

CAPISTRANO BAY DISTRICT
AGENDA REPORT
April 27, 2021

Old Business/Shoreline Protection

ITEM 9a

Shoreline Protection Update/Existing Public Access Easements

The District is currently awaiting a reply from the CCC on the letter that was sent to them on March 12th. The Board expects the reply from the CCC to provide some further direction regarding the violations by owners with unpermitted shoreline protection.

Additionally, as was reported last month, the Board is soliciting the County of Orange to approve a District application to activate the latent power to *operate flood protection facilities*. The next step in this process is to obtain approval from the City of Dana Point, the letter of which would complete the application packet that can then be submitted to LAFCO. The City Manager, Mike Killebrew, has indicated the request for approval will be on the agenda for the May 4th City Council meeting.

Existing Public Access Easements

Over the years, homeowners have been made to deed some of their beachfront, in the form of easements, to the public in exchange for a CDP to build a new home. There are 30 of these such easements that have been granted, mostly back in the 80's, up until the *Nollan* Supreme Court decision which ruled this act of exacting an easement in trade for a permit was unconstitutional and violated the 'takings clause' (without just compensation).

The practice has stopped but the 30 public access easements have been accepted by the County of Orange and so they are recorded now and run with the land in perpetuity. The good news is that no one else building a home on Beach Road has to give up a portion of their beachfront just to get a CDP.

There is some question as to how many of these Offers to Dedicate Public Access are out there. A recent aerial photo map from the CCC website indicates there are 39, if you go through the pages of the map and count them up. However, when you search the recorded documents with the County Recorder's Office, there are only two acceptance documents which indicate a total of 30 public access easements:

Doc # 88-662222 recorded on 12-20-88 indicating 29 easements being accepted

Doc # 19960141579 recorded on 3-22-96 indicating only 1 additional easement being accepted

**it's interesting to note that the 1996 acceptance had actually listed 9 easements but after cross-referencing the addresses, I found that 8 of these were already listed in the 1988 acceptance. Perhaps the CCC staff made some mistakes in producing the aerial photo exhibit that is posted on their website or the County has lost track in the confusion of dates and document numbers and addresses or both.*

(refer to the following pages for copies of the acceptance documents with exhibits)

EXEMPT
C6

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

December 13, 1988

On motion of Supervisor Vasquez, duly seconded and carried, the following Resolution was adopted:

WHEREAS, the State of California and the County of Orange have conditioned Coastal development Permits for lateral public access easements, 29 landowners have executed easements to the County for public beach access along Capistrano Beach pursuant to conditions.

WHEREAS, on April 23, 1987 the California Coastal Commission approved the Local Coastal Program for Capistrano Beach and the County of Orange then became responsible for issuing permits and for securing dedications of beach access in this area.

BASED ON THE FOREGOING FINDINGS BE IT RESOLVED, this Board does hereby accept the Easement Deeds.

BE IT FURTHER RESOLVED that this Board directs the Clerk of this Board to cause a certified copy of this resolution, attested by the Clerk under seal to be recorded without acknowledgment, certificate of acknowledgment as further proof, in the office of the Recorder of the County of Orange.

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RECORDED IN OFFICIAL RECORDS
OF ORANGE COUNTY, CALIFORNIA

10 00 AM DEC 20 '88

Lee A. Branch COUNTY
RECORDER

Resolution No. 88-1646
Acceptance of Easement
Deeds for Capistrano
Beach

JRG:vn

1 / /
 2 / /
 3 / /

Harriett M. Wieder

Chairman of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY
 OF THIS DOCUMENT HAS BEEN DELIVERED
 TO THE CHAIRMAN OF THE BOARD

Linda D. Roberts

LINDA D. ROBERTS

Clerk of the Board of Supervisors
 County of Orange, California

AYES: SUPERVISORS GADDI H. VASQUEZ, ROGER R. STANTON, DON R. ROTH,
 THOMAS F. RILEY AND HARRIETT M. WIEDER

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

STATE OF CALIFORNIA)
) ss.
 COUNTY OF ORANGE)

I, LINDA D. ROBERTS, Clerk of the Board of Supervisors of Orange
 County, California, hereby certify that the above and foregoing
 Resolution was duly and regularly adopted by the said Board at a regular
 meeting thereof held on the 13th day of December, 19 88,
 and passed by a unanimous vote of said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this
13th day of December, 19 88.

