

CALIFORNIA COASTAL COMMISSION

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



Filed: May 1, 2006
49th Day: June 19, 2006
180th Day: October 28, 2006
Staff: Anne L. Blemker-LB
Staff Report: July 20, 2006
Hearing Date: August 8-11, 2006
Commission Action:

T9b**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-05-508

APPLICANTS: Tony & Erin Spriggs

PROJECT LOCATION: 2002 Calle de los Alamos, San Clemente, Orange County

PROJECT DESCRIPTION: Demolition of an existing single-family residence and construction of a new 25' high, two-story, 5,501 square foot single-family residence with partial basement, attached 378 square foot two car garage, and hardscape and landscape improvements on a blufftop lot.

LOCAL APPROVALS RECEIVED: Approval-in-Concept from the City of San Clemente Planning Department dated December 8, 2005.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission **APPROVE** the proposed development with seven (7) special conditions. The subject site is located on a coastal bluff inland of the Orange County Transportation Authority (OCTA) railroad tracks. Primary issues raised by the project include avoidance of geologic hazard and landform alteration. The proposed development conforms to the blufftop setback requirements of the certified LUP, as the proposed residential structure will be sited 25 feet from the bluff edge. Due to the existence of a landslide on the adjacent bluff face and the gross instability of the site, the structure must be supported by a caisson and grade beam system to achieve a 1.5 factor of safety.

Special Condition 1 requires the applicant to submit final plans that show evidence of conformance with geotechnical recommendations, including those regarding site preparation, foundation design and drainage. Special Condition 2 requires submittal of a final grading and drainage plan demonstrating that runoff be directed to the street. Special Condition 3 requires conformance to the landscape plan, which shows that only drought-tolerant native and non-invasive species will be used. Special Condition 4 requires the applicant to assume the risk of development. Special Condition 5 requires no future shoreline protective device be constructed. Special Condition 6 informs the applicant that future development and improvements require review to determine the need for a coastal development permit. Special Condition 7 requires recordation of a deed restriction incorporating all standard and special conditions of this permit.

SUBSTANTIVE FILE DOCUMENTS:

City of San Clemente certified Land Use Plan; Coastal Development Permits 5-01-483 (Dickinson); 5-99-351 (McMurray) and 5-99-204 (Brown)--application withdrawn; and Geotechnical Evaluation prepared by Lawson & Associates dated September 2, 2003, as updated by letter dated January 30, 2006.

EXHIBITS:

1. Vicinity Map
2. Assessor's Parcel Map
3. Coastal Access Points
4. Project Plans

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP #5-05-508 pursuant to the staff recommendation.

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

RESOLUTION:

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, located between the first public road and the sea, 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 Report**

- A. All final design and construction plans, including foundation, grading and drainage plans, shall be consistent with all recommendations contained in the Geotechnical Evaluation prepared by Lawson & Associates dated September 2, 2003, as updated by the Geotechnical Update Letter dated January 30, 2006.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. **Submittal of Final Grading and Drainage Plan**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit a final Grading and Drainage Plan prepared by an appropriately licensed professional, for the review and approval of the Executive Director, which demonstrates the following:
 - (a) Run-off from all roofs, patios, driveways and other impervious surfaces on the site shall be collected and discharged via pipe or other non-erosive conveyance to the frontage street to avoid ponding or erosion either on- or off- site.
 - (b) Run-off shall not be allowed to pond adjacent to the structure or sheet flow directly over the bluff edge;
 - (c) 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.

3. Landscaping

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit a final Landscape Plan prepared by an appropriately licensed professional, for the review and approval of the Executive Director.

(1) The plan shall demonstrate that:

- (a) Landscaped areas shall be planted and maintained for erosion control, geologic stability, 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 shall consist of native and/or non-invasive drought tolerant plants. The 10' bluff setback area shall be planted with solely native vegetation. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Any existing landscaping landward of the bluff edge that doesn't meet the above requirements shall be removed;
- (b) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;
- (c) All plantings 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 landscape plan;
- (d) No permanent in-ground irrigation systems shall be installed on site. Any existing in-ground irrigation systems shall be disconnected and capped. Temporary above ground irrigation is allowed to establish plantings.

(2) The plan shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
- (b) a schedule for installation of plants.

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 legally required.

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

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from geologic instability; (ii) to assume the risks to the applicant and the property, that is the subject of this permit, of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards, (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from injury or damage due to such hazards.

5. No Future Shoreline Protective Device

A(1) By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-05-508 including, but not limited to, the residence, foundations, decks, or driveways in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A(2) By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the residence, foundations, decks, or driveways, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

6. Future Development Restriction

This permit is only for the development described in Coastal Development Permit 5-05-508. 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 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. 5-05-508 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded 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 (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and 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 applicant's entire parcel or parcels. 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 LOCATION AND DESCRIPTION

The proposed project site is located at 2002 Calle de los Alamos in the City of San Clemente, Orange County (Exhibits 1 & 2). The project site is a 13,652 square foot lot located between the first public road and the sea, atop an approximately 80-foot high coastal bluff directly inland of the OCTA railroad tracks. The nearest public coastal access is available via the Lost Winds accessway, less than 100 feet downcoast (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 proposed development consists of the demolition (more than 50%) of an existing one-story single-family residence and reconstruction of a 25' high, two-story, 5,501 square foot single-family residence with partial basement, attached 378 square foot two car garage, and hardscape and landscape improvements (Exhibit 4). The project involves approximately 130 cubic yards of cut for basement excavation. The residence will be supported by a caisson and grade beam foundation system. The patio and second story deck will be supported by conventional spread footings.

