

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: December 14, 2007
49th Day: February 1, 2008
180th Day: June 11, 2008
Staff: Liliana Roman-LB
Staff Report: April 17, 2008
Hearing Date: May 7-9, 2008
Commission Action:

Item W5a

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-07-444

APPLICANT: Rich Montoya

PROJECT LOCATION: 224 Trafalgar Lane, San Clemente, Orange County

PROJECT DESCRIPTION: Reconstruction of an existing 318 sq. ft. wood deck attached to a single-family residence on a canyon lot and addition of 44 sq. ft. resulting in a new 362 sq. ft. wood deck with a four (4) caisson and beam foundation.

LOCAL APPROVALS RECEIVED: San Clemente Planning Division Approval in Concept dated January 4, 2007.

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente Certified Land Use Plan (LUP); *Limited Geotechnical Investigation for Proposed Deck Addition to Existing Residence at 224 Trafalgar Lane, San Clemente, CA prepared by Keith Tucker, Consulting Engineer dated October 24, 2007*

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending **APPROVAL** of the proposed project with three (3) special conditions, which require 1) submittal of drainage plan; 2) compliance with construction-related best management practices (BMPs); and 3) future improvements come back to the Commission for review. The primary issues associated with this development are geologic hazards, water quality and protection of canyon habitat. A landscaping condition has not been recommended because the applicant is not proposing to disturb existing landscaping or install new landscaping.

LIST OF EXHIBITS:

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

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

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

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

RESOLUTION:

I. APPROVAL WITH CONDITIONS

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

II. STANDARD CONDITIONS:

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

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

1. 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 project plans by Peter and Associates dated 5/08/07, but shall be revised to include the following:

The wooden deck surface and railing located on and beyond (canyon ward) the canyon edge shall be clearly depicted, shaded and clearly marked *“this element not permitted by any coastal development permit”* on each set of plans.

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

2. Conformance of Design and Construction Plans to Geotechnical Report Geologic Hazard

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the Engineering Geologic Reports prepared by Keith D. Tucker, Consulting Engineer and dated October 24, 2007. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate 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.
- B. 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 legally required.

3. Submittal of Final 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 drainage plan prepared by an appropriately licensed professional that has been reviewed and approved by the City of San Clemente. The plan shall incorporate the following criteria:
- (a) Runoff from the proposed deck and other impervious surfaces and slopes on the site shall be directed to dry wells or vegetated/landscaped areas to the maximum extent practicable within the constraints of City requirements;
 - (b) Where City code prohibits on-site infiltration, runoff shall be collected and discharged via pipe or other non-erosive conveyance to the frontage street to the maximum extent practicable. Runoff from impervious surfaces that cannot feasibly be directed to the street shall be discharged via pipe or other non-erosive conveyance to a designated canyon outlet point to avoid ponding or erosion either on- or off- site;
 - (c) Visual treatment shall be required for all above ground piping along the canyon slope, including, but not limited to, use of earth-tone colorization (no white or bright colors) of the pipe and native vegetation to screen the pipe from view.
 - (d) Runoff shall not be allowed to pond adjacent to the structure or sheet flow directly over the sloping surface to the canyon bottom; and
 - (e) The functionality of the approved drainage and runoff control plan shall be maintained throughout the life of the development.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;

- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
- (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-07-444. 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. 5-07-444 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The proposed project involves an after-the-fact approval of a 318 sq. ft. wood deck, its reconstruction with an addition of 44 square feet resulting in a new 362 square foot wood deck (pressure treated Douglas fir) supported by a new four (4) caisson and beam foundation on a single-family residence on a canyon lot located at 224 Trafalgar Lane in the City of San Clemente, Orange County (Exhibits 1 & 2). Surrounding development consists of low-density single-family residences. The nearest public access to the beach is available at the T Street coastal access point, approximately ½ a mile south of the subject site (Exhibit 4).

The existing two-story residence and attached garage is on a relatively level pad on the west side of Trafalgar Lane, the wood deck in question is located on the northwest side yard of the residence adjacent to the steep descending slopes to the west and north of the residence approximately 40 feet above Trafalgar Canyon. Another level patio area lies in the southern portion of the lot with a flatter descending slope.

