

CALIFORNIA COASTAL COMMISSION

CATEGORICAL EXCLUSION ORDER NO. E 82-1
City of San Clemente
(last amended in 1985)

The Commission by a two-thirds vote of its appointed members hereby adopts an order, pursuant to Public Resources Code Section 30610(e) and 30610.5(b), categorically excluding from the permit requirements of the California Coastal Act of 1976 the categories of development within the specifically defined geographic area described below:

I. BACKGROUND

The City of San Clemente has requested the Commission to "reinstate" its categorical exclusion order which expired on January 1, 1981, according to the following terms:

"Unless terminated earlier through revocation, rescission, or other administrative or judicial action, this exclusion order shall remain in effect until a Local Coastal Program, or any portion thereof, has been certified and all implementing actions within the area affected have become effective or January 1, 1981, whichever is earlier"

There is no authority under either the Coastal Act nor the Commission's regulations governing categorical exclusions for the "reinstatement" of a categorical exclusion order which has expired. The City's request to exclude previously excluded developments must be evaluated as a new request for a categorical exclusion. This evaluation is proper especially in light of the requirement of Section 30610(e) of the Coastal Act that the exemption was preserve the local government's ability to prepare and implement a Local Coastal Program.

The City of San Clemente has submitted it's Local Coastal Program to the Commission in the form of a Coastal Element. The LCP was denied and conditionally certified by the Commission at its meeting of September 22-25, 1981. At this time, the City has not resubmitted or otherwise brought its LCP before the Commission for review, and there is no certified Local Coastal Program for the City of San Clemente.

Section 30610 of the Coastal Act allows the State Commission to adopt a Categorical Exclusion for specific types of development within a defined geographic area.

Section 30610(e) states:

"Any category of development, or any category of development within a specifically defined geographic area, that the Commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the Commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where such exclusion precedes certification of the applicable Local Coastal Program, that such exclusion will not impair the ability of local government to prepare a Local Coastal Program.

Public Resources Code Section 30610.5(b) additionally requires that the following findings and the provisions must be made.

Section 30610.5(b) states in part:

"Every exclusion granted...shall be subject to terms and conditions to assure that no significant change in density, height, or nature of uses will occur without further proceedings under this division and an order granting an exclusion under Subdivision (e) of Section 30610...may be revoked at any time by the Commission if the conditions of the exclusion are violated..."

The City of San Clemente seeks the exclusion by the California Coastal Commission of categories of development in the geographic areas designated in Exhibits 1a through 1g from Coastal Development Permit requirements. The categorical exclusion may be authorized pursuant to Public Resources Code Section 30610(e) and 30610.5(b).

Submerged lands, tide lands, beaches, and lots immediately adjacent to the inland extent of any beach or of the mean high tide line where there is no beach, and land subject to the public trust are not excluded by this order.

Within this area, the City proposes that the following activities within the specific areas shall not require a coastal development permit.

II. CATEGORIES OF DEVELOPMENT, GEOGRAPHIC AREAS, AND CONDITIONS

A. Categories of Development

1. The construction of single and multi-family residences (including improvements, appurtenant structures, and additions), as conditioned, in R-1, R-2, R-3, and R-4 districts designated in Exhibits 1a-1g.
2. The demolition of single-family residences or appurtenant structures, as conditioned, in designated R-1, R-2, R-3, and R-4 districts; provided that any demolished single-family residence is replaced in kind.
3. The demolition and/or construction of any commercial structure (including improvements and appurtenant structures), as conditioned, in designated commercial districts.
4. All municipal improvement projects (e.g., road improvement, streetplanting, etc.) undertaken by the City of San Clemente (except for bluff modifications, channelizations, or projects 300 feet or less from the mean high tide line) and costing less than \$25,000.
5. The conversion of non-commercial structures to commercial use, as conditioned in designated commercial areas.

The exclusion area includes streets and the residential and commercial districts designated on the notarized exclusion maps on file with the Commission, South Coast District Office, and the City of San Clemente.

B. Conditions

1. Applicable Zoning. Development under this exclusion shall comply, unless otherwise limited by this order, with the City of San Clemente Zoning Ordinance in effect on January 1, 1982 and shall be within the appropriately zoned portion of the City as designated on the zoning map adopted as of that date. However, unless otherwise provided for in this order, no development based on a variance or conditional use permit shall be excluded.

2. Excluded Parcels. This exclusion shall only apply to parcels existing on the date this order is adopted by the Commission and shall not apply to development for which a lot split, parcel map, or subdivision map is also required.

3. Demolition and Conversion. No single family residence may be demolished in an R-1, R-2, R-3, or R-4 district under this exclusion unless replaced by a single family residence. The demolition of motels and hotels or conversion of such structures to other uses shall not be excluded.

4. Parking. Unless otherwise provided for in this order, parking for all development shall be provided in accordance with the South Coast Regional Commission Parking Guidelines. On all residential lots, parking shall be provided at two spaces per unit with no parking in the required setbacks. Development on any commercially zoned lot paved for parking purposes and used for parking, whether for the general public or for a nearby commercial or residential use, shall not be excluded. No municipal improvement projects reducing the total number of on-street or off-street parking spaces shall be excluded.

5. Signs. No freestanding signs shall be excluded.

6. Height Limits. No residential or commercial development excluded by this order shall exceed 25 feet in height above average finished grade.