The proposed development conforms to the bluff setback policies in the certified LUP, as the residence will be set back 25 feet from the bluff edge and the patio and second story deck will be set back 10 feet. The existing concrete patio extends to the bluff edge.

Coastal sage scrub exists along portions of the adjacent bluff slope. The applicant is proposing to retain and not disturb the native vegetation along the slope. The applicant is proposing to remove the portion of the existing concrete patio that encroaches into the 10-foot bluff edge setback and plant native landscaping in that area.

B. GEOLOGIC STABILITY

The subject site is located on a coastal bluff. This type of development poses potential adverse impacts to the geologic stability of coastal bluffs, to the preservation of coastal visual resources, and to the stability of residential structures. Bluff stability has been an issue of historic concern throughout the City of San Clemente. Coastal bluffs in San Clemente are composed of earth materials which are subject to sloughing, creep, and landsliding. The setback and stringline policies of the Commission were instituted as a means of limiting the encroachment of development seaward to the bluff edges on unstable bluffs and preventing the need for construction of revetments and other engineered structures to protect development on coastal bluffs, as per Section 30253 of the Coastal Act. The City's 25-foot bluff edge setback will be utilized in this instance.

1. Coastal Act Policies

Section 30253 of the Coastal Act states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30235 of the Coastal Act states, in relevant 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...

2. City of San Clemente Policies

The City of San Clemente Certified LUP contains policies establishing setbacks for purposes of limiting the seaward encroachment of development onto eroding coastal bluffs and into sensitive coastal canyons. Although the standard of review for projects in San Clemente is the Coastal Act, the policies of the Certified LUP are used as guidance. These policies include the following:

Policy VII.13:

Development shall be concentrated on level areas (except on ridgelines and hilltops) and hillside roads shall be designed to follow natural contours. Grading, cutting, or filling that will alter landforms (e.g.; bluffs, cliffs, ravines) shall be discouraged except for compelling reasons of public safety. Any landform alteration proposed for reasons of public safety shall be minimized to the maximum extent feasible.

Policy VII.14 states:

Proposed development on blufftop lots shall be set back at least 25 feet from the bluff edge, or set back in accordance with a stringline drawn between the nearest corners of adjacent structures on either side of the development. This minimum setback may be altered to require greater setbacks when required or recommended as a result of a geotechnical review.

3. Project Site Geotechnical Reports

The applicant submitted a Geotechnical Evaluation prepared by Lawson & Associates dated September 2, 2003. The study was carried out to “*evaluate the pertinent geotechnical conditions at the site and adjacent sites to provide design criteria relative to the proposed redevelopment of the site.*” The scope of the investigation included: 1) review of pertinent available literature (including previous geotechnical reports of the site and adjacent sites), and geologic maps; 2) review of the project development plans; 3) reconnaissance level geologic mapping of the site; 4) geotechnical analysis of the data reviewed/obtained; and 5) preparation of the report presenting finding, conclusions, and recommendations with respect to the proposed site redevelopment.

The applicant also submitted an update to the 2003 report prepared by Lawson and Associates dated January 30, 2006. The purpose of the 2006 site visit was to *“observe the current site geotechnical conditions at the subject property to compare them to the conditions present at the time of the preparation of our Geotechnical Evaluation Report for the property (LGC, 2003).”*

As described by the geotechnical consultant, the site is a *“relatively flat area at the top of the bluff and a steep to moderately sloping bluff face in the western portion of the site that descends approximately 80 feet to the base of the slope.”* The site is on a marine terrace cut into Capistrano Formation bedrock and overlain by marine and nonmarine terrace material. A thin veneer of up to approximately 4 feet of artificial fills soils was encountered above the terrace materials in the flat building pad area.

As described in the geotechnical report, there is a large landslide west of the building pad area. The landslide is moderate in size and extends from the base of the slope to approximately three-quarters of the way up the slope west of the site. Based on the information collected by the geotechnical consultant, the landslide is thought to be approximately 25 feet deep and spans laterally for several hundred feet. A small surficial landslide was recently repaired at the adjacent lot to the north, upcoast of the subject site.¹

The consultant used data from previous slope borings and test results taken during the grading and slope repair operations on the lot to the north for preparation of the report for the subject site. As stated in the report, the most recent and informative excavation was excavated on the adjacent site to the north by LGC to a depth of 97 feet below the ground surface utilizing a 24-inch diameter bucket auger drill rig. A clay parting was encountered approximately 95 feet below the ground surface. With the presence of this parting, the results of the consultant's stability analysis indicate that the site has less than a factor of safety of 1.5 for global slope stability. As stated in the report,

“In order to increase the factor of safety for the proposed building footprint, caissons may be added to the rear portion of the residence. While the recommended caissons will increase the factor of safety for the proposed house footprint area, the rear-yard portion of the lot will still have a factor of safety of less than 1.5.”