The residence dates back to the 1920's and the site is on the City's Designated Historic Structures List for its Spanish Colonial Revival Architecture. Improvements to the structure were conducted from 1982-1994 include an interior remodel and construction of a cement block wall on the street side of the property. At which time, it is assumed two unpermitted decks were also constructed. The applicant is seeking approval of one of two wooden decks on the site (the deck located on the northwest side of the residence). The existence of the second wooden deck on the southeast (canyon ward) side of the residence which is situated on and beyond the canyon edge is evident from aerial photographs of the site but is not depicted on the submitted plans. The applicant has also admitted the existence of a second canyon deck on the site. Commission staff has determined that no previous coastal development permits were issued for these structures. The applicant is not seeking authorization for the unpermitted southeast deck through this application. Approval of the proposed project does not authorize the unpermitted development. The Commission enforcement division will evaluate further actions to address the matter. **Special Condition 1** requires the submittal of final plans clearly depicting the wooden deck located beyond (canyon ward) of the canyon edge clearly marked "these elements not permitted by any coastal development permit."

The proposed deck is located on the northwest side of the residence. The proposed 44 sq. ft. addition to the existing 318 sq. ft. wood deck would extend the deck out canyon ward bringing the deck into alignment with the existing residence. The new pressure treated Douglas fir deck and rail will be set back at least 5 feet from the canyon edge. This is consistent with the Commission's typical 5-foot setback for accessory structures on coastal canyon lots in San Clemente.

San Clemente's certified LUP advocates the preservation of native vegetation and discourages the introduction of non-native vegetation in coastal canyons. While no rare or endangered species have been reported to exist within the coastal canyon habitat of San Clemente, the City has designated all coastal canyons, including Trafalgar Canyon, as environmentally sensitive habitat areas, as depicted in Exhibit 3. The coastal canyons act as open space and potential wildlife habitat, as well as corridors for native fauna. Decreases in the amount of native vegetation due to displacement by non-native vegetation have resulted in cumulative adverse impacts upon the habitat value of the canyons. As such, the quality of canyon habitat must be assessed on a site-by-site basis. The canyon slope immediately adjacent to the subject site is considered degraded due to the presence non-native shrubs and grasses interspersed with native plants. No information has been provided to indicate that the site or any portion thereof qualifies as ESHA. The applicant does not propose any new landscaping to improve the habitat value of the adjacent canyon. Since no existing landscaping will be disturbed and no new landscaping is proposed, the Commission has not imposed a landscaping condition.

There is no existing native vegetation on the proposed location for the addition. The proposed reconstruction of the deck and 44 sq. ft. deck addition will not result in the loss of existing native vegetation in the coastal canyon.

The applicant submitted a geotechnical engineering report for the proposed deck reconstruction/addition prepared by Keith D. Tucker, Consulting Engineer. The scope of work included borings to obtain subsurface material soil samples, laboratory testing of soil samples, engineering evaluations of current subsurface conditions including a slope stability analysis and recommendations for the deck replacement/addition. The geotechnical engineering report recommends a concrete pile foundation extending below the existing grade at least 10 feet to support the deck and deck addition. **Special Condition 2** requires final plans conforming to geotechnical recommendations.

During construction, the applicant will be required to implement best management practices (BMPs) designed to minimize erosion and prevent debris from entering the storm drain system leading to the ocean. Permanent drainage control measures are essential in order to decrease irrigation or rain runoff from flowing over the canyon slope. After construction, drainage from the deck should be directed away from the canyon slopes and into area drains and piped to existing City storm drain facilities located at the street, per City requirements. If not feasible, runoff may be conveyed down the slope to the canyon bottom in a positive drainage device such as a solid pipe. **Special Condition 3** requires submittal of final project drainage plans.