THE FOREGOING INSTRUMENT IS A TRUE
 AND CORRECT COPY OF THE ORIGINAL
 ON FILE IN THIS OFFICE.

ATTEST: December 19, 19 88
 LINDA D. ROBERTS, Clerk of the Board
 of Supervisors, County of Orange

Linda D. Roberts
 LINDA D. ROBERTS

Clerk of the Board of Supervisors
 of Orange County, California

BY Lisa B. Coyle, DEPUTY

On Beach Road, Capistrano Beach

accepted 12-13-88 by resolution
recorded 9-12-89 #89-487581

<u>Address</u>	<u>Facility No.</u>	<u>A.P. No.</u>
✓ 35077	BE78F- 201	691-141-09
✓ 35097	BE78F- 202	691-141-16
✓ 35107	BE78F- 204	691-141-20
✓ 35105	BE78F- 203	691-141-19
✓ 35111	BE78F- 205	691-141-21
✓ 35127	BE78F- 301	691-142-02
✓ 35155	BE78F- 302	691-142-08
✓ 35185	BE78F- 303	691-142-17
✓ 35191	BE78F- 304	691-142-19
✓ 35197	BE78F- 401	691-142-21
✓ 35361	BE78F- 501	691-151-24
✓ 35391	BE78F- 502	691-152-01
✓ 35395	BE78F- 503	691-152-02
✓ 35537	BE78F- 701	691-161-09
✓ 35551	BE78F- 702	691-161-14
✓ 35565	BE78F- 703	691-161-16
✓ 35571	BE78F- 704	691-161-18
✓ 35615	BE78F- 705	691-162-04
✓ 35691	BE78F- 801	691-162-23
✓ 35705	BE78F- 802	691-162-27
✓ 35731	BE78F- 901	691-331-03
✓ 35735	BE78F- 902	691-331-04
✓ 35737	BE78F- 903	691-331-05
✓ 35771	BE78F- 904	691-331-15
✓ 35777	BE78F- 905	691-331-17
✓ 35791	BE78F-1001	691-331-21
✓ 35841	BE78F-1003	691-332-09
✓ 35837	BE78F-1002	691-332-08
✓ 35851	BE78F-1004	691-332-11

