

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY****W 7h**

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Staff: DL-LB
Staff Report: February 24, 2005
Hearing Date: March 16-18, 2005
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-04-436

APPLICANT: Marcus & Sandra Bohi

AGENT: Carter Redish

PROJECT LOCATION: 206 Calle Conchita, City of San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a 375 sq.ft. first story addition and a 375 second floor addition to an existing two-story 2,976 sq.ft. single-family residence with an attached 793 sq.ft. garage on a 16,165 sq.ft. coastal canyon lot. Removal of existing unpermitted patio improvements and wall on canyonside of lot.

LOCAL APPROVALS RECEIVED: City of San Clemente Planning Division Approval in Concept dated October 25, 2004

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente Certified Land Use Plan; CDP 5-93-222.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending **APPROVAL** of the proposed project with ten (10) special conditions which require 1) submittal of a revised site plan; 2) removal of the patio/wall within 60 days of issuance of the permit; 3) submittal of as-built plans; 4) submittal of final landscape plans; 5) approval from the Orange County Fire Authority; 6) submittal of grading and drainage plans; 7) use of construction best management practices (BMPs); 8) informs the applicant that any future change in the density or intensity of use of the site will require a permit amendment or new permit; 9) satisfaction of all prior-to-issuance conditions within 90 days of Commission approval and 10) a deed restriction recording the permit. The major issues associated with this development are sensitive resources and water quality. The project includes removal of several existing unpermitted at-grade patios and an existing unpermitted wall.

LIST OF EXHIBITS:

1. Location Map
2. Assessor's Parcel Map
3. Proposed Site Plan

4. Previously Approved Site Plan (CDP 5-93-222)
5. Existing Encroachments
6. Coastal Access Points
7. Coastal Canyons

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP No. 5-04-436 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of 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 Revised Final Plans.

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, two (2) sets of final site and building plans that substantially conform with the plans by Carter Group Architects dated 10/13/04, but shall be revised to include the following:

- 1) The portion of the existing roof overhang located canyonward of the structure stringline setback shall be shaded and marked "this element not permitted by any coastal development permit" on the plans.
- 2) The patios and wall encroachments as shown on Exhibit 5 shall be removed to the patio/deck stringline.

B. The permittee shall undertake the development authorized by the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Removal of Patios/Wall.

Within sixty (60) days of issuance of the coastal development permit or within such additional time as the Executive Director may grant for good cause, the applicants shall remove the patios and wall encroaching beyond the patio/deck stringline as shown in concept on Exhibit 5 of the staff report dated February 24, 2005 on file and available from the Coastal Commission's office.

3. Submittal of As-Built Plans.

Within 60 days following completion of the project or immediately following any period of work stoppage of more than 60 days, the permittee shall submit as-built plans of the approved addition and patio/wall removal. In addition, **within 60 days following completion of the project or immediately following any period of work stoppage of more than 60 days**, the permittee shall submit certification by a registered architect or civil engineer, acceptable to the Executive Director, verifying that the patio/wall removal have been constructed in conformance with the approved plans for the project.

4. 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 that demonstrates the following:
- 1) All areas affected by construction activities not occupied by structural development shall be revegetated for habitat enhancement and erosion control purposes;
 - 2) All non-native plants shall be removed from the construction area adjacent to the canyon;
 - 3) 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;
 - 4) Landscaped areas in the front yard (street-facing) area shall consist of native or non-invasive non-native drought tolerant plant species;
 - 5) All planting will be completed within 60 days after completion of construction;
 - 6) 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.
 - 7) 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.

5. 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.

6. 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:

- 1) 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.
- 2) 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;
- 3) Runoff shall not be allowed to pond adjacent to the structure or sheet flow directly over the sloping surface to the canyon bottom; and
- 4) 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.

7. 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 (BMPs) 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.

8. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-04-436. Pursuant to Title 14 of the California Code of Regulations, Section 13250(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 Code Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-04-463 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

9. Condition Compliance.

WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

10. 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 applicant 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/HISTORY

The proposed project site is located at 206 Calle Conchita in the City of San Clemente, Orange County (Exhibits 1 & 2). The site consists of a flat pad on the eastern side of the lot, which slopes down towards Trafalgar Canyon to the west. There is an existing, approximately 2,976 sq.ft. 2-story single-family residence on the site. Surrounding development consists of low-density single-family residences. The site is designated as Residential Low (7 dwelling units per acre) in the certified Land Use Plan, and the proposed addition is consistent with this designation.