7. Multi-Unit Residential Development. Development under this exclusion shall not exceed two units per lot, or where City zoning allows more than two units, a maximum density of 18.75 units per acre (net) or 15 units per acre (gross). However, on all lots on Calle Mirador, Avenida Pico, Boca de la Playa, Calle Las Bolas, Avenida Hacienda, Calle Colina, and Calle Sacramento, maximum density shall not exceed 15 units per acre (net) and 12 units per acre (gross). Notwithstanding the above, no excluded multi-unit development shall exceed four units per single lot or combined lots without obtaining a coastal permit.

8. Record of Categorically-Excluded Developments. The City of San Clemente shall maintain a record of categorically excluded development in the form of a list which identifies: the location of development by lot, block and tract number, the type of development and any other permits which may have been required for each categorically excluded development. This record shall be made available to the Commission or any interested person upon request.

The City shall also make a written determination for each exemption made under this categorical exclusion order and send a copy of each determination of exemption, including a location map of the development, to the Coastal Commission's district office within seven (7) days of granting the exclusion.

9. Phasing of Residential Development. The exclusion of residential development under the terms and conditions of this order shall be Subject to the following phasing requirement:

- a. When the City and the Coastal Commission have excluded the development of a cumulative total of 25 new dwelling units in the Coastal Zone, no further residential development may be excluded from coastal permit requirements until the City demonstrates to the Executive Director of the Commission that it has committed or reserved sewage capacity of no less than 25,000 gallons of sewage capacity per day to new coastal recreational or visitor-serving uses.
- b. If the City makes the required showing to the satisfaction of the Executive Director, an additional 50 residential units may be developed in the Coastal Zone under this Categorical Exclusion. At that point, prior to any further residential exclusion, the City shall demonstrate, to the satisfaction of the Executive Director, that it has committed or reserved additional sewage capacity of no less than 25,000 gallons per day of sewage capacity to new coastal recreational or visitor-serving uses.
- c. Any additional exclusion of residential development pursuant to this order shall be phased at a ratio of 50 units of development to 25,000 gallons per day of sewage capacity, up to a total sewage treatment capacity commitment and/or allocation of 100,000 gallons per day to new coastal-recreational or visitor-serving uses.
- d. Coastal recreational and visitor-serving uses include, but are not limited to, the following: Restaurants, Fast-food Establishments, Hotels, Motels, Delicatessens, Confectionary Stores, Sporting Goods Sales and Rentals, Specialty Retail Shops, Music/Theatre Entertainment Establishments, Grocery Store/Junior Market, and Public Park Facilities.
- e. Sewage treatment capacity allocated for coastal recreational or visitor-serving uses which are outside of the Coastal Zone will be considered for fulfillment of this condition on a case-by-case basis and will be subject to the approval of the Executive Director. The Executive Director shall use the following criteria in assessing the proposed development in terms of its potential to serve beach visitors:
 1. Accessibility and visibility of the development from Highway 5 or from El Camino Real.
 2. Distance from coastal resources.
 3. Type of use.
 4. Relationship of the proposed use to visitor enjoyment of coastal resources.
- f. Sewage treatment capacity used by residential or industrial structures converted to new coastal recreational or visitor-serving uses may be credited to the reserve requirements cited in 9a, b, and c above.

10. Canyon, Bluff, and Beach Development. No development on lots on or adjacent to canyons or on or adjacent to coastal bluffs or beaches shall be exempt from coastal permit requirements under this categorical exclusion order. This condition shall have precedence over the maps of categorically excluded areas in the event of conflict.

11. This exclusion order shall apply to all lots excluded on the original exclusion order No. E-77-19, with the following exceptions: 1) The bluff top lots located on Camino Capistrano, Ventana and Ocean Drive at the northerly end of the City are not excluded; 2) The Cyprus Shores subdivision, with the exception of bluff top lots is excluded; and 3)

The Cyprus Cove subdivision, with the exception of bluff top lots, is excluded.

12. This exclusion order shall not be effective until the City of San Clemente has prepared, and the Executive Director has reviewed and approved, detailed mapping showing all areas excluded by this order. The mapping shall conform substantially to Exhibit E-82-1 on file in the Commission office (a copy of Exhibit E-82-1 is attached herein as Exhibit 2 for reference). The map shall be at a scale sufficient to determine excluded parcels on a lot by lot basis. Upon certification of the Categorical Exclusion Map by the Executive Director. this order shall become effective.

13. Rescission and Revocation. The order granting this exclusion may be rescinded at any time, in whole or in part, if the Commission finds by a majority vote of its appointed membership after public hearing that the terms and conditions of the exclusion order no longer support the findings specified in Public Resources Code Section 30610(e). This order may be revoked at any time that the terms and conditions of the order are violated. ▪

III. FINDINGS

The Commission hereby finds, for the reasons set forth in the attached reports, that this exclusion, as conditioned, presents no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along the coast, and that this exclusion will not impair the ability of the City of San Clemente local government to prepare a Local Coastal Program.

The City of San Clemente has submitted its Local Coastal Program to the Commission in the form of a Coastal Element. The LCP was denied and conditionally certified by the Commission at its meeting of September 6, 1981. At this time, the City has not resubmitted or otherwise brought its LCP before the Commission for review, and there is no certified Local Coastal Program for the City of San Clemente. Under Section 30610(e) of the Coastal Act, the exclusion of certain developments under this order may not adversely affect access nor impair the City's ability to prepare a local coastal plan which carries out the policies of Chapter 3 of the Coastal Act.