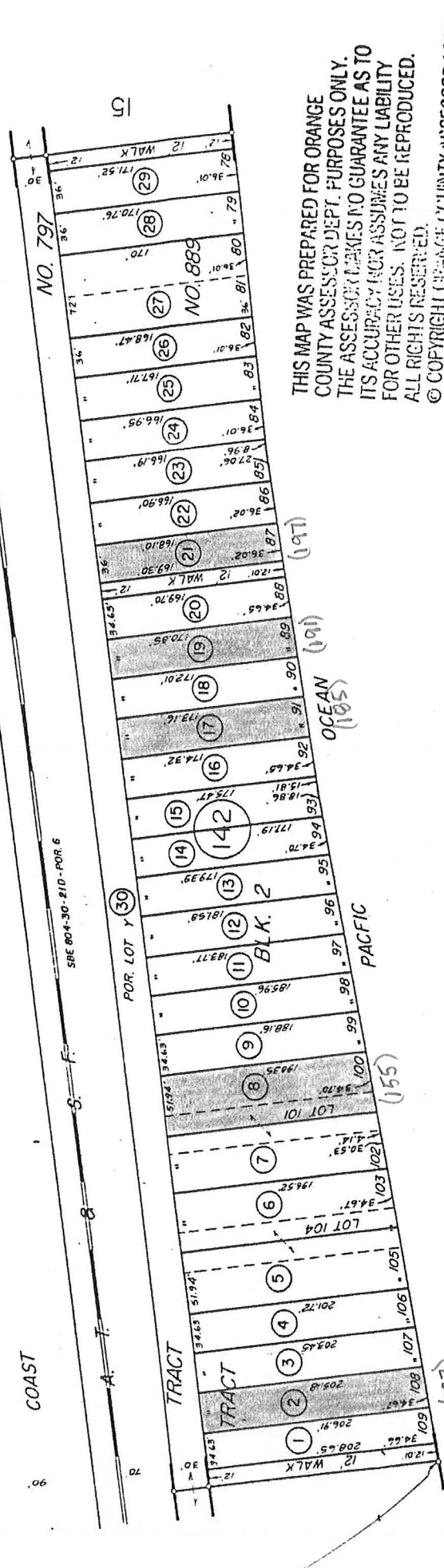
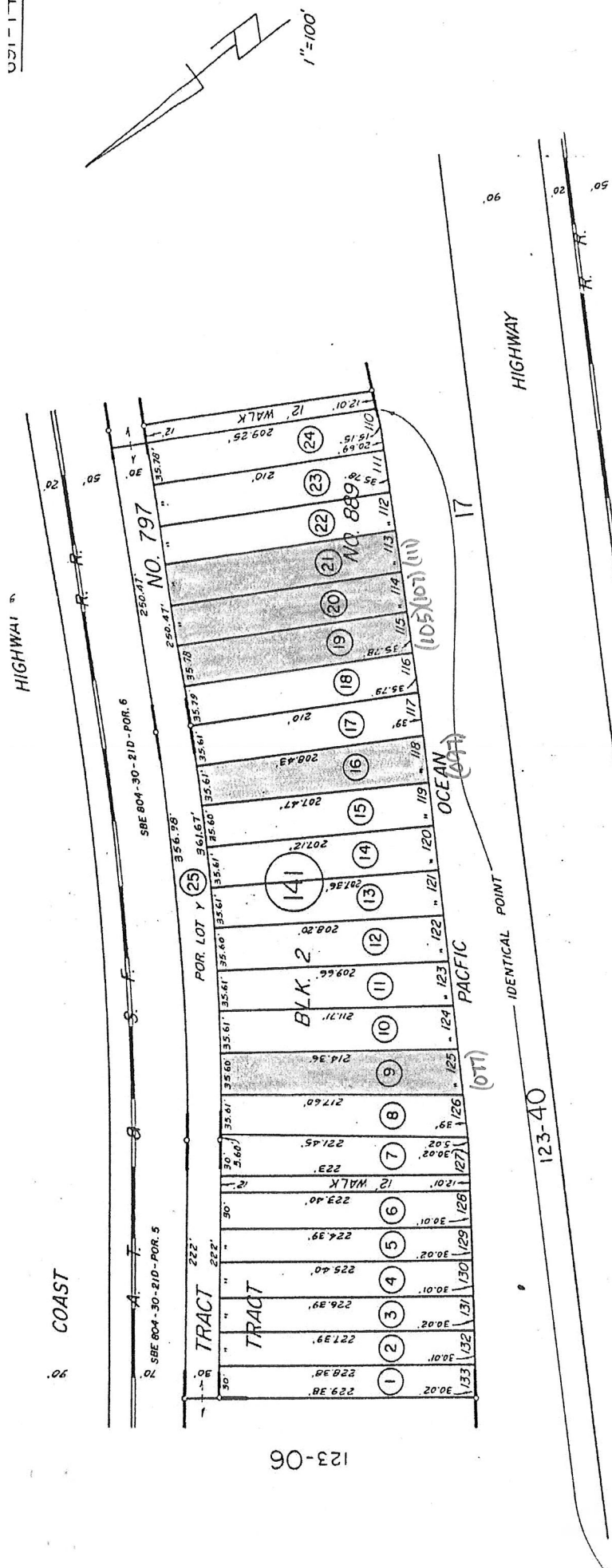
29

The locations of the access easements are shown on the attached map. all easements to be offered are in compliance with the public access area set up by the stringline for this use as established by the Capistrano Beach Local Coastal Program.

Easement deeds for the access easement dedication areas will be presented to your Board before action is taken on this matter.

Compliance with CEQA

The acceptance of the access easements is Categorically Exempt from CEQA, Class 1 and 21.