The applicant proposes to construct a 375 sq.ft. first story addition and a 375 sq.ft. second floor addition to the existing two-story residence. Approximately half of the proposed addition would be located on the inland side of the existing residence; the other half would be located on the northwestern, canyon side of the lot. The applicant is also proposing to remove several existing unpermitted patio improvements and an existing unpermitted wall on the canyon side of the lot (see Exhibit 5)

In October 1993, the Commission approved a permit for addition of 1,182 sq.ft., including a new second story, a one-car garage, and a reflecting pool to the existing 1,173 sq.ft. single-story residence on the site (CDP #5-93-222). The project was approved with several special conditions, including the following:

2. Revised Plans

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, plans showing that none of the development, including the hardscaping such as concrete patios, walls, or pools, encroaches past the deck/patio stringline towards the canyon.

Exhibit 4 shows the revised plans submitted by the applicant in compliance with this condition.

However, the project plans submitted with the current permit application indicate that the addition was constructed inconsistent with the approved plans. Several existing elements of the structure, including patios, a wall and an overhanging portion of the second story roofline encroach beyond the patio and/or structure stringlines established and required by the previous permit action.

The applicant has proposed removing the patio and wall encroachments shown on Exhibit 5. The applicant has not proposed removal of the roof overhang encroachment. The Commission's enforcement division will evaluate further actions to address this matter

B. ENVIRONMENTALLY SENSITIVE HABITAT AREA (ESHA)

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

Section 30240 of the Coastal Act states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (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.

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 development area contains resources that rise to the level of ESHA. Nevertheless,

preservation and enhancement of the City's coastal canyons is a goal supported by both the environmental protection policies of the Coastal Act, and the certified LUP. Encroachment into the canyon by development increases the potential for the introduction of non-native plant species, and predation of native species by domestic animals, and destabilization of the canyon from excess irrigation. Encroaching development also threatens the visual quality of the canyons. The above-cited policies of the LUP were designed to ensure that encroachment into the canyons and impacts to resources are minimized to the greatest extent feasible.

In the case of the proposed project, the Commission found in 1993 that the appropriate setback for the development on the site was compliance with the house and deck/patio stringlines drawn between the nearest corners of the adjacent structures. However, patios and walls have been constructed on the site from 4 to 6 feet beyond the deck/patio stringline required by the terms and conditions of CDP #5-93-222, and an overhanging portion of the second-story roofline encroaches approximately 7.5 feet beyond the required structure stringline, (and in fact, approximately 4 feet beyond even the patio stringline). The applicant has proposed to remove the at-grade hardscape encroachments in order to bring that portion of the site into conformance with the previous Commission action. However, the applicant has not submitted final plans identifying the elements proposed to be removed. Therefore, the Commission is requiring Special Condition 1. The removal or request for after-the-fact authorization of the roof overhang has not been made part of the proposed project; the Commission's enforcement division will evaluate further actions to address this matter (see Section E of this report). To ensure that there is no confusion regarding the development that has been approved, and the development which has not been approved on the site, Special Condition 1 requires submittal of revised plans indicating that the roof overhang is not permitted development.

In contrast, the newly proposed addition would be in conformance with the setback policies of the certified LUP. A portion of the proposed addition would be located on the inland side of the existing residence, and a portion on the northwestern, or canyon side of the structure, but in both cases, consistent with above-stated policies of the LUP. The proposed addition does include a second-floor deck that would encroach beyond the structure stringline, but it would not encroach beyond the patio/deck stringline, and thus, is consistent with Section 302 G, policy VII.15, subdivision c of the LUP.

The applicants have not submitted a landscape plan at this time. Because the project includes removing existing encroachments that should be replaced by new plant material to minimize erosion into the canyon, Special Condition 4 requires submittal of a landscape plan. 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 required, 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) 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 4 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>.

Because the site is located adjacent to a canyon, Special Condition #5 requires that the plans 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 future development that might be inconsistent with coastal canyon setback requirements is not constructed in the future, Special Condition #8 informs the applicant that future additions require a coastal development permit. Special Condition #10 has also been attached to require the applicant to record a deed restriction against the property so as to notify all prospective future property owners of the terms and conditions of approval to which they will also be required to adhere.

In summary, the proposed residential addition will not result in further canyon encroachment and will be consistent with the pattern of development in the subject area. The proposed removal of the patio encroachments will reduce the impact of the existing residence on the canyon environment. As conditioned to require native and drought-tolerant, non-invasive landscaping, the project will not have any adverse impact on sensitive biological resources, consistent with the certified LUP and the Chapter 3 policies of the Coastal Act.

C. 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.

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. Therefore, Special Condition 6 requires submittal of a drainage and runoff control plan prior to permit issuance.