Section 30210 of the Coastal Act recognizes lower cost visitor and recreational facilities to be forms of coastal access. It states:

Developments providing public recreational opportunities are preferred.

Section 30254 of the Coastal Act provides:

Where existing or planned public works facilities can accommodate only a limited amount of new development, services to public recreation, and visitor-serving land uses shall not be precluded by other development.

In order to find this exclusion consistent with Section 30610 of the Coastal Act, the Commission must find that the exclusion of these developments would have no potential for depriving coastal-recreational, visitor-serving facilities of necessary public services, and therefore, would have no potential for creating an adverse effect on public access to the coast.

1. The Need for Additional Sewage Treatment Capacity:

The City is presently studying its public works facilities and updating its master plan to accommodate long-range development over the next fifteen to twenty years. The public works facilities study reveals that the presently operating sewer system has a capacity rated at 4 million gallons per day and has a remaining capacity of 600,000 gallons per day. Sewage capacity is also constrained by the City of San Clemente's agreement with the Southeast Reclamation Agency that the City discharge no more than 4.7 million gallons per day into the ocean until the year 1987. Faced with these constraints on City growth, the City Council met on January 1982 to discuss the master facilities report and directed its staff to investigate three alternative means of increasing capacity. Those alternatives have yet to be presented or reviewed.

According to the public facilities study, the City's current rate of growth, both in and out of the Coastal Zone, is estimated to be the equivalent of approximately 800 new dwelling units per year. Each dwelling is statistically expected to house 2.6 persons, each of which would generate approximately 210 gallons per day of sewage. At this rate, the annual increase in sewage demand is projected to be 168,000 gallons per day. Statistical projections predict that at the City's present rate of growth, remaining sewage capacity will be exhausted after approximately three years. The City intends to have additional sewage treatment capacity by that time.

2. Need for Sewage Treatment for Recreational & Visitor-Serving Facilities:

The Coastal Zone of San Clemente consists of largely build-out residentially zoned areas. The largest visitor-serving facility in the City is the San Clemente Inn which formerly consisted of 120 overnight motel rooms. Portions of the Inn have been converted to time shared units.

The submitted, conditionally certified land use plan identifies Reeves Ranch as the major undeveloped parcel of land within the City's coastal zone. (The Commission deleted the Reeves Ranch parcel from its conditional approval of the Land Use Plan.) While plans for the development of Reeves Ranch are yet unknown, some development of visitor-serving facilities on the site is anticipated and desirable in the view of Coastal Act objectives.

Consultants to the City who are working on the City's Master Plan have provided the Commission staff with information regarding the sewage needs of major hotel facilities. Of four major hotels surveyed, they concluded that the estimated sewage capacity needed for a large hotel with appurtenant restaurants and other facilities would be 154 gallons per day per room. (Based on conversion with staff of Lawry Associates, July 21, 1982) Assuming that a major hotel at the scale of the San Clemente Inn (120 rooms) were constructed on Reeves Ranch, it would have a sewage demand of approximately 18,480 gallons per day.

The Land Use Plan for the City of San Clemente was approved by the Commission on September 6, 1981, subject to the condition that two areas of the City be redesignated so as to protect the visitor-serving nature of the areas. These areas are the North Beach area and the Pier Bowl area. The City of San Clemente Planning Commission recently passed an addendum to the Land Use Plan which contains the following policy:

Tourist-Commercial designations in the Pier Bowl and Beach Club/Pico area will be reflected on the land use map which will be updated to show all of the coastal zone.

The Commission has approved 4 time-share hotel projects, 2 with ground floor commercial units (see 5-81-307, 5-81-358, 5-81-390, 5-81-506) and two restaurants (see 5-82-153 and 5-82-205) in the Pier Bowl area.

The City also has before them a draft agreement between the City and the State Department of Parks and Recreation which would provide service by the City of the sewage needs of the San Onofre State Park up to 50,000 gallons per day.

Development of portions of the Reeves Ranch development, the Pier Bowl area, and the North Beach area as visitor-serving or recreational land use is accorded priority and Section 30254 of the Coastal Act. As such, it may not be precluded by other lower priority development, such as the development subject to the terms of this exclusion order, due to the lack of sufficient sewage treatment facilities.

3. Phasing of Exclusion Order. In order to find that the exclusion of the approximately 7000 units subject to this order will not deprive a priority use of public facilities, the exclusion of development is phased to provide for the concurrent development of residential infill and recreational and visitor-serving facilities. A certain amount of excluded development may occur. When the limit is reached, the City must show that sewage treatment facilities have been set aside, committed to, or are actively serving a visitor-serving/recreational facility, to an extent that will assure a significant opportunity for recreational/visitor-serving uses.

By excluding the residential development covered by this order from the requirement of a coast development permit, the Commission is, in practical terms, granting a permit for all excluded development. This is the practical basis for the requirement of Section 30610(e) of the Coastal Act which authorizes the Commission to exclude any category of development with respect to which the Commission has found that there is no potential for any cumulative significant adverse effect on coastal resources or on public access to, or along, the coast.