THIS MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR DEPT. PURPOSES ONLY. THE ASSESSOR MAKES NO GUARANTEE AS TO ITS ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.

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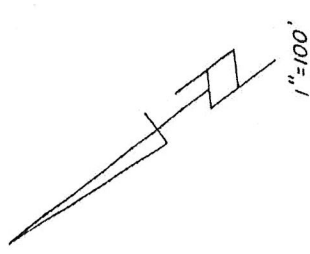
ASSESSOR'S MAP
BOOK 691 PAGE 14
COUNTY OF ORANGE

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

TRACT NO. 797
TRACT NO. 889

M.M. 24-10 TO 15 INC.
M.M. 27-17 TO 21 INC.

MARCH 1975



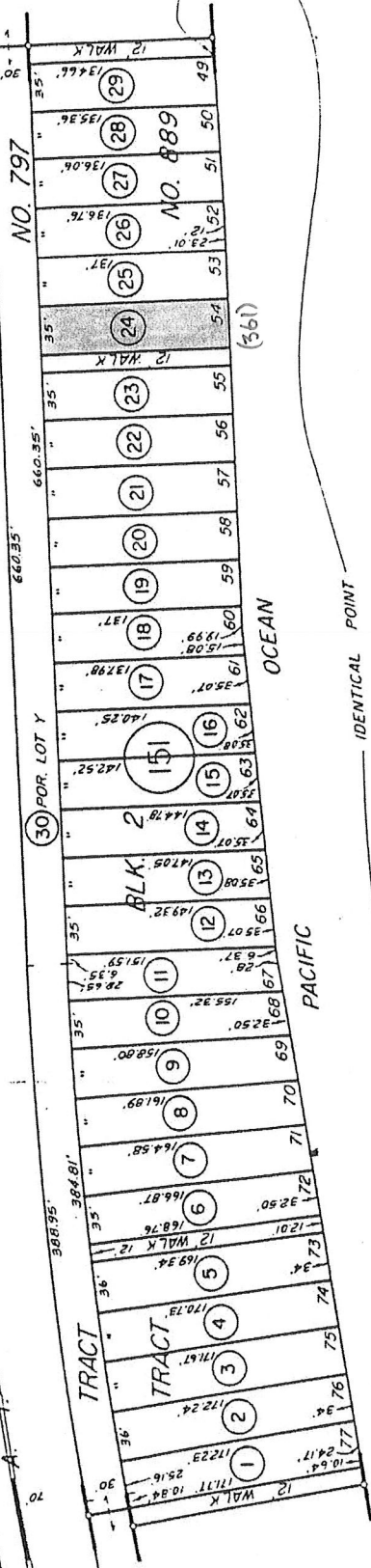
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HIGHWAY