In this case, the applicant is applying engineering measures to achieve the required factor of safety for the reconstructed residence. Typically, the Commission requires that the primary structure be sited sufficiently landward of the point at which the 1.5 factor of safety line intersects the bluff top, plus a buffer that is large enough to accommodate bluff retreat over the economic life of the development. This is necessary to accommodate erosion over the life of the development and maintain the 1.5 factor of safety without reliance on shoreline/bluff protective devices.

There is nowhere on the subject lot to accommodate development with a factor of safety greater than 1.5 without a specialized foundation system. The development cannot be set back to avoid the need for such a foundation system. As such, the proposed foundation system is deemed necessary to assure stability of the proposed residence. The caisson and grade beam system will allow the residence to be sited in essentially the same footprint as the existing structure (25'+ from the bluff edge), which is consistent with the pattern of development in this area. The majority of residences are sited with similar setbacks from the bluff edge. Due to the existing pattern of development and past Commission actions in the subject area, prohibiting the proposed development would raise equity issues.

The geotechnical report states that the proposed development is feasible from a geotechnical standpoint, provided that their conclusions and recommendations are incorporated into the project

¹ On September 10, 2002, the Commission approved CDP 5-01-483 (Dickinson) for the demolition and reconstruction of a single-family home and upper bluff slope repair at 1910 Calle de los Alamos, immediately upcoast of the subject site.

plans, specifications, and followed during site grading and construction. The Commission's geologist has reviewed the aforementioned geotechnical reports and concurred with the consultants' conclusions and recommendations.

4. Project Analysis/Special Conditions

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

Geotechnical Recommendations

The September 2003 Geotechnical Evaluation includes recommendations focusing on site preparation, foundation design, setback and drainage. The report recommends the entire rear foundation be supported by a series of caissons and grade beams to increase the factor of safety of the residence.

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. The condition requires the applicant to submit two (2) full-size copies of the project plans (including final foundation, grading and drainage plans) that have been reviewed and approved by the geotechnical consultant prior to issuance of the coastal development permit. As such, Special Condition 1 guarantees that all final development plans are consistent with Section 30253 of the Coastal Act.

Setback Requirements/Coastal Bluff

The site is located at the top of an approximately 80' high bluff within a residential neighborhood. The coastal bluffs in San Clemente are not subject to direct wave attack because they are separated from the beach by the OCTA railroad tracks and right-of-way. The railroad tracks have a rip-rap revetment which protects the tracks from erosion and wave overtopping. Though not subject to direct wave attack, the bluffs are subject to weathering caused by natural factors such as wind and rain, poorly structured bedding, soils conducive to erosion and rodent burrowing. Bluffs may also be subject to erosion from human activities, such as irrigation, improper site drainage and grading.

To meet the requirements of the Coastal Act, bluff and cliff developments must be sited and designed to assure stability and structural integrity for their expected economic lifespans while minimizing alteration of natural landforms. In San Clemente, the Commission typically requires that structures be set back at least 25 feet from the bluff edge and hardscape features (including decks and patios) be set back at least 10 feet from the bluff edge to minimize the potential that the development will contribute to slope instability. Bluff and cliff developments (including related storm runoff, foot traffic, site preparation, construction activity, irrigation, waste water disposal and other activities and facilities accompanying such development) must not be allowed to create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding geologically hazardous areas which would then require stabilization measures.

The residential structure proposed by the applicant will be set back 25 feet from the bluff edge. The structure will be supported by a caisson and grade beam system. No portion of the subterranean stabilization system would encroach into the required 25-foot setback area. The rear yard patio and second story deck will be set back 10 feet from the bluff edge. The patio and deck will be supported by a conventional spread footing system. According to the geotechnical consultant, the building setback and caisson supported foundation design is appropriate to ensure long-term stability of the proposed development.

With implementation of proper drainage and erosion control measures, erosion of the bluff will not adversely affect the subject property. The site is not subject to erosion from wave attack. As such, the proposed development's bluff edge setback is consistent with the geologic hazard policies of the Coastal Act.

Site Drainage

Since the manner in which a site drains is important to site stability on blufftop lots, a grading and drainage plan has been submitted which documents how site drainage will be accomplished. The Preliminary Landscape Plan includes a note stating "DECK AND AREA DRAINS ALL TO HAVE POSITIVE DRAINAGE TO STREET." The applicant's architect has also indicated that all rooftop and hardscape runoff will be directed toward the street. However, the project plans submitted do not show how runoff from impervious surfaces will be diverted toward the street.

To ensure that drainage is directed toward the street in a non-erosive manner, the Commission imposes Special Condition 2. Special Condition 2 requires the applicant to submit a final grading and drainage plan, which shows that all runoff will be directed toward the frontage street. The special condition also requires that drainage devices be maintained throughout the life of the development.