The Commission cannot grant this order of exemption if to do so would enable the exempted development to utilize the limited existing sewage service facilities of the City of San Clemente to the exclusion of the coastal recreational visitor-serving development such as that which may be planned for the Reeves Ranch development. There is a potential for this to happen, given the number of residential units that might be constructed pursuant to the terms of this categorical exemption.

On the other hand, it is extremely likely that the City will proceed to develop additional sewage capacity treatment in order to accommodate not only its present growth rate but also the development contemplated on the large "Ranch" areas east of Highway 5 and outside of the coastal zone. The Commission fears that the potential capacity of any sewage treatment facility ultimately acquired by the City will be committed to the development of the Ranch areas and that little or no capacity will remain to serve the coastal recreational and visitor-serving facilities planned within the coastal zone.

The 7000 units which are subject to the terms of this exclusion cannot reasonably be expected to be built within three years and be served by the existing facility. In fact, many of these excluded units will be served by the future facility. If the visitor-serving and recreational facilities planned for this area are not served by the planned sewage treatment facility, those exempted residential developments would, in fact, be depriving a coastal-

recreational facility of public services in derogation of Section 30253 of the Coastal Act.

In either case, the Commission is required under Section 30253 of the Coastal Act to ensure that by excluding development, it does not allow development that would deprive a coastal-recreational/visitor-serving land use such as the Reeves Ranch development of needed public facilities. For this reason, the Commission has required the phasing of exclusions under the order as a condition of the granting of this exclusion order.

4. Monitoring of the Effects of the Exclusion Order. The City first requested a categorical exclusion in 1977. At that time, the City conducted a thorough study of the existing and potential development of each lot within the exclusion area under then current zoning. The City and Commission found that a total of 7003 dwelling units could be constructed under the terms of the Commission's exclusion order.

Developments were exempted from coastal permit requirements under former exclusion order no. 77-19. As a condition of exclusion, the City was to distribute forms to exempted developers. The developers were to send the completed forms to the Commission's offices for notification of development. The Commission's South Coast District Office has not received any notices of completion. As a result, the Commission assumes that much of the previously excluded development has not occurred, and that roughly 7000 dwelling units could be constructed in the area again proposed for categorical exclusion.

The records of the number and types of development actually performed under the terms of the previous exclusion order are incorporated among the City's files, but not listed in a convenient manner. This lack of accessibility would make it difficult to assess the impacts of this exclusion order.

Therefore, the Commission requires the City of San Clemente to maintain a file on developments which it has approved as categorically exempt from the local coastal development permit requirements under the terms of this exclusion. The City shall also send to the Commission's district office a copy of its determination that a certain development is exempt from the coastal permit requirements within seven (7) days of granting the exclusion.




The Commission finds that, as conditioned, exclusion of the demolition and reconstruction of single-family dwellings, and the construction of multi-unit residential and commercial buildings where allowed by current zoning in the geographic areas subject to this order, is consistent with section 30610(e) and 30610.5(b) of the Coastal Act.



San Clemente Coastal Zone Categorical Exclusion Order E-82-01

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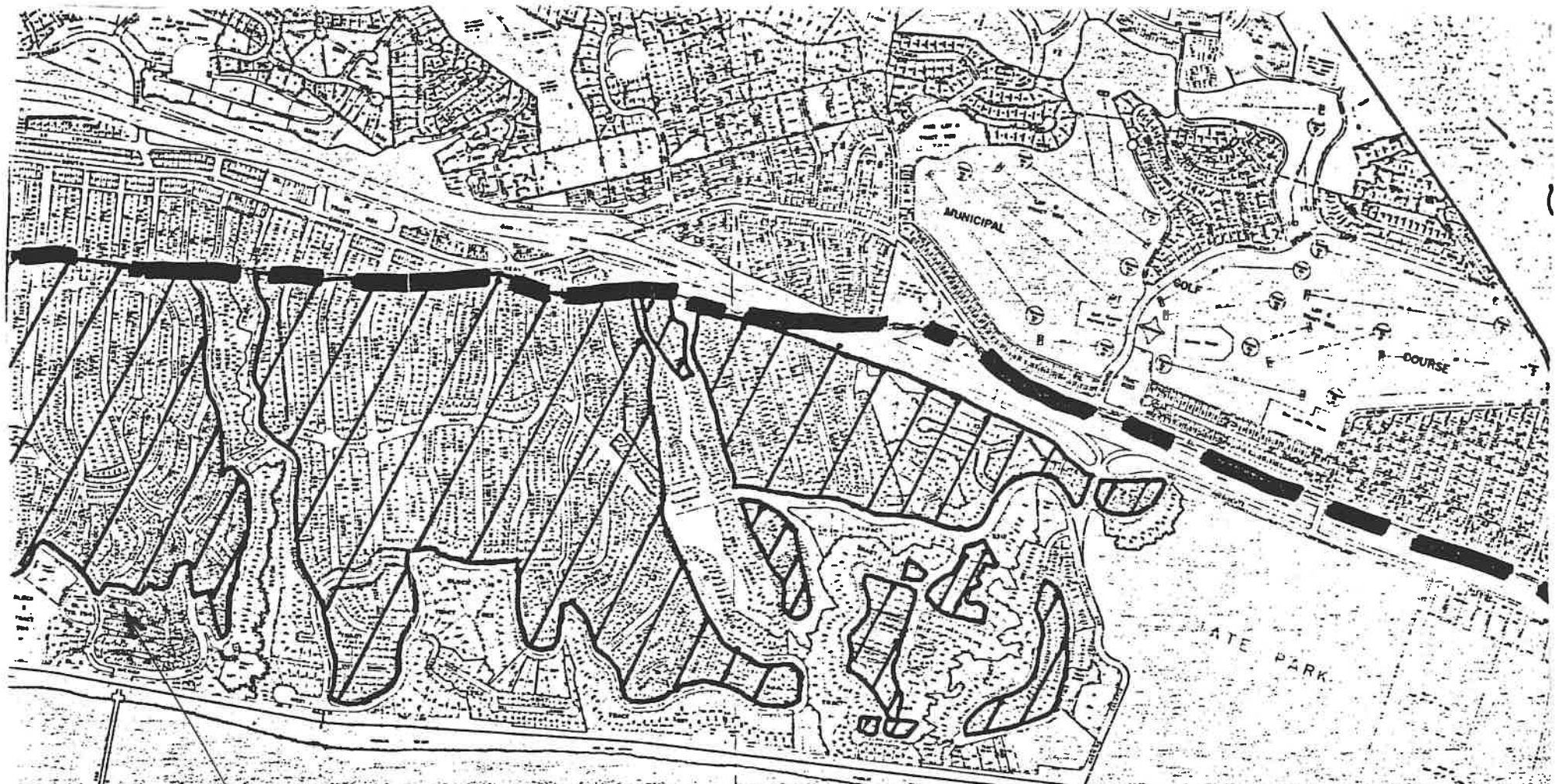
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-  Categorical Exclusion Order Area Properties
-  Properties outside Categorical Exclusion Areas