Combined with the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, the project will minimize the project's adverse impact on coastal waters to such an extent that it will not have a significant impact on marine resources, biological productivity or coastal water quality. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to protect marine resources, promote the biological productivity of coastal waters and to protect human health.

D. PUBLIC ACCESS

Section 30212(a)(2) of the Coastal Act states, in pertinent part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby

The nearest public access is available at the Municipal Pier, approximately ¼ mile northwest of the subject site (Exhibit 6). The proposed development does not impact access either directly or indirectly to the ocean. As such, the development will not create adverse impacts, either individually or cumulatively, on public access and will not block public access from the first public road to the shore. Adequate access

exists nearby. Therefore, the Commission finds that the proposed development is consistent with Section 30212 of the Coastal Act.

E. UNPERMITTED DEVELOPMENT

Development has occurred on site without the required coastal development permits and in non-compliance with the terms and conditions of previously issued coastal permits including, but not limited to patios, a wall, and a roof overhang. The proposed project includes a request for the removal of patios and a wall extending beyond the permitted stringline that were constructed without a coastal development permit. To ensure that the unpermitted development component of this application is resolved in a timely manner, Special Condition 9 requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. In addition, in order to ensure implementation of the applicant's proposal to remove the unpermitted patios and wall, Special Condition 2 requires the applicant to remove all portions of the existing unpermitted patios and wall located beyond the stringline as shown on Exhibit 5 of the permit within 60 days of the issuance of this permit unless additional time is granted by the Executive Director for good cause. Finally, in order to ensure that the patios and wall are removed as proposed, Special Condition 3 requires that as-built plans be submitted within 60 days of project completion, or within 60 days of a significant work stoppage.

Removal of the roof overhang encroachment is not addressed by this application. The Commission's enforcement division will evaluate further actions to address this matter.

Although development has taken place prior to the submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

F. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

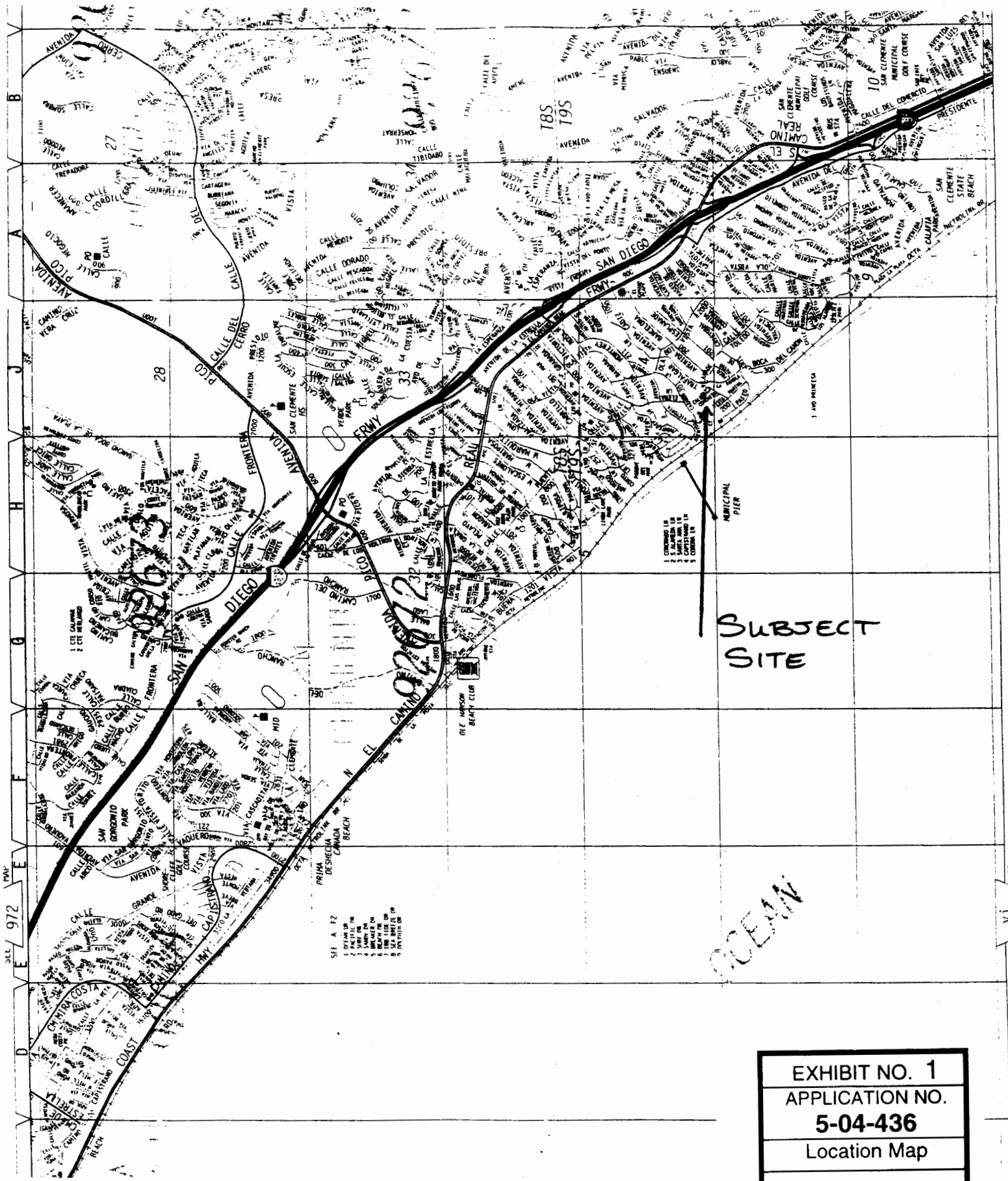
The proposed development is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed

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 environmentally sensitive habitat, water quality, and public access policies of the Coastal Act. Mitigation measures, in the form of special conditions, require 1) submittal of a revised site plan; 2) removal of the patio/wall within 60 days of issuance of the permit; 3) submittal of as-built plans; 4) submittal of final landscape plans; 5) approval from the Orange County Fire Authority; 6) submittal of grading and drainage plans; 7) use of construction best management practices (BMPs); 8) informs the applicant that any future change in the density or intensity of use of the site will require a permit amendment or new permit; 9) satisfaction of all prior-to-issuance conditions within 90 days of Commission approval and 10) a deed restriction recording the permit, which 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.

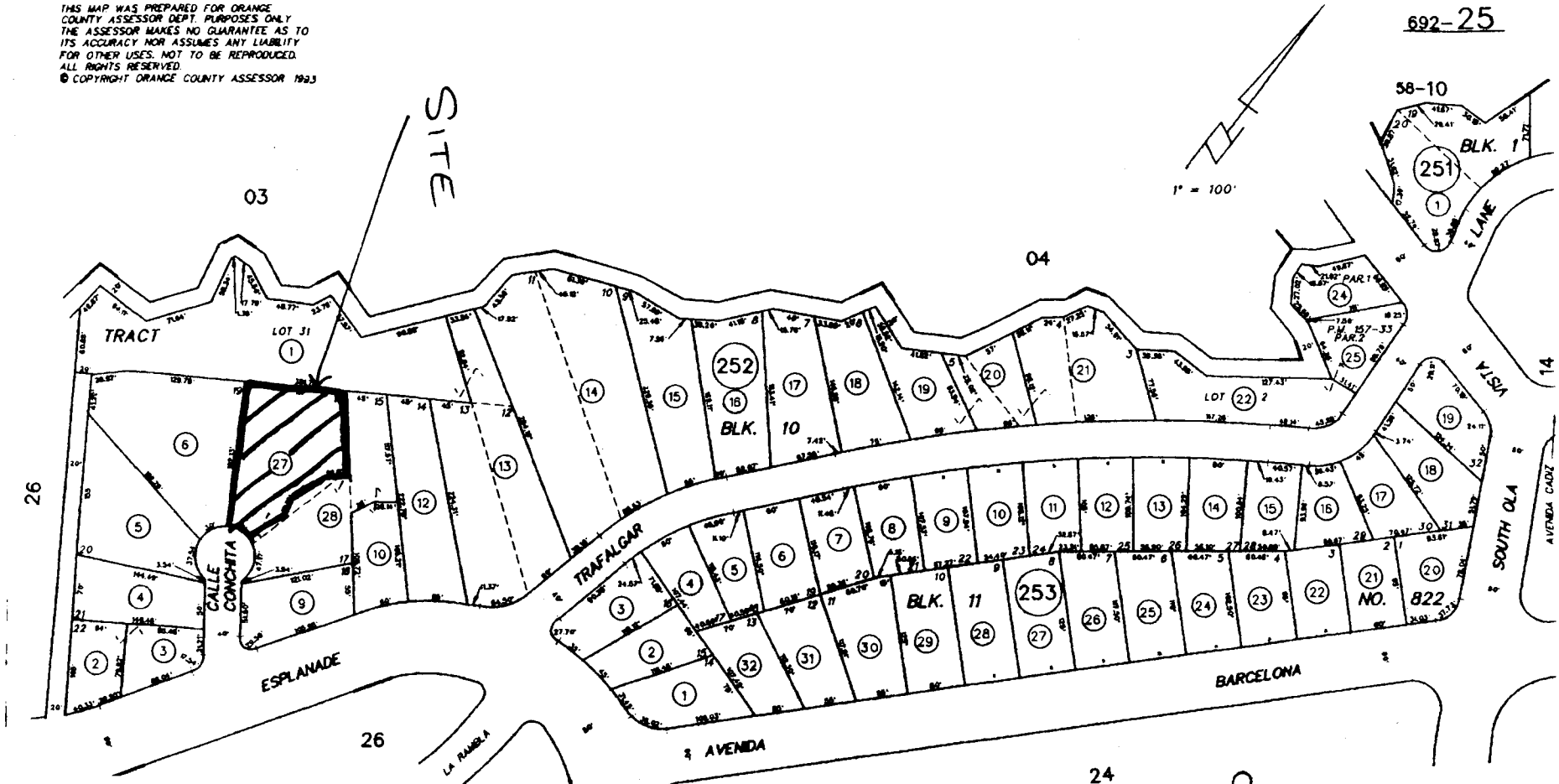


SUBJECT
SITE

OCEAN

EXHIBIT NO. 1
APPLICATION NO.
5-04-436
Location Map
 California Coastal Commission

THIS MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR DEPT. PURPOSES ONLY. THE ASSESSOR MAKES NO GUARANTEE AS TO ITS ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
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TRACT NO. 822 M.M. 25-21 to 26 NC.
 PARCEL MAP P.M. 157-33

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

ASSESSOR'S BOOK 692 PAGE 10
 COUNTY OF ORANGE

5-04-436

CALIFORNIA COASTAL COMMISSION

RECEIVED
 South Coast Region
 NOV 15 2004

 California Coastal Commission	Map
	Assessor's Parcel
	APPLICATION NO. 5-04-436
	EXHIBIT NO. 2