As noted above, the geotechnical report provides recommendations regarding site drainage. These recommendations are provided by the geologist in order to avoid any adverse effects that improper site drainage may have upon site stability. For instance, improper site drainage could cause an area subject to slope creep and/or failure to activate and cause damage to the structure. Excessive water infiltration at the subject site will result in potentially hazardous conditions. The geologist's recommendations regarding site drainage are designed to avoid such adverse effects. The special condition requires the revised plan to incorporate the recommendations of the geotechnical report.

Landscaping

Developments on both coastal canyon and blufftop lots in San Clemente are required to submit landscaping and irrigation plans, consisting primarily of native, drought-tolerant plants, in order to be found in conformance with Section 30253 of the Coastal Act. Review of landscaping plans is necessary to assure that appropriate plant species are selected and limited watering methods are applied. Appropriate vegetation can help to stabilize slopes. Native, drought-tolerant plants common to the local area do not require watering after they become established, have deep root systems which tend to stabilize soils, are spreading plants and tend to minimize the erosive impact of rain, and provide habitat for native animals. Landscaping that involves in-ground irrigation may lead to overwatering or sprinkler line breaks that can contribute to slope instability. Therefore, review and approval of landscaping and irrigation plans is necessary prior to the issuance of a coastal development permit.

The applicant has submitted a Preliminary Landscape Plan that includes a note stating, "NEW LANDSCAPE MATERIAL TO MATCH SLOPE LANDSCAPING & BE NON INVASIVE & DROUGHT RESISTANT, NON IRRIGATED." The applicant's architect has also submitted correspondence explaining that "*compliance with native, drought tolerant plant species is proposed.*" However, the plan submitted does not include a plant palette, a graphic depiction of new landscaping, or any irrigation details. According to the agent, irrigation will be limited to "*only the systems required to establish planting in the rear half of the site and conventional irrigation systems in the front half of the site.*" No landscaping or irrigation systems are being proposed on the bluff face.

Since the proposed development is adjacent to a coastal bluff 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.cal-ipc.org>) and California Native Plant Society (www.CNPS.org/) in their publications. In the areas on the bluffward 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.

The applicant has submitted a landscape plan that demonstrates the use of native plants species on the bluff side of the property and a mix of native and non-native, non-invasive, drought tolerant plants throughout the remainder of the site. To ensure that landscaped areas are planted and maintained for erosion control, geologic stability and native habitat enhancement purposes, the Commission imposes Special Condition 3. Special Condition 3 requires submittal of a final landscape plan, which depicts the use of native and drought tolerant plants 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>. The condition specifies that only drought tolerant plant species may be planted in the ground throughout the entire lot and affirms that no permanent in-ground irrigation systems may be installed on the property. The special condition allows non-native, non-invasive ornamental plants to be utilized at the level pad area and allows the use of temporary irrigation systems to help plantings establish. Lastly, the condition requires that the plantings be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.

Assumption of Risk, No Future Protective Devices and Future Improvements

Although the proposed project will be constructed in conformance with the geologic recommendations, risk from development on a coastal bluff is not eliminated entirely. Specifically, development on a coastal bluff is inherently risky. Therefore, the standard waiver of liability condition has been attached through Special Condition 4. By this means, the applicant is notified that the residence is being built in an area that is potentially subject to geologic hazard that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development.

Special Condition No. 5 of the permit informs the applicant that no bluff protective devices shall be permitted to protect the structure, patios or future improvements if threatened by bluff or slope failure. The development could not be approved if it included provision for a bluff protective device. Instead, the Commission would require the applicant to set the development further landward.

Whereas Special Condition No. 5 applies to bluff or slope protective measures, Special Condition No. 6 is a future development condition which states that any future improvements or additions on the property, including hardscape improvements, grading, landscaping, vegetation removal and structural improvements, require a coastal development permit from the Commission or its successor agency. This condition ensures that development on coastal bluffs, which may affect the stability of the bluffs and residential structures, require a coastal development permit. Future development includes, but is not limited to, structural additions, landscaping and fencing. Finally, recordation of all of the standard and special conditions of the permit through Special Condition 7 ensures that future owners of the property will be informed of the requirements set forth by the aforementioned conditions.

5. **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 recommendations prepared by the geotechnical consultant; 2) submit a revised grading and drainage plan; 3) conform to the landscape plan; 4) assume the risk associated with development; 5) waive the right to future stabilization work; and 6) obtain a permit or amendment for future improvements and 7) record the standard and special conditions of the permit. Only as conditioned does the Commission find that the proposed development is consistent with Sections 30235 and 30253 of the Coastal Act.

C. **SCENIC RESOURCES**

Section 30251 of the Coastal Act pertains to visual resources. It states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

The project is located on a blufftop lot above a public beach and just upcoast of a public walkway. The site is located inland of the OCTA railroad tracks and the bluffward portion of the site is highly visible from the beach below. Because the new residence will potentially affect views inland from the shoreline, any adverse impacts must be minimized. Consequently, it is necessary to ensure that the development will be sited to protect views to and along the beach area and minimize the alteration of existing landforms.