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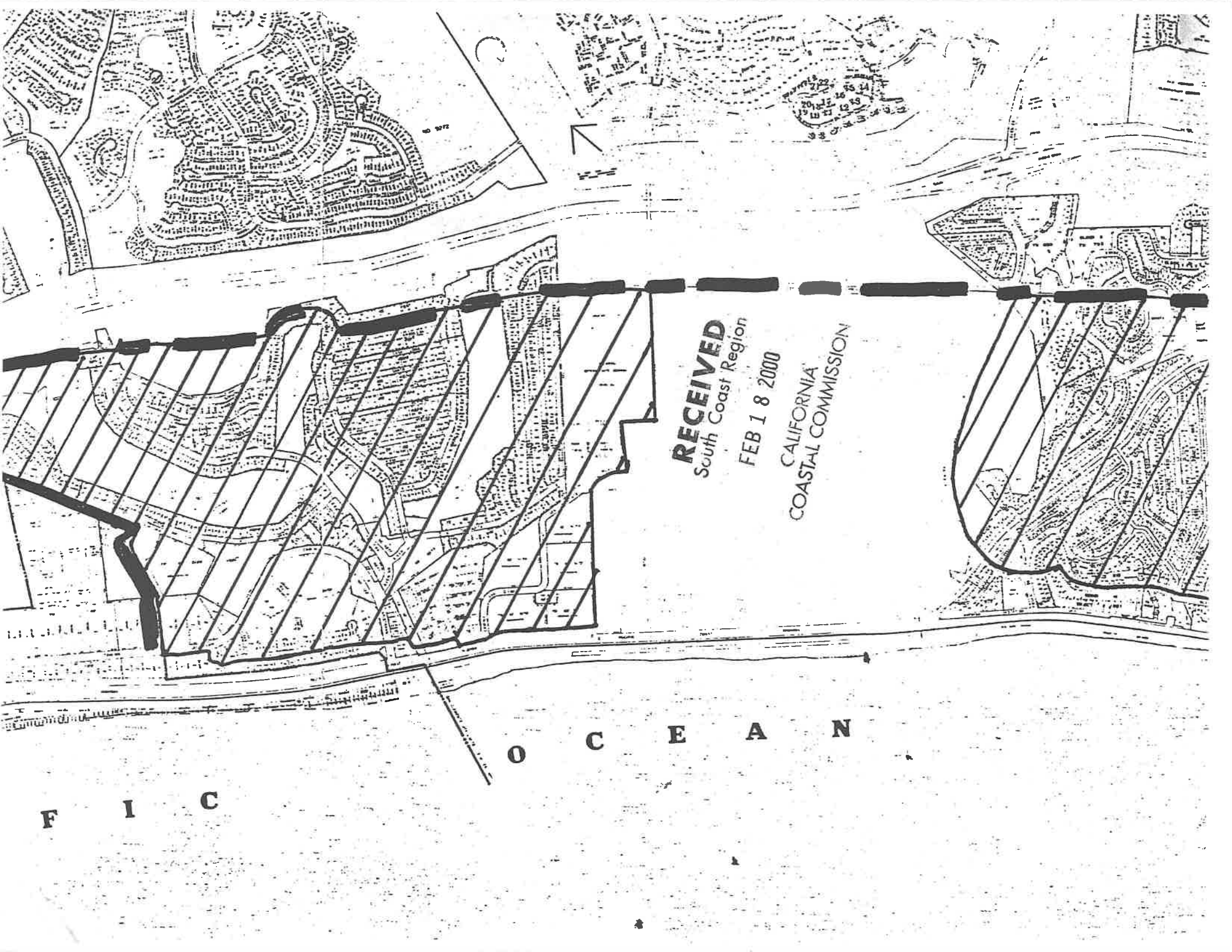
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COASTAL COMMISSION