B. DEVELOPMENT (HAZARDOUS AREAS)

Development adjacent to slopes such as those found on canyons or hillsides is inherently hazardous. Development which may require a protective device in the future can not be allowed due to the adverse impacts such devices have upon public access, and visual resources. To minimize risks to life and property the development has been conditioned to: require an appropriate set-back from the top of the slope, for conformance with a drainage and runoff control plan to minimize percolation of water into the slope and that future improvements must come back to the Commission for review. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. HABITAT, RECREATION AND PARK IMPACTS

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

D. WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of

construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. Furthermore, uncontrolled runoff from the project site and the percolation of water would also affect the structural stability of the canyon. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. PUBLIC ACCESS

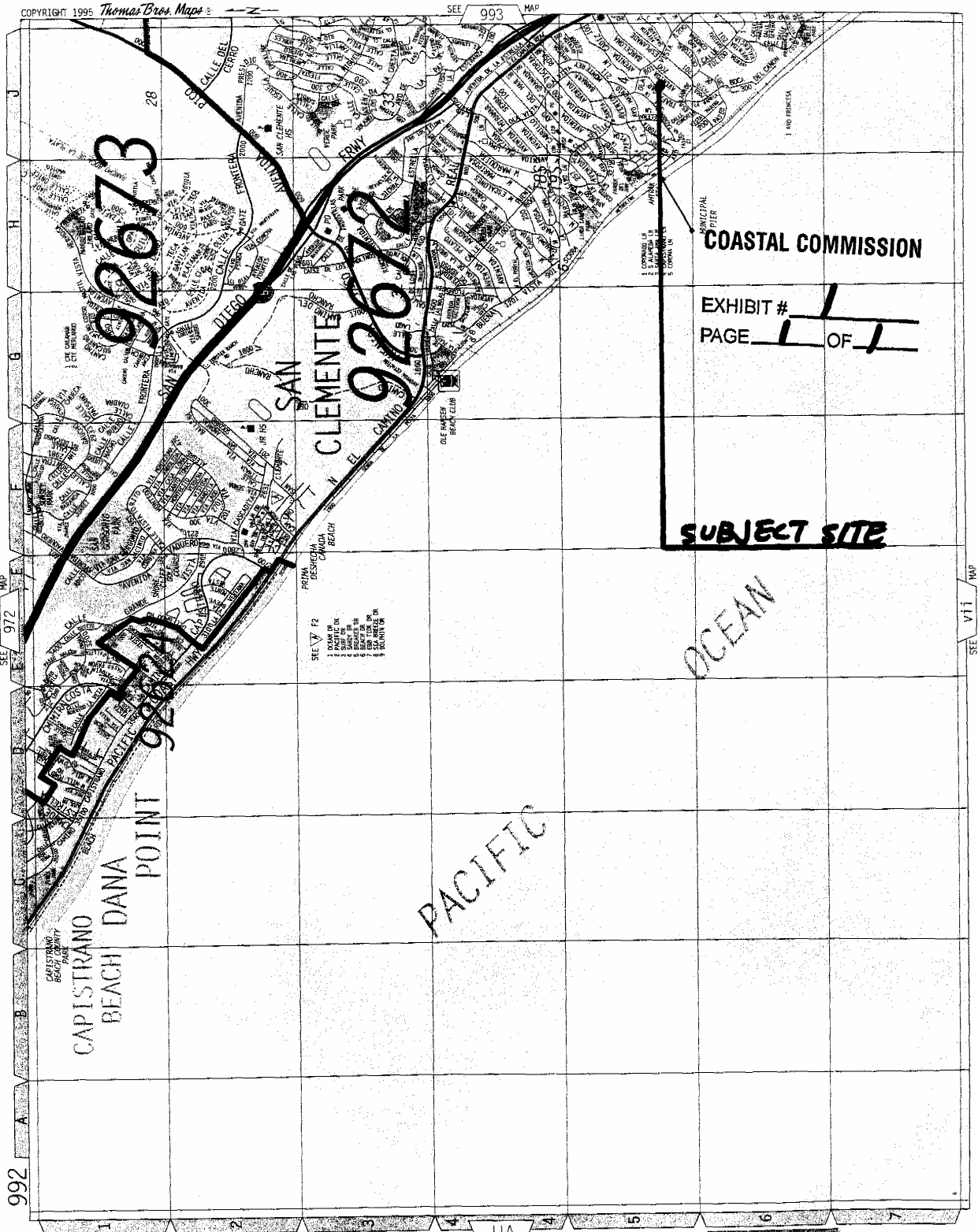
The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed, the development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