As proposed, the project consists of a two-story structure with a patio, second story deck and landscaping. The project is designed to be compatible with development in the surrounding area and will not have an adverse effect on visual resources within the neighborhood.

The proposed structure will not be highly visible from the beach below, as it will be sited at least 25 feet from the bluff edge. All hardscape improvements will be set back at least 10 feet from the bluff edge. Additionally, the proposed project will not result in significant landform alteration, as the minor grading necessary for the proposed development will not be visible from the beach below.

In addition, the future development deed restriction will ensure that improvements are not made at the blufftop which could affect the visual appearance of the coastal bluff or affect the stability of the bluff. The landscaping condition requires that the applicant install native and/or drought-tolerant non-invasive plants throughout the site. The established vegetation on the bluff face will remain undisturbed.

The proposed development will not obstruct significant coastal views from public vantage points. Therefore, the Commission finds that, as proposed and conditioned, the project is consistent with the visual resource protection policies of Section 30251 of the Coastal Act.

D. PUBLIC ACCESS

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. The proposed development is located between the sea and the first public road.

Section 30212 of the Coastal Act states, in relevant 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.

Sections 30210, 30211 and 30212 of the Coastal Act require that new development provide maximum public access and recreation, not interfere with the public's right of acquired access, and provide public access from the nearest public roadway to the shoreline and along the coast except under certain circumstances.

The nearest public access to the coast exists at the Lost Winds accessway, approximately 100 feet south of the subject property (Exhibit 3). The proposed development, the demolition and reconstruction of an existing single-family residence, will not create new adverse impacts on coastal access and recreation. Therefore, the Commission finds that the proposed development does not pose significant adverse impacts to existing public access and recreation; there is adequate public access in the vicinity and the project is therefore consistent with Section 30212 of the Coastal Act.

E. 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 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.

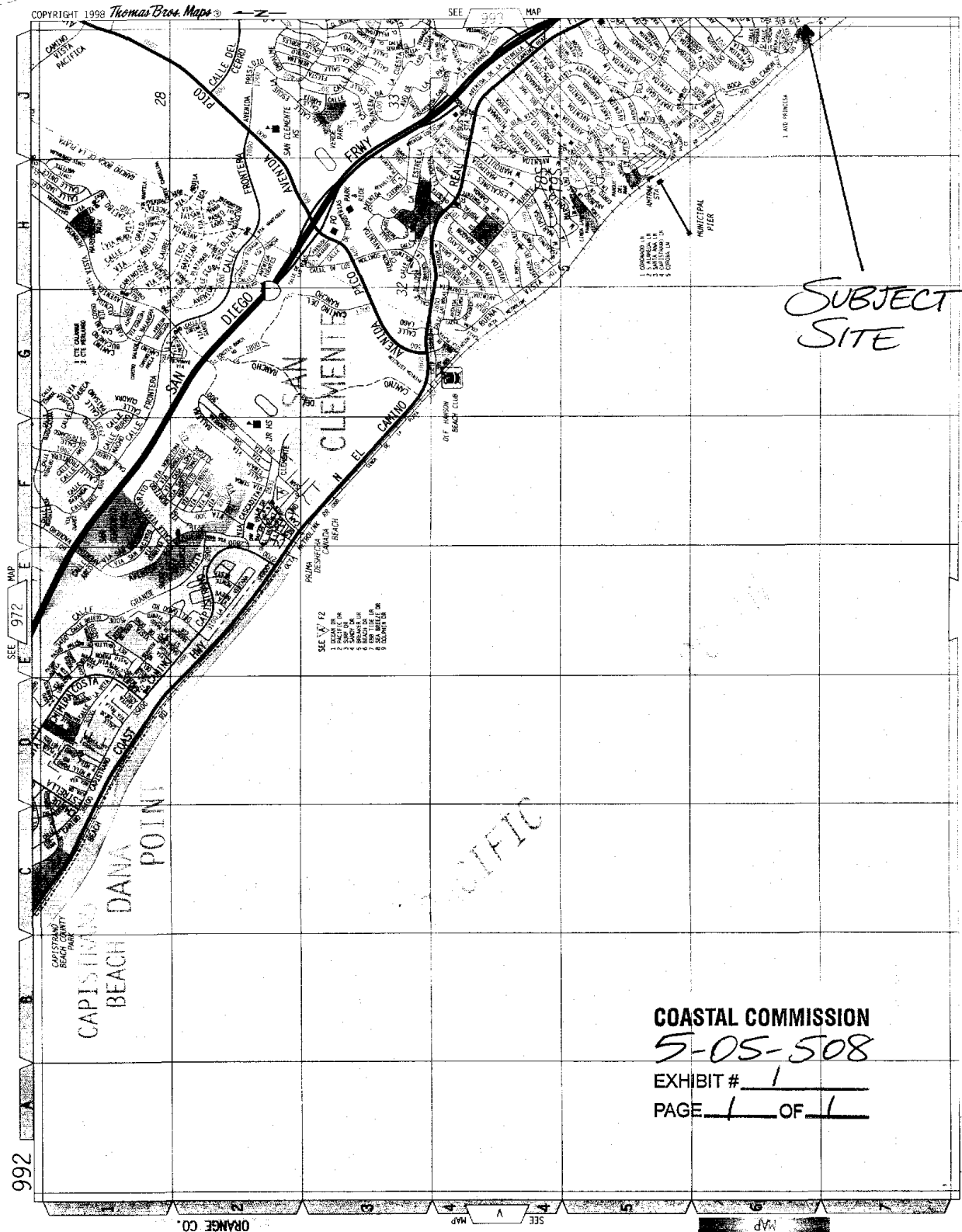
The proposed development is consistent with the policies contained in the certified Land Use Plan, specifically those related to blufftop development. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the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