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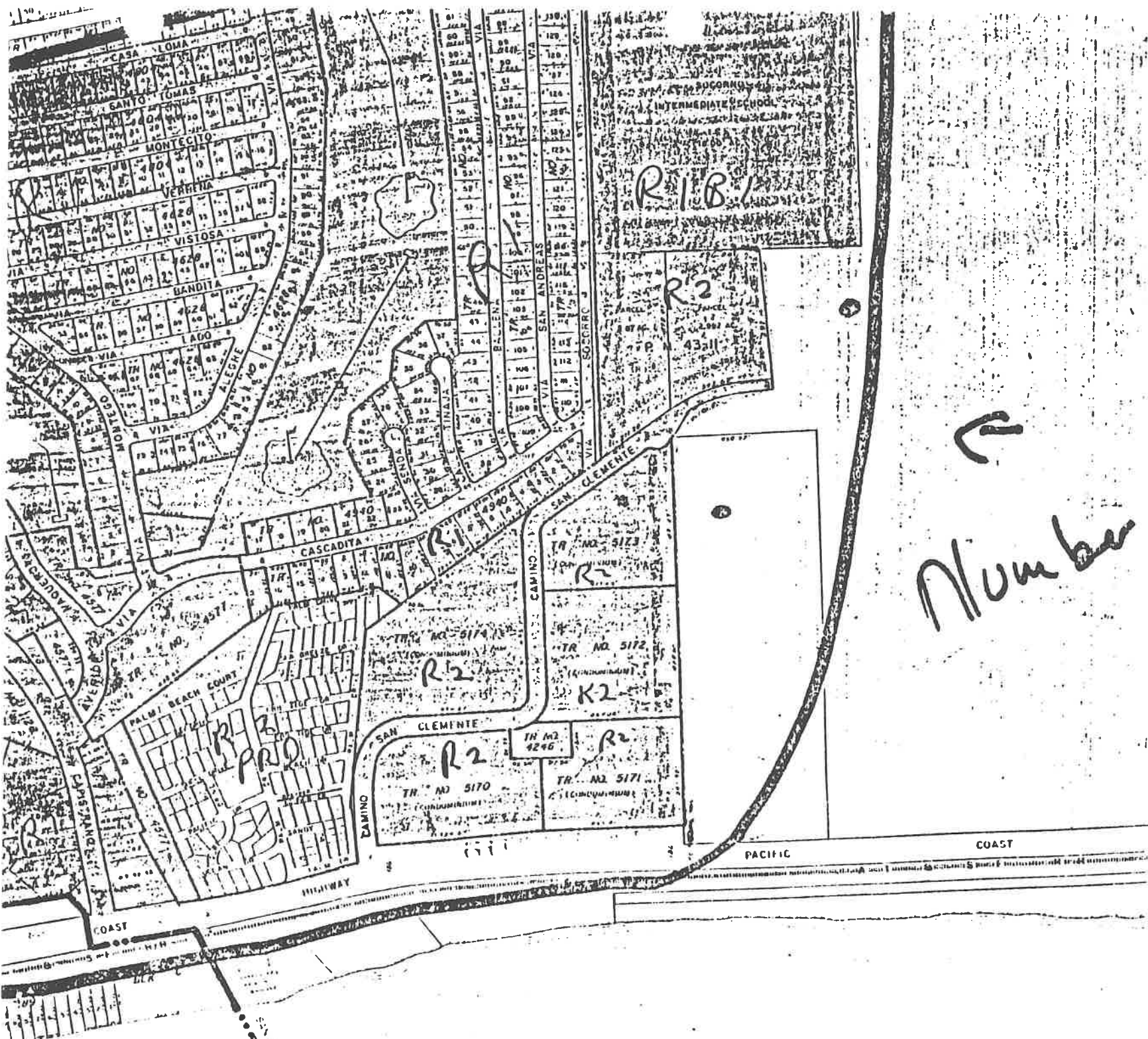
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 California Coastal Commission	EXHIBIT NO. 1a
	APPLICATION NO.
	Categorical Exclusion
82-1 City of San Clemente	




#2


 California Coastal Commission
 City of San Clemente
 APPLICATION NO.
 Cat Exc. no 82-1
 EXHIBIT NO. 16



Number 1


 California Coastal Commission
EXHIBIT NO. 1c
 APPLICATION NO.
 Cat Exc No 82-1
 City of San Clemente