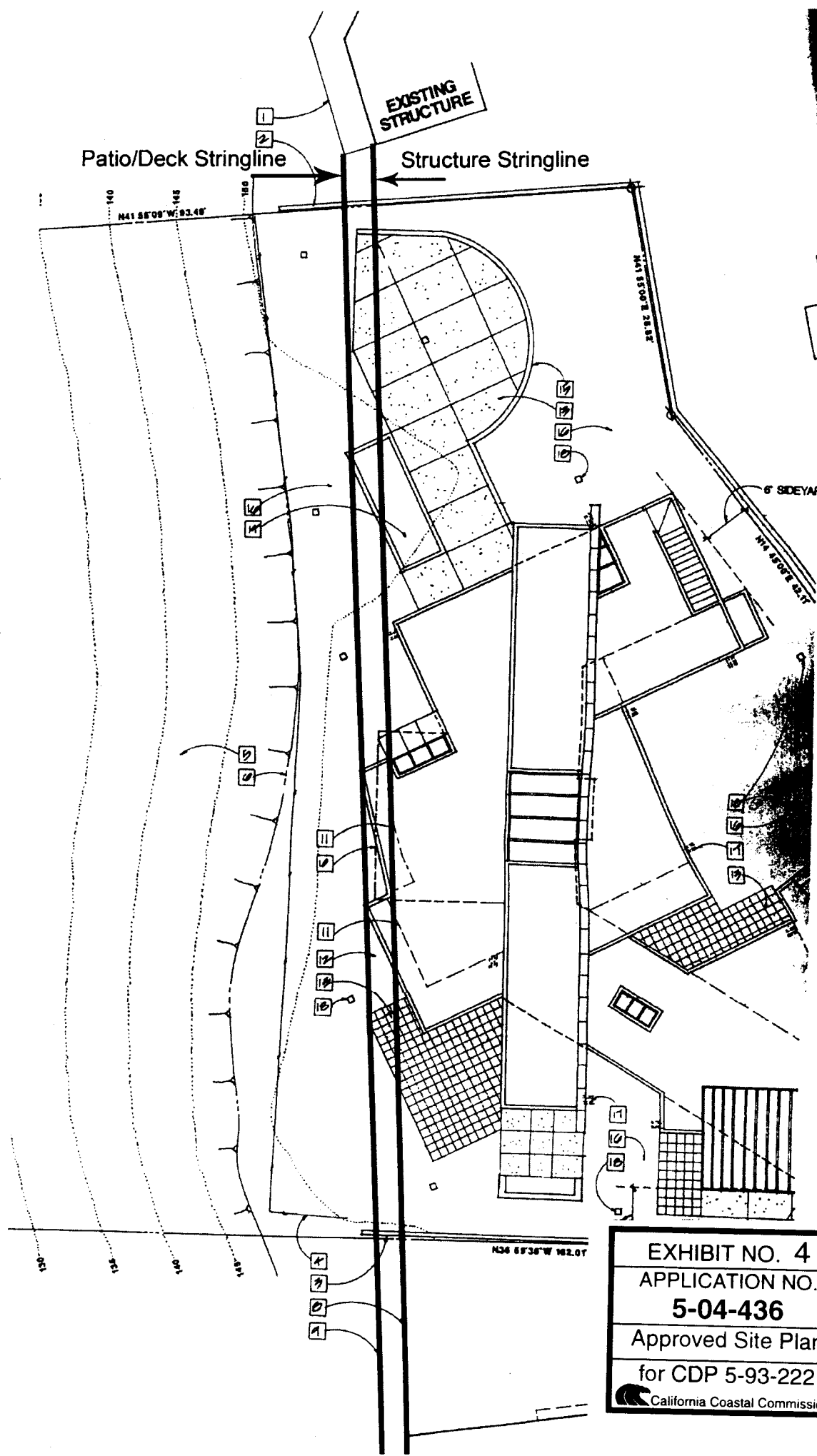


EXHIBIT NO. 4
 APPLICATION NO.
5-04-436
 Approved Site Plan
 for CDP 5-93-222
 California Coastal Commission

Patio/Deck Stringline

Structure Stringline

Patio/Wall
Encroachments
Proposed to be
Removed

Roof Encroachment
(Not a Part of subject permit)