COAST

SBE 804-30-210 - POR. 6

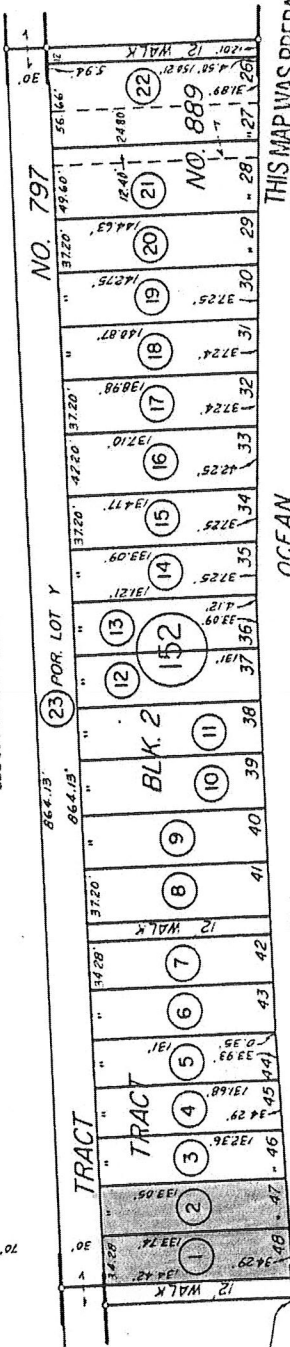


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HIGHWAY

COAST

SBE 804-30-210 - POR. 6



OCEAN

PACIFIC

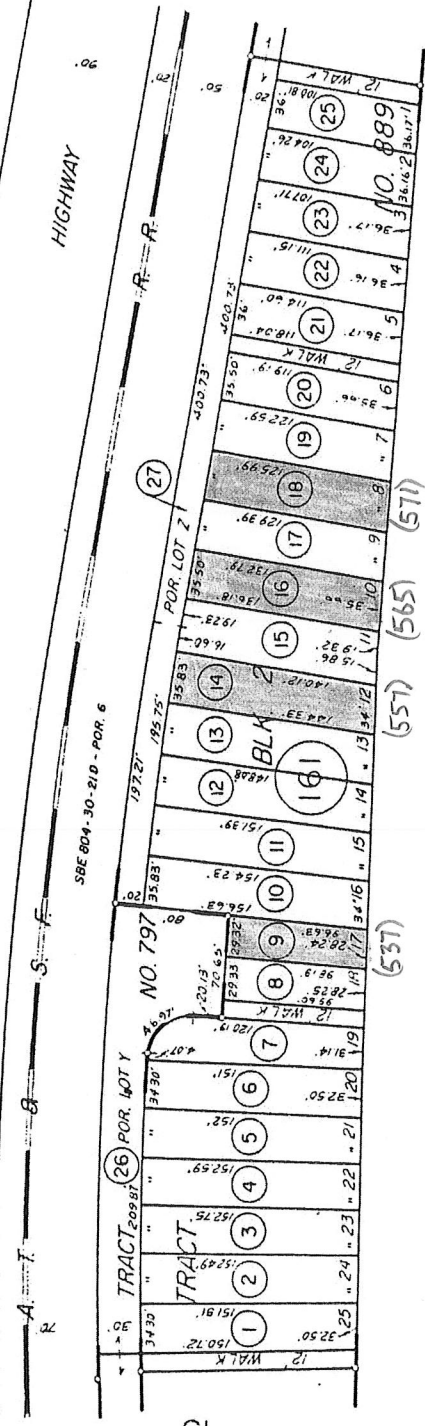
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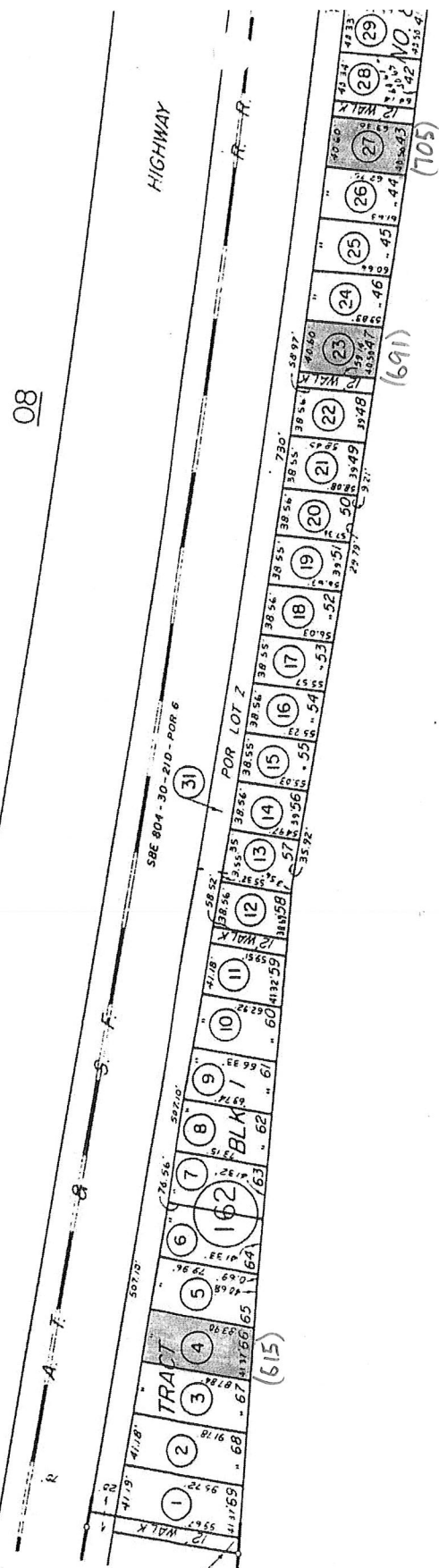
TRACT NO. 797 M.M. 24-10 TO 15 INC.
TRACT NO. 889 M.M. 27-17 TO 21 INC.