California Coastal Commission

City of San Clemente

APPLICATION NO.
Cat Excl 82.1

EXHIBIT NO. 1A



DISTRICT NO. 5



#7

#6

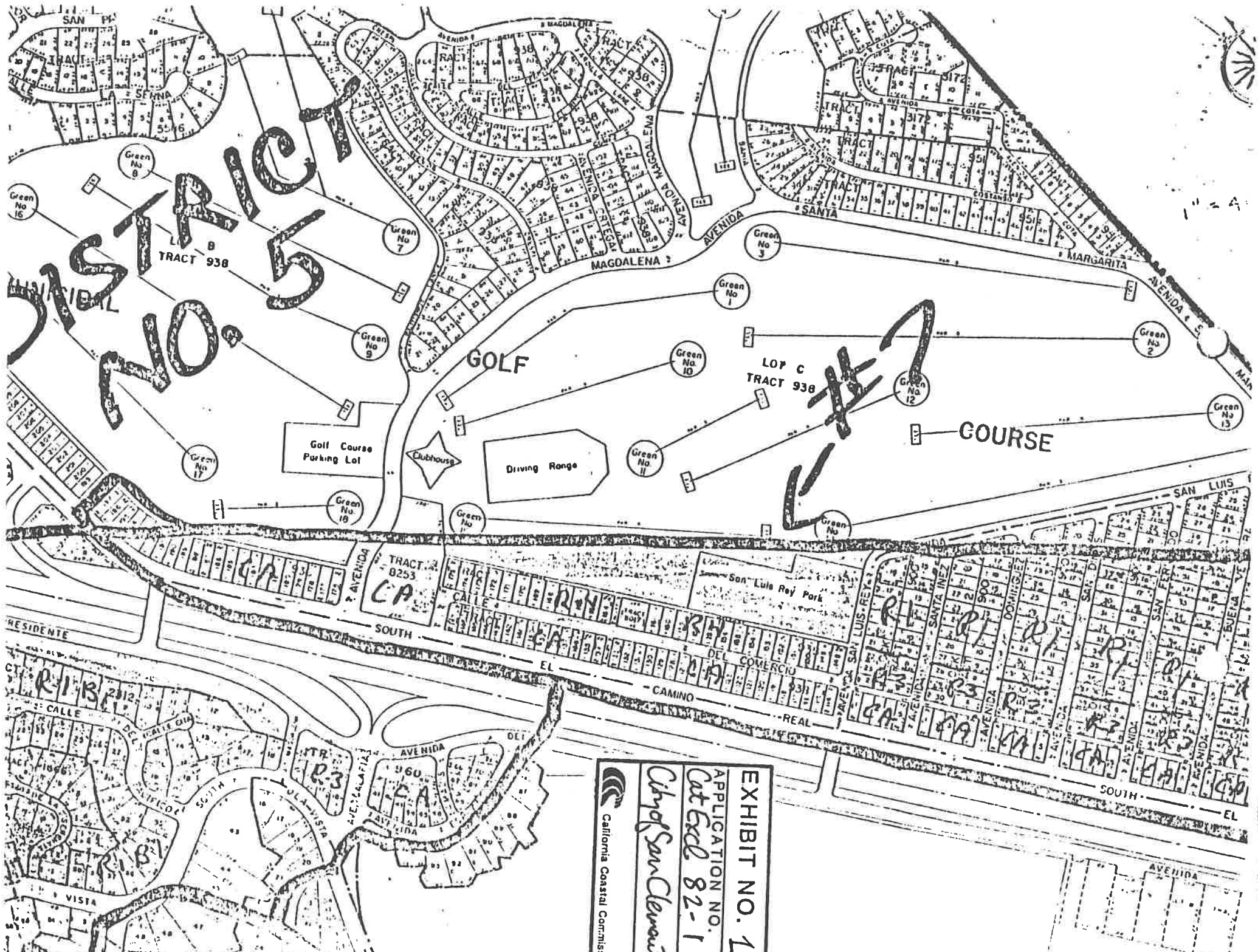
EXHIBIT NO. 1e

APPLICATION NO.
Cat Exd 82-1

City of San Clemente

California Coastal Commission

11A



DISTRICT NO. 5

GOLF

LOT C TRACT 938

COURSE

Golf Course Parking Lot



Driving Range

EXHIBIT NO. 14
APPLICATION NO.
Case No. 82-1
City of San Clemente
 California Coastal Commission

DISTRICT NO. 7

CAMP JOSEPH P.