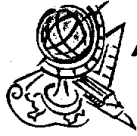
F. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require the applicant to 1) submit final plans that show evidence of conformance with geotechnical recommendations, including those regarding site preparation, foundation design and drainage; 2) submit a revised grading and drainage plan; 3) submit a final landscape plan, which shows that only drought-tolerant native species will be used; 4) assume the risk associated with development; 5) acknowledge that construction of a future protective device is prohibited; 6) acknowledge that future development requires review; and 7) record a deed restriction incorporating all standard and special conditions of this permit. 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.



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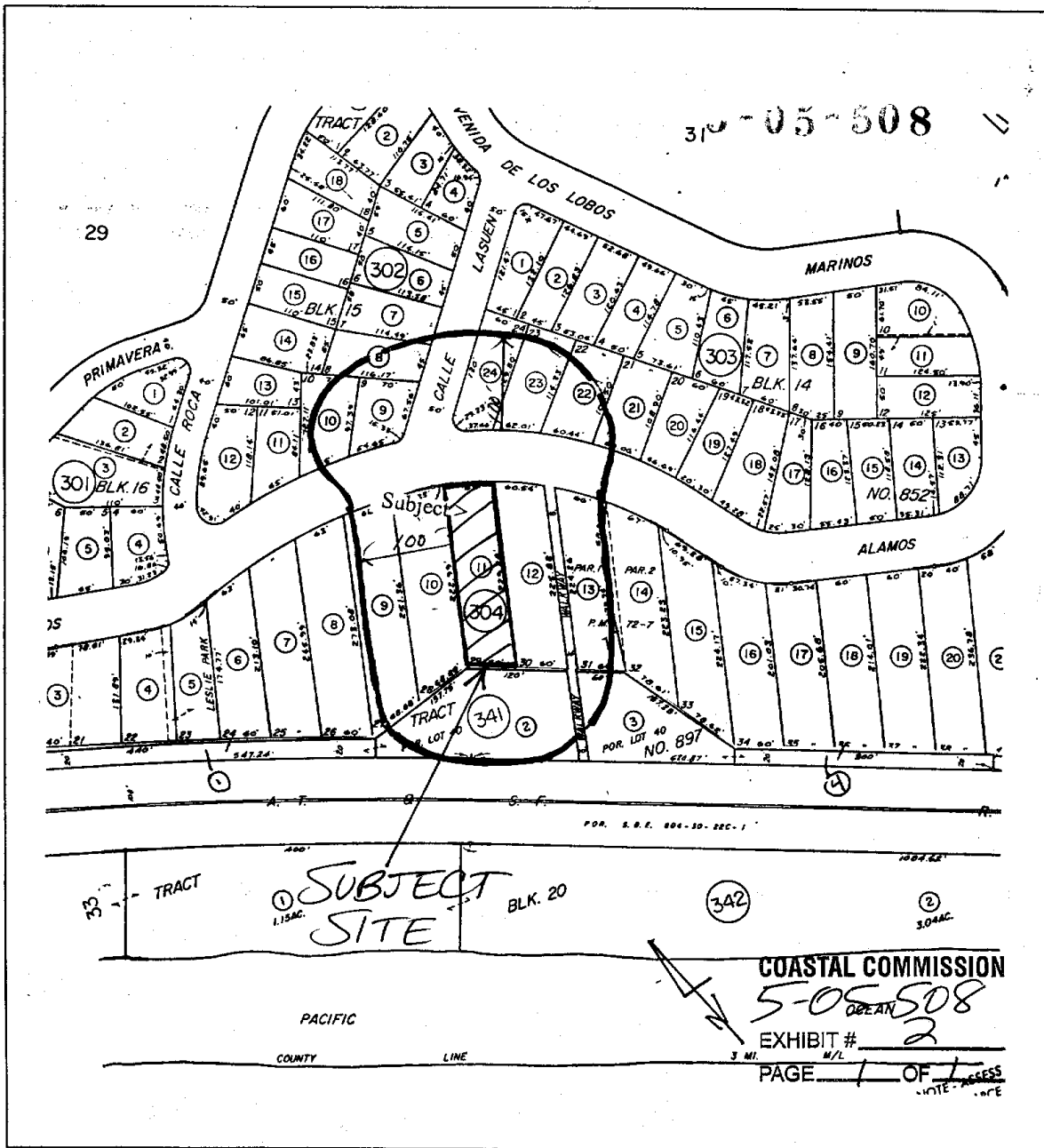
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100' radius (excluding roads)

