

**CALIFORNIA COASTAL COMMISSION**

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**W4e**

Filed: July 24, 2007  
49th Day: September 11, 2007  
180th Day: January 20, 2008  
Staff: Liliana Roman-LB  
Staff Report: August 16, 2007  
Hearing Date: September 5-7, 2007  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-07-194

**APPLICANT:** City of San Clemente, Attn: Ken Katz, Engineering Division

**PROJECT LOCATION:** 506 Avenida de la Riviera and 2400 Calle Capri, San Clemente, Orange County

**PROJECT DESCRIPTION:** Reconstruction of an existing storm drain in the Riviera Canyon consisting of the removal and replacement of the existing catch basin on Avenida de la Riviera and the junction at the top of slope; abandonment of a buried 10" diameter PVC pipe in place; removal of an 18" diameter corrugated metal pipe extending approximately 50 feet out from the canyon face and descending down to the bottom of Riviera Canyon and replacement with a new 18" HDPE storm drain pipe encased in a steel pipe directionally bored into the canyon subsurface; and addition of new rip rap at the pipe outlet at the bottom of the canyon.

**LOCAL APPROVALS RECEIVED** City of San Clemente Planning Division Approval-in-Concept dated June 5, 2007; Army Corps of Engineers Nationwide Permit 3 (pending), Regional Water Quality Board Clean Water