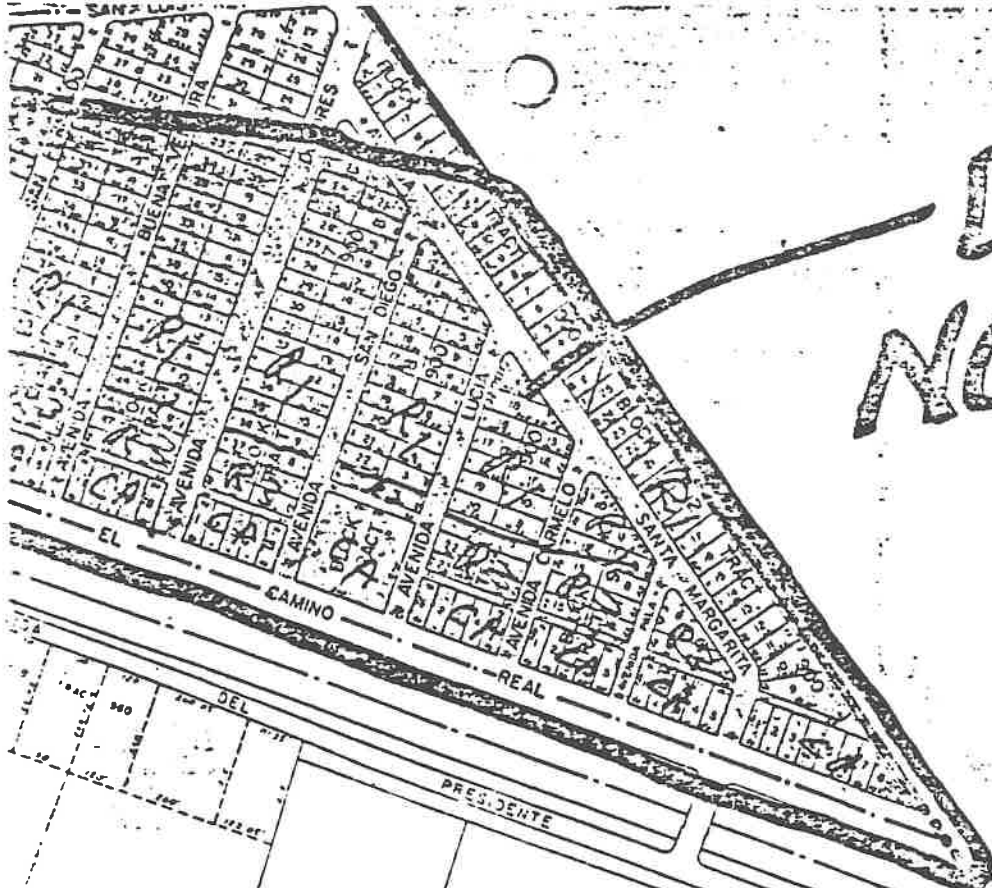
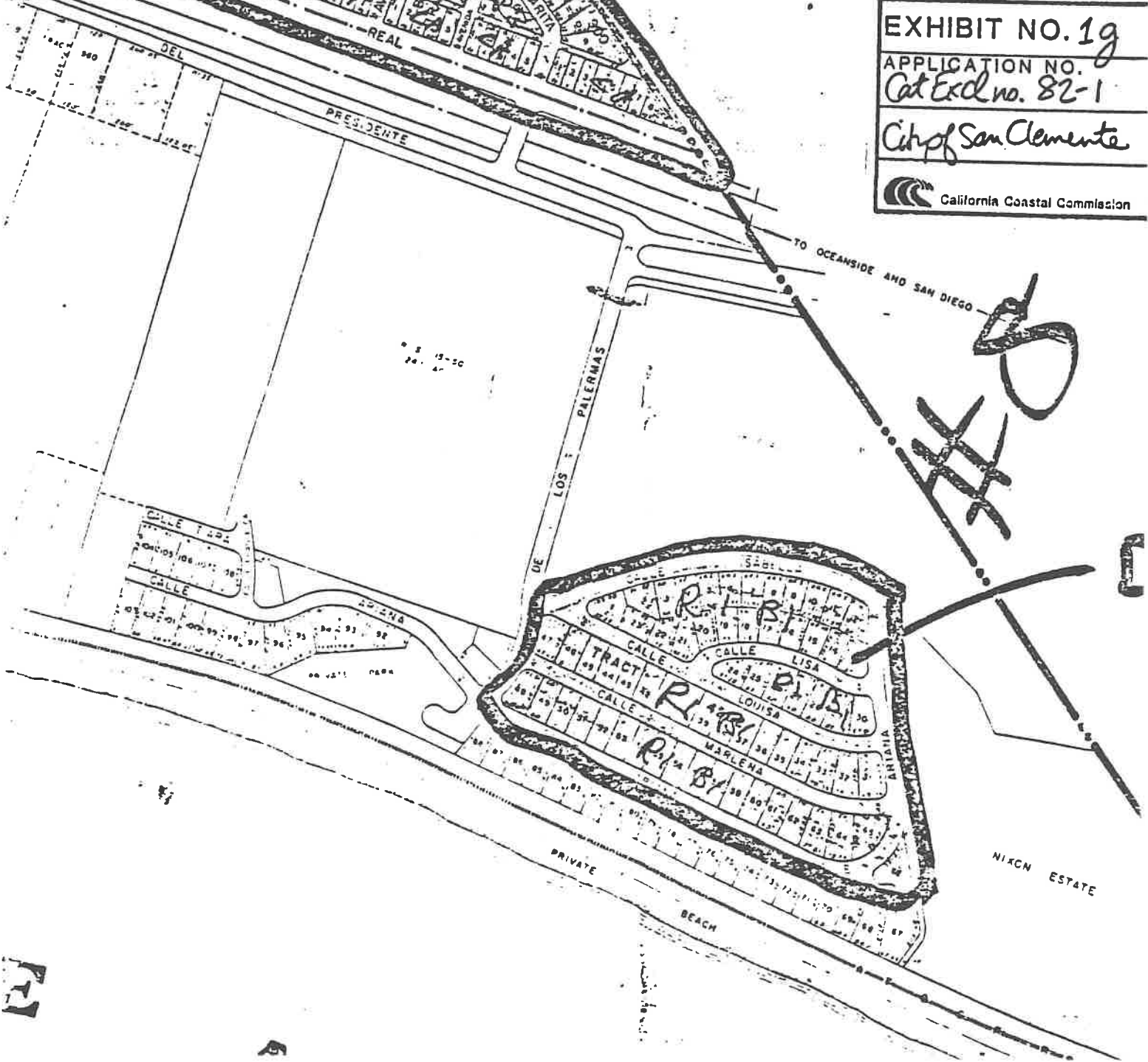


EXHIBIT NO. 1g
APPLICATION NO.
Cat Excl no. 82-1
City of San Clemente
California Coastal Commission



21

E-82-1 EXHIBIT 2

