 258-40

01

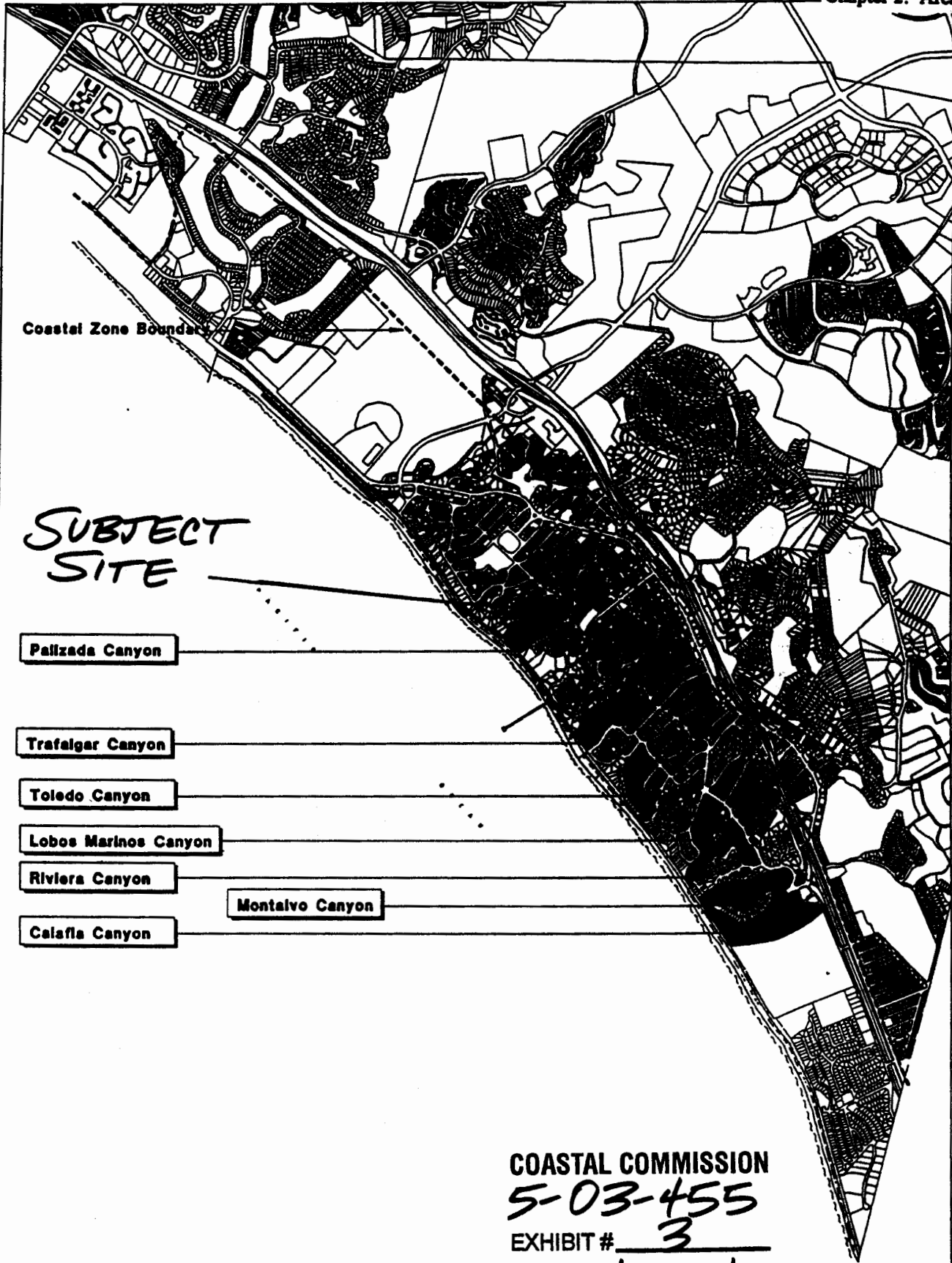
05

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

ASSESSOR'S MAP BOOK 692 PAGE 09 COUNTY OF ORANGE



COASTAL COMMISSION
EXHIBIT # 5-03-455
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COASTAL COMMISSION
 5-03-455
 EXHIBIT # 3
 PAGE 1 OF 1