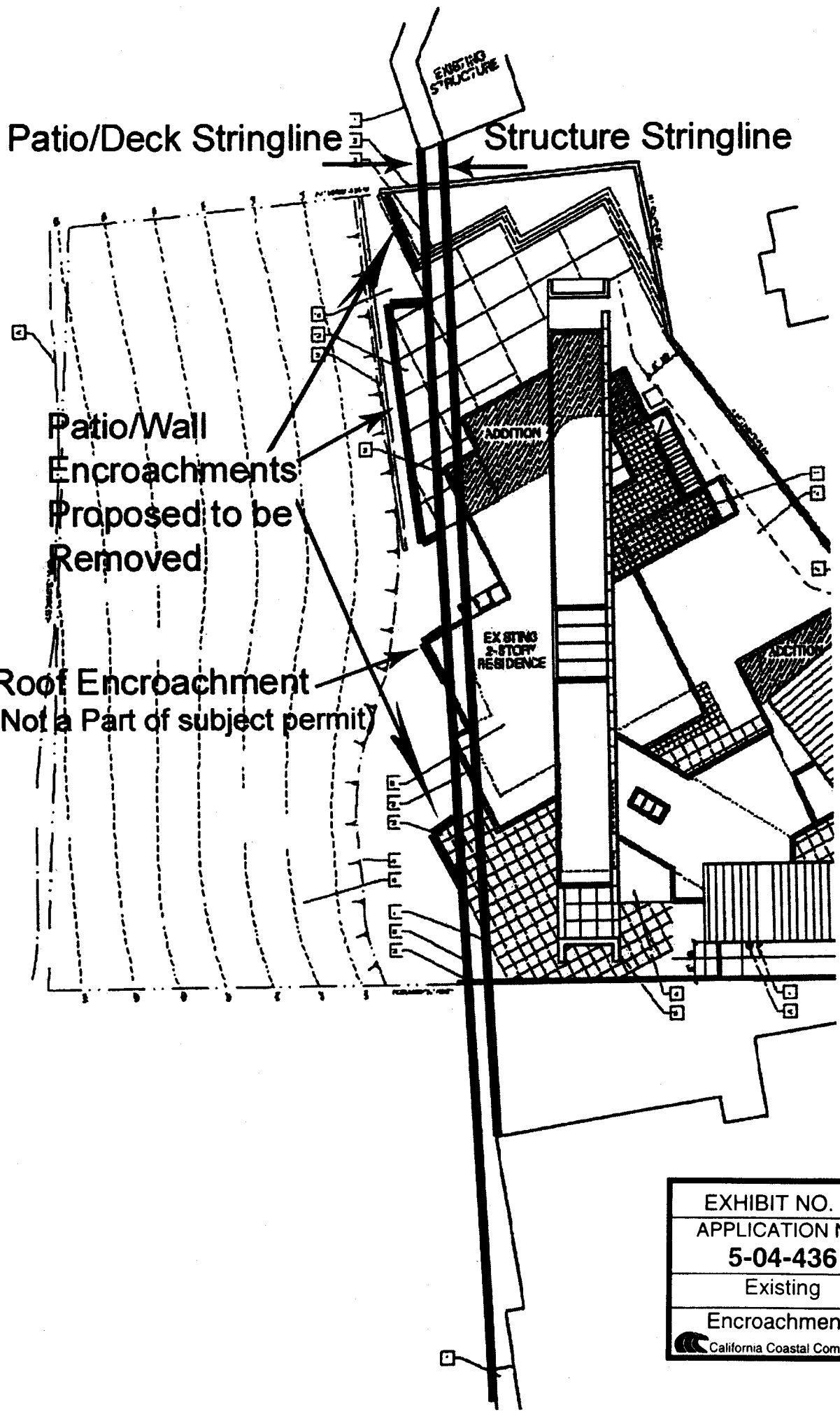



EXHIBIT NO. 5
APPLICATION NO. 5-04-436
Existing
Encroachments
 California Coastal Commission