F. LOCAL COASTAL PROGRAM

The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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



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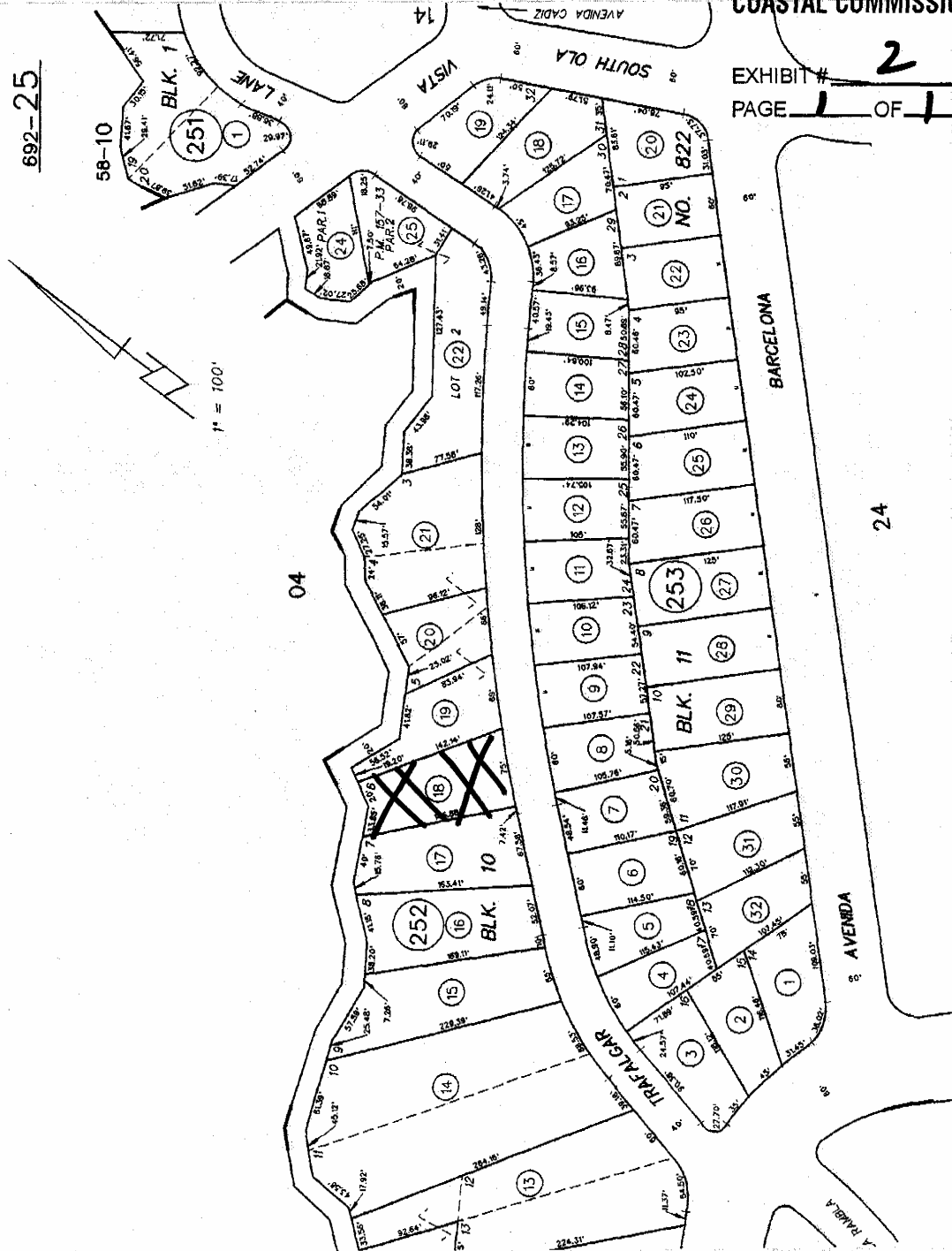
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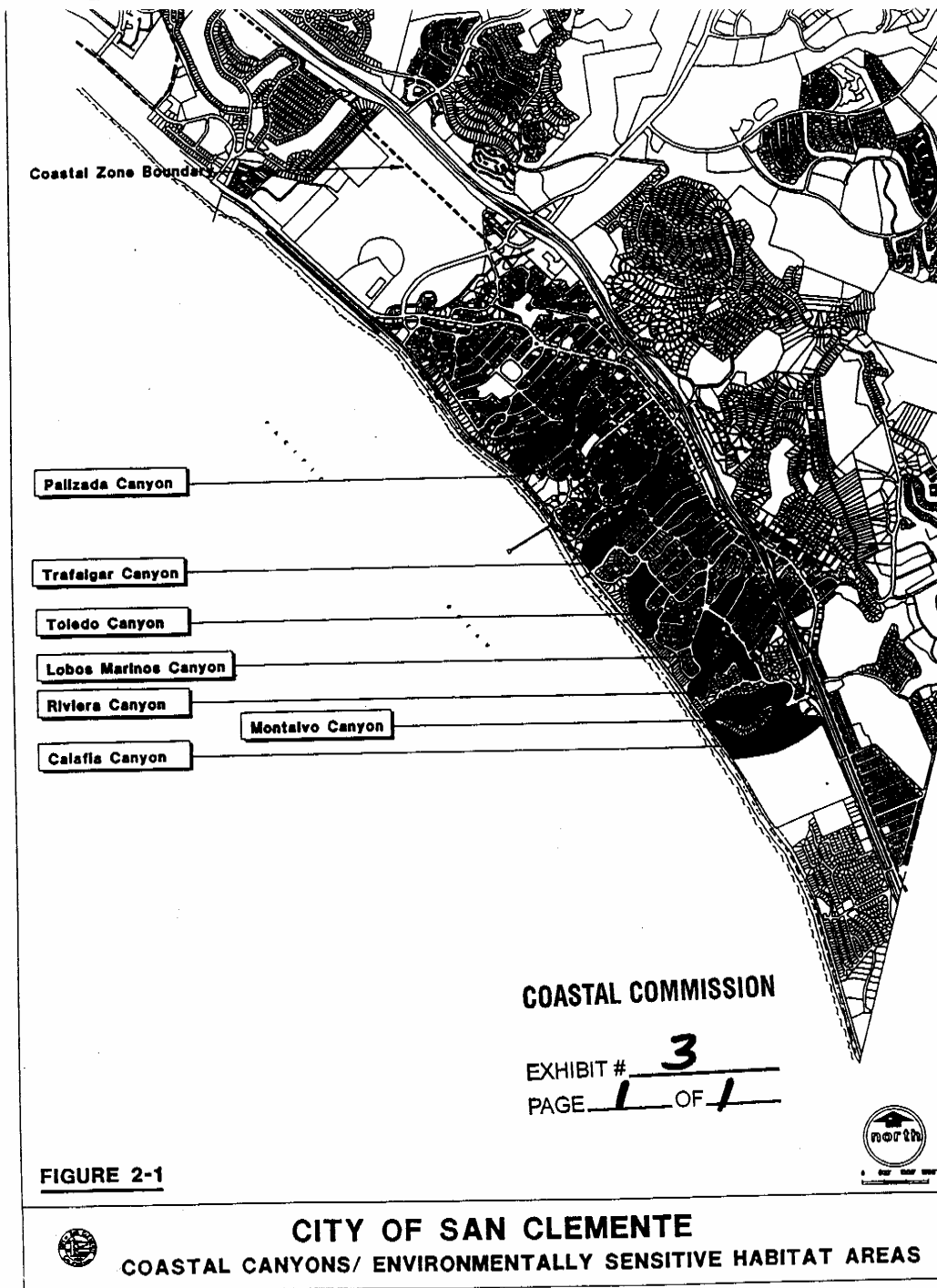