FIGURE 2-1



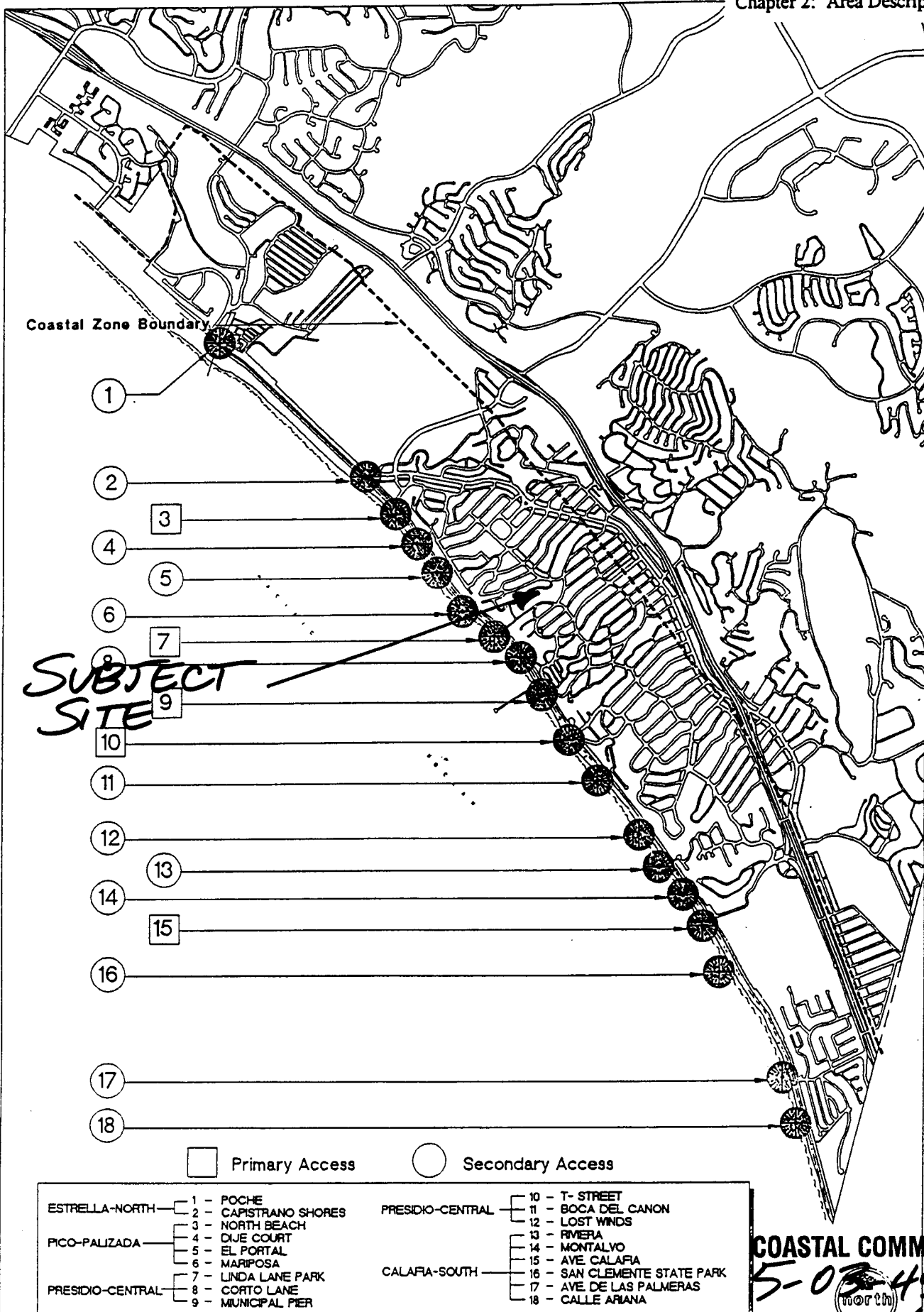
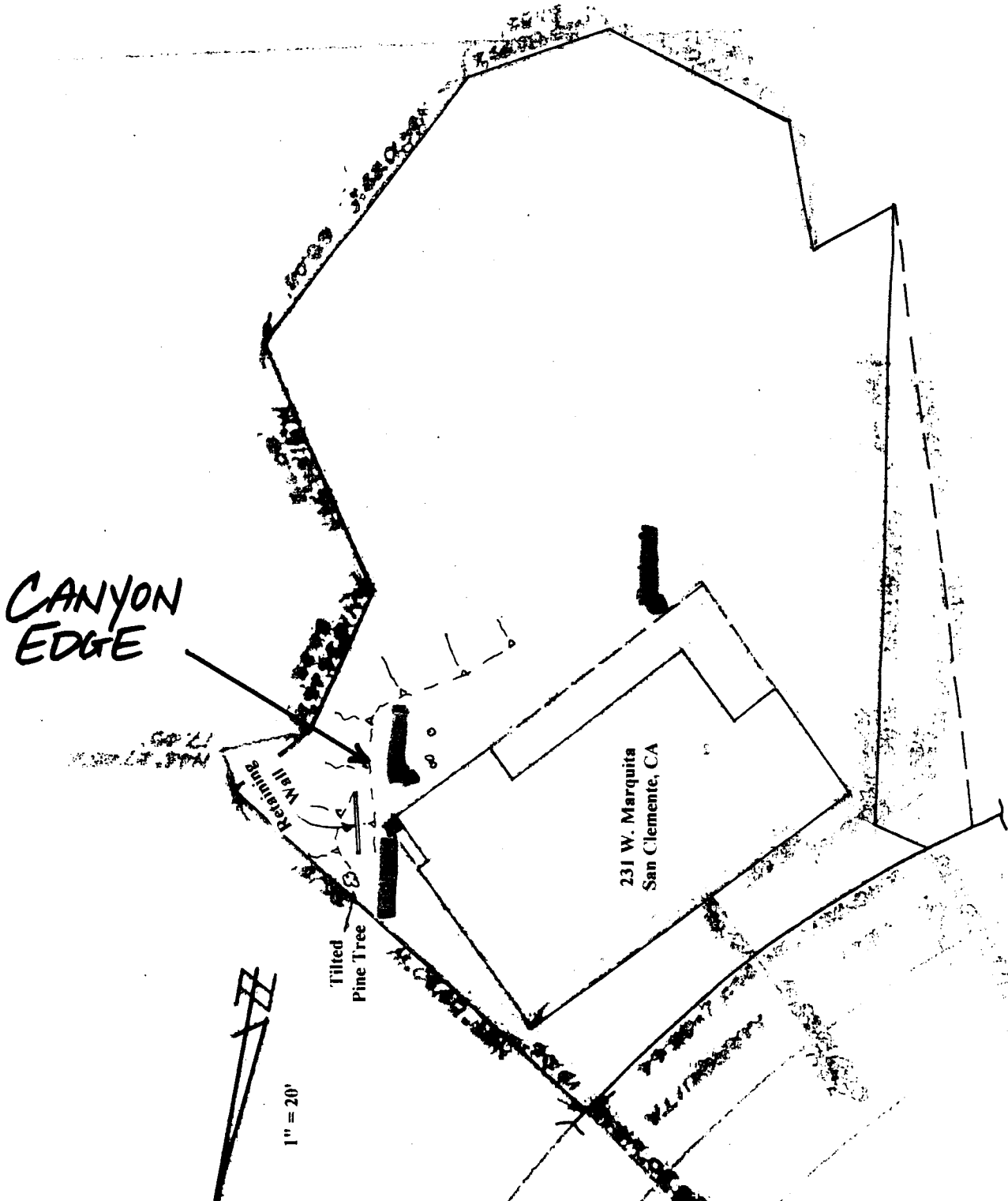


FIGURE 2-5

COASTAL COMMISSION
 5-03455
 EXHIBIT # 4
 PAGE 1 OF 1





COASTAL COMMISSION
5-03-455
EXHIBIT # 6
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