CH 1975

COAST



COAST



MARCH 1975

TRACT NO. 797

M.M. 24-10 TO 15 INC.

TRACT NO. 889

M.M. 27-17 TO 21 INC.

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

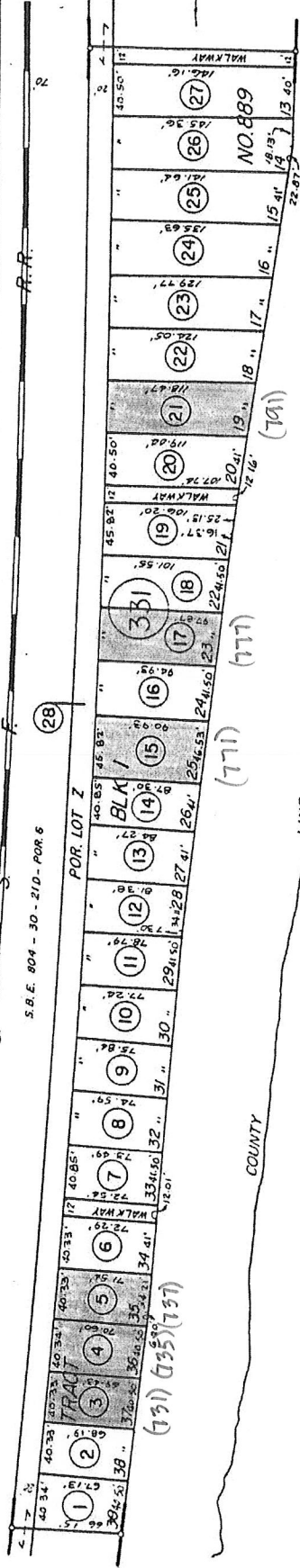
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COAST

HIGHWAY



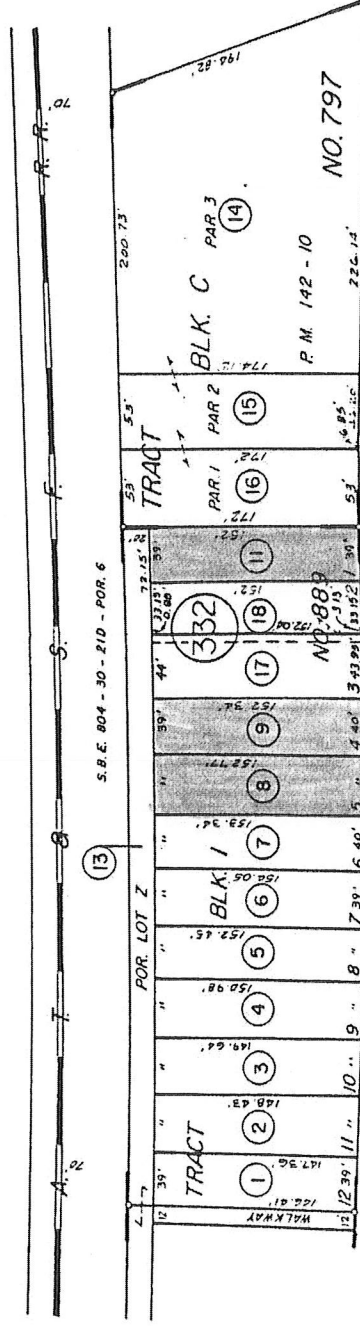
3 MILES M/L

CAMINO CAPISTRANO

07

COAST

HIGHWAY



COUNTY LINE

3 MILES M/L

MARCH 1979

TRACT NO. 797

TRACT NO. 889

PARCEL MAP

M. M. 24 - 11

M. M. 27 - 17

P. M. 142 - 10

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

ASSESSOR'S MAP BOOK 691 PAGE COUNTY OF O.