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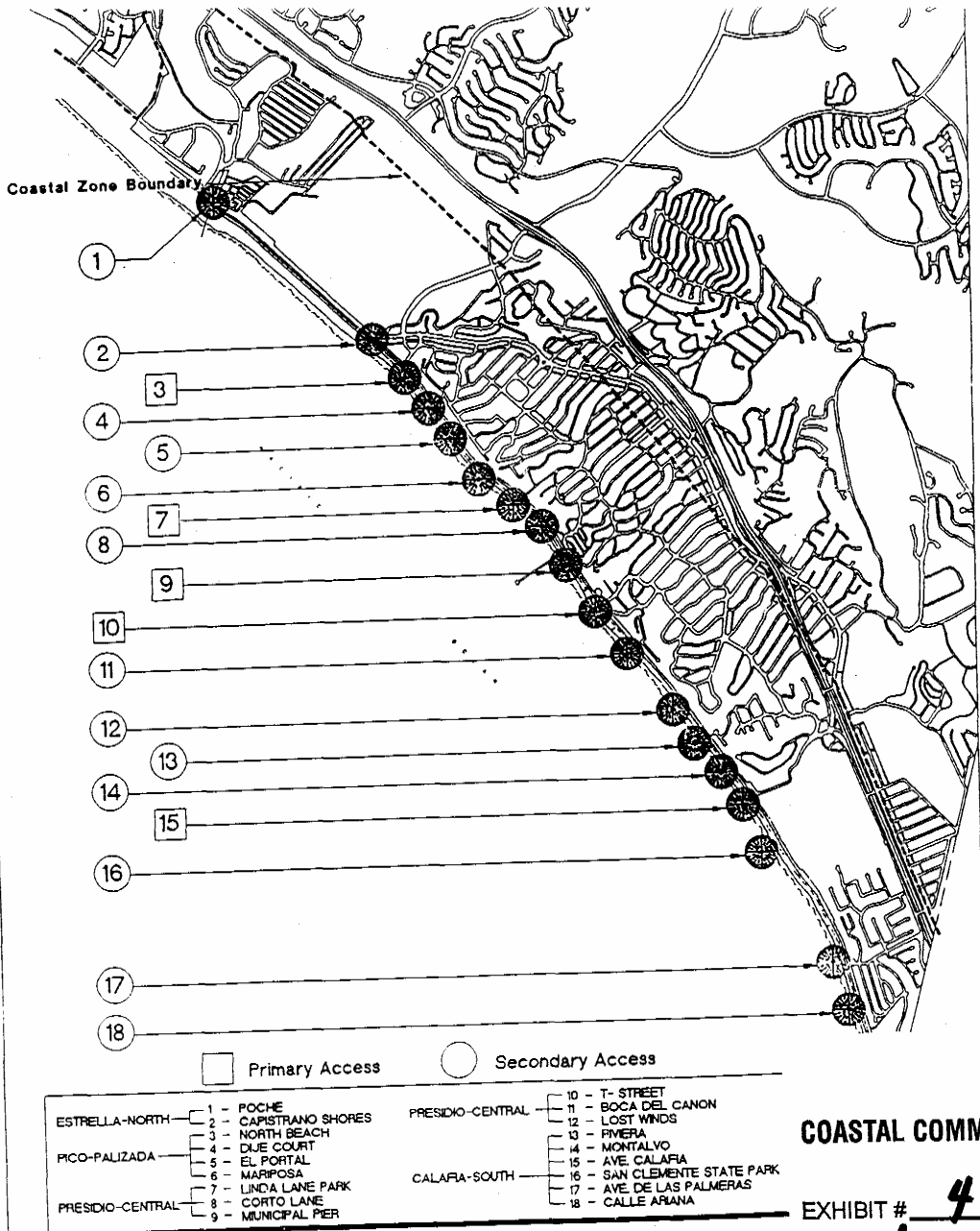
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EXHIBIT # 2