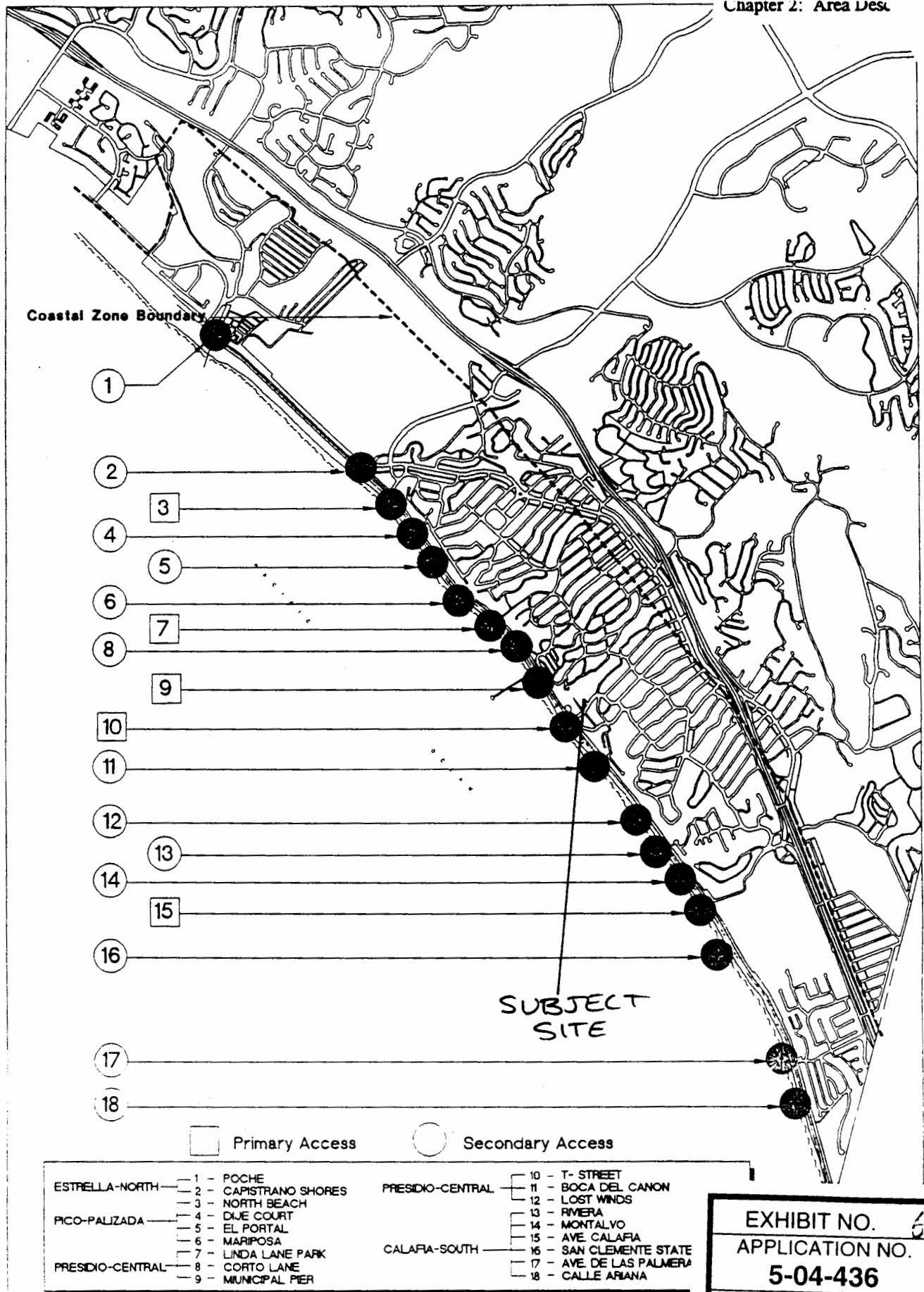
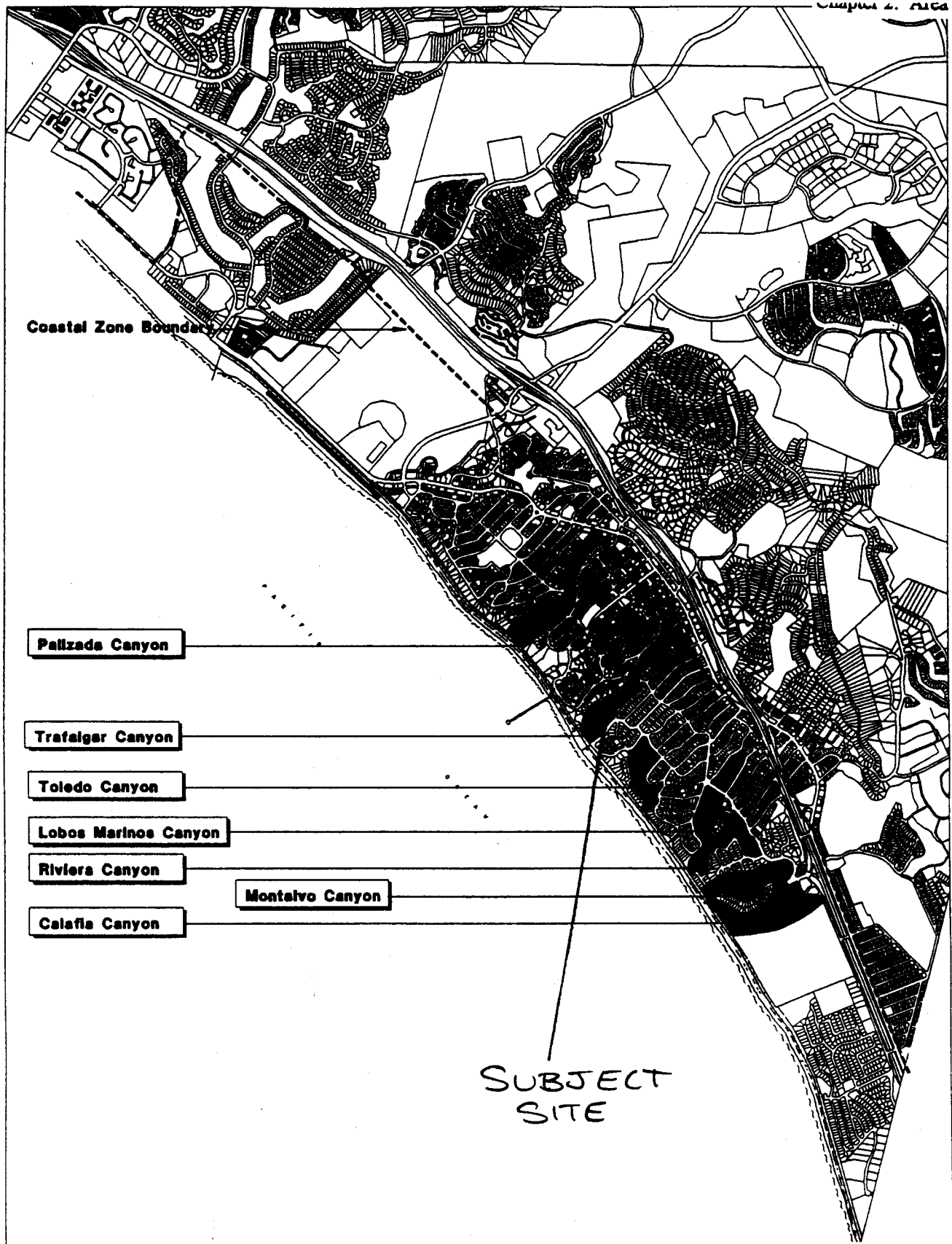


FIGURE 2-5

**CITY OF SAN CLEMENTE
COASTAL ACCESS POINTS**



EXHIBIT NO.	6
APPLICATION NO.	5-04-436
Coastal Access	
Points	
California Coastal Commission	



Coastal Zone Boundary

Palizada Canyon

Trafalgar Canyon

Toledo Canyon

Lobos Marinos Canyon

Riviera Canyon

Montalvo Canyon

Calafia Canyon

SUBJECT SITE

FIGURE 2-1

EXHIBIT NO.	7
APPLICATION NO.	5-04-436
Coastal Canyons	



CITY OF SAN CLEMENTE
COASTAL CANYONS/ ENVIRONMENTALLY SENSITIV