THIS MAP WAS PREPARED BY THE COUNTY ASSESSOR FOR THE PURPOSE OF ASSESSING THE PROPERTY FOR TAXATION. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE ASSESSOR MAKES NO WARRANTY AS TO THE ACCURACY OF THE MAP. ALL RIGHTS ARE RESERVED. © COPYRIGHT 1979

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RECORDING REQUESTED BY:
State of California
California Coastal Commission

WHEN RECORDED MAIL TO:
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
Attention: Legal Division

STATE OF CALIFORNIA
OFFICIAL BUSINESS: Document
entitled to free recordation
pursuant to Government Code
section 6103

Recorded in the County of Orange, California
Gary L. Granville, Clerk/Recorder

No Fee
19960141579 4:11pm 03/22/96

005 29003712 29 04
C15 3 7.00 6.00 0.00 0.00 0.00 0.00

CERTIFICATE OF ACCEPTANCE

This is to certify that the County of Orange hereby accepts the Offers to Dedicate referenced in Exhibit A attached hereto and incorporated herein by reference, and recorded in the Official Records of the Office of the Recorder of Orange County.

DATED: 12-12-95
95-911

BY: *Roger R. Stanton*
CHAIRMAN, BOARD OF
SUPERVISORS

FOR: County of Orange

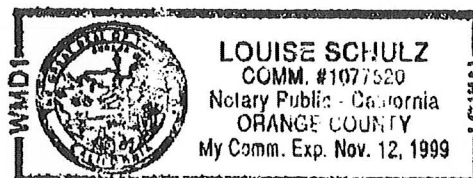
STATE OF CALIFORNIA

COUNTY OF ORANGE

On JANUARY 22, 1996, before me, Louise Schulz, a Notary Public, personally appeared Roger R. Stanton, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature *Louise Schulz*



covenants and restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin are created unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code (b) relates to a handicap but does not discriminate against disabled persons."

ACKNOWLEDGEMENT BY CALIFORNIA COASTAL COMMISSION

This is to certify that the State Coastal Conservancy is a public agency/private association acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Offers to Dedicate referenced in Exhibit A attached hereto and incorporated herein by reference, and in the office of the Los Angeles County Recorder.

DATED: March 13, 1996

CALIFORNIA COASTAL COMMISSION

John Bowers
John Bowers, Staff Counsel

STATE OF CALIFORNIA

COUNTY OF San Francisco

On 3/13/96, before me, Deborah L. Bove, a Notary Public, personally appeared John Bowers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Deborah L. Bove



EXHIBIT A

accepted 12-12-95
recorded 3-22-96 #19960141579

<u>Permit No.</u>	<u>Date Executed</u>	<u>Date Recorded</u>	<u>Instrument No.</u>
✓ P-75-5677 (731)	10/15/80	4/28/81	33818 (Bk 14036, Pg 331)
✓ P-80-6789 (691)	12/24/80	1/12/81	9744 (Bk 13909, Pg 299)
✓ P-80-6932 (35615)	9/20/80	10/10/80	17784 (Bk 13785, Pg 705)
✓ P-80-6987 (35565)	9/11/80	10/6/80	8145 (Bk 13776, Pg 602)
✓ SF-80-7370 (35771)	1/14/81	2/27/81	32938 (Bk 13963, Pg 704)
✓ P-80-7387 (35155)	1/12/81	3/6/81	9514 (Bk 13973, Pg 12)
✓ A-81-7607 (557)	4/28/81	5/8/81	11706 (Bk 14051, Pg 1672)
✓ 5-82-182 (791)	9/20/82	11/5/82	82-390399
✓ 5-82-417 (185)	9/22/82	10/14/82	82-361376

* 8 of the 9 in this 1996 document were already accepted in the 1988 document.

There is only one new one : A-81-7607 - 35557 Beach Rd.

EXHIBIT A