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EXHIBIT # 4
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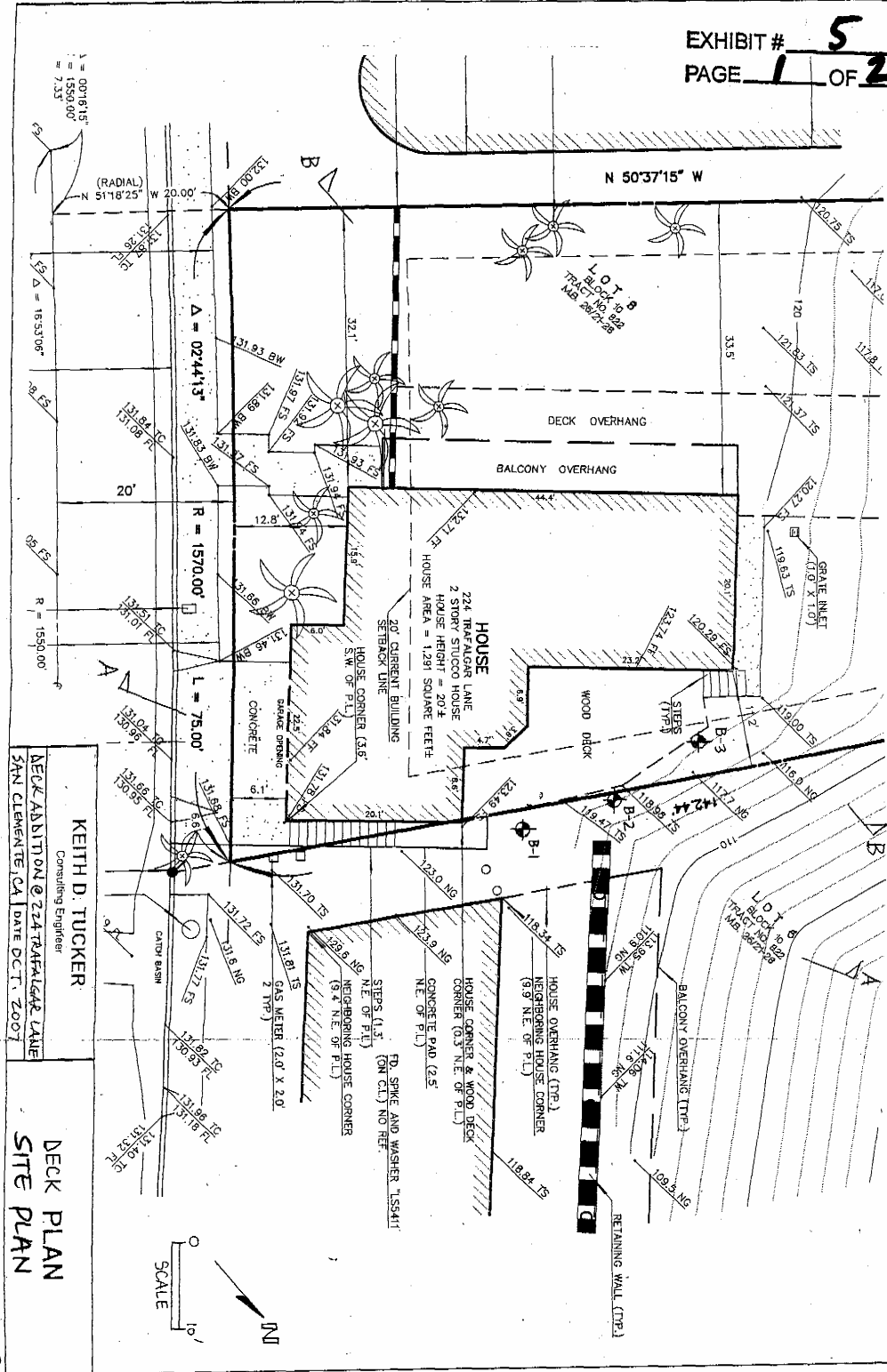
FIGURE 2-5