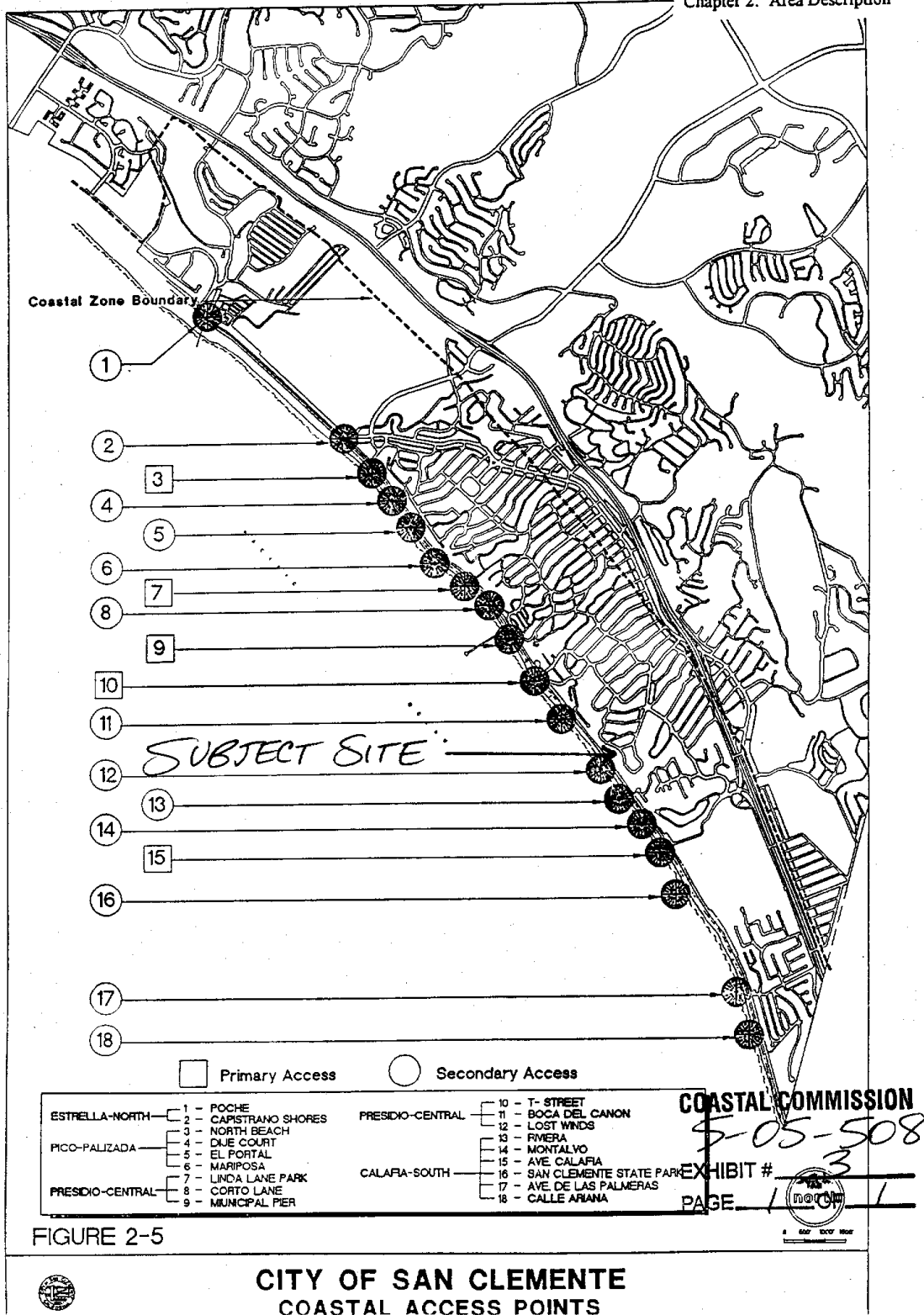
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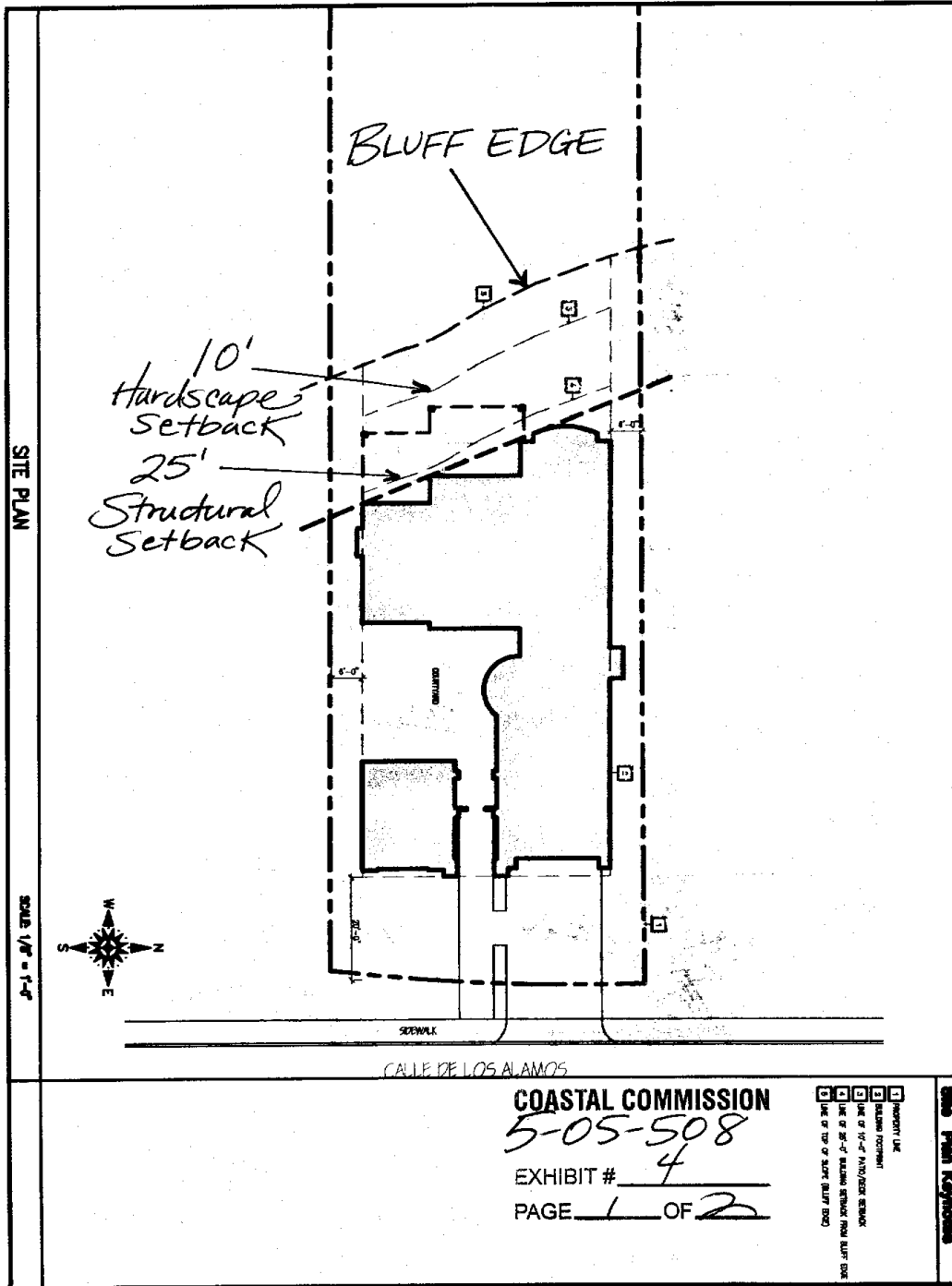
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 San Clemente, CA 92672

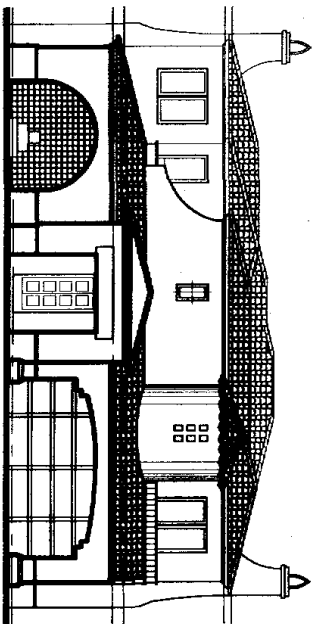
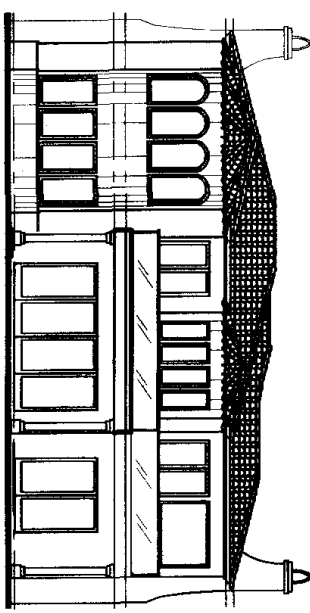
CALIFORNIA
 COASTAL COMMISSION



Chapter 2: Area Description





 <p style="text-align: center;">FRONT ELEVATION</p>	 <p style="text-align: center;">REAR ELEVATION</p>
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>COASTAL COMMISSION 5-05-508 EXHIBIT # <u>4</u> PAGE <u>2</u> OF <u>2</u></p> </div> <div style="width: 50%;"> <p>EXPLANATION</p> <p>1. ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.</p> <p>2. FINISHES ARE TO BE DETERMINED BY THE ARCHITECT.</p> <p>3. MATERIALS ARE TO BE DETERMINED BY THE ARCHITECT.</p> <p>4. ALL WORK IS TO BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.</p> </div> </div>	