**CITY OF SAN CLEMENTE
 COASTAL ACCESS POINTS**



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EXHIBIT # 5
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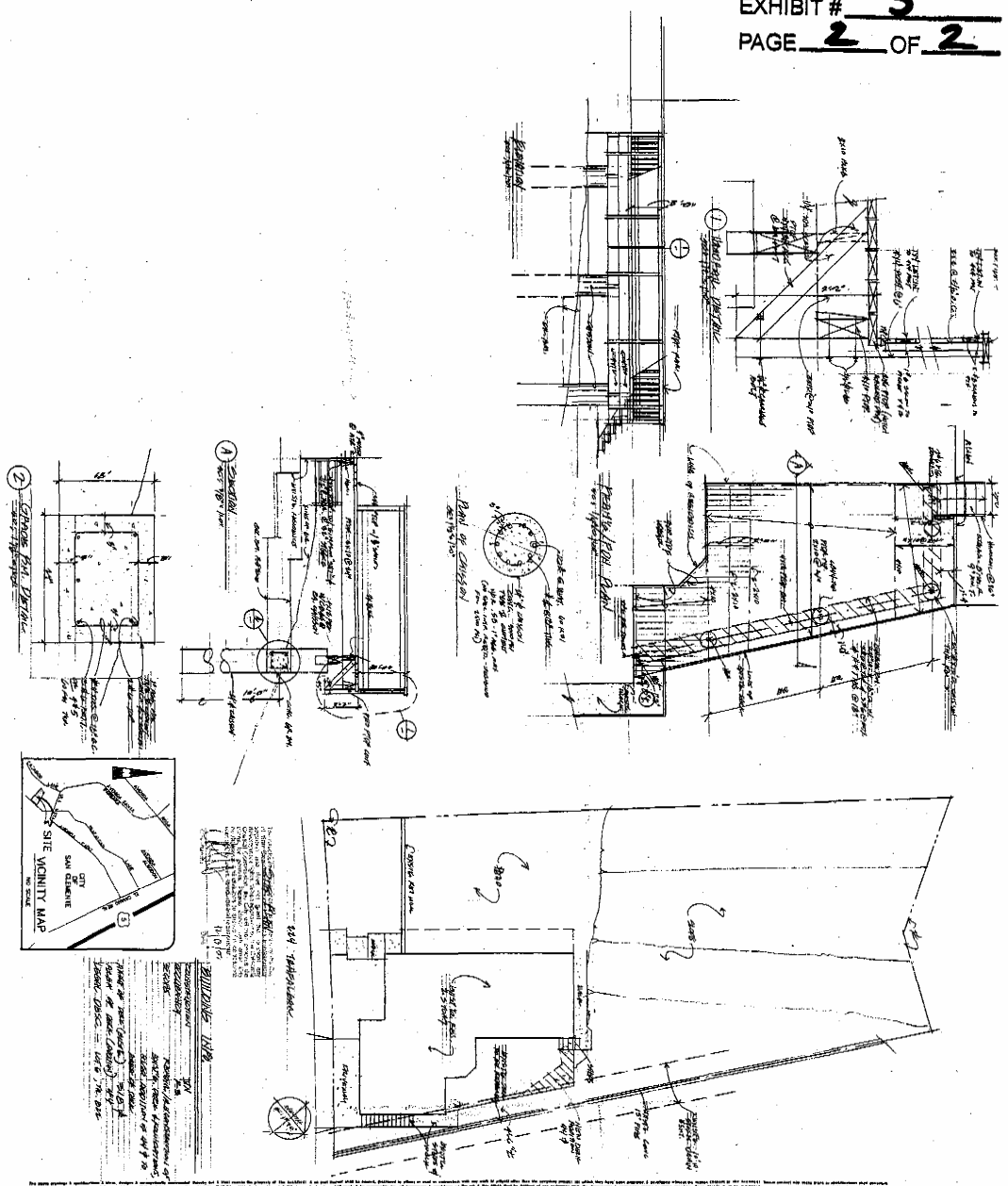


KEITH D. TUCKER
 Consulting Engineer
 DECK ABUTMENT @ 224 TRAFALGAR LANE
 SAN CLEMENTE, CA DATE OCT. 2007

DECK PLAN
 SITE PLAN

COASTAL COMMISSION

EXHIBIT # 5
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<p>DATE: 11/10/10 SHEET TITLE: 11/10/10 SHEET NO.: 11/10/10 SHEET N. NAME:</p>	<p>REVISIONS:</p>	<p>JOB NUMBER:</p>	<p>PROJECT:</p>	<p>DESIGN: [Signature] MONTOYA RESIDENCE 11/10/10 GREG CANTONIA, CA</p>	<p>S & E 8000 BAYVIEW AVE. SUITE 110 SAN JOSE, CALIFORNIA 95131 TEL: (408) 434-8888 FAX: (408) 434-8889</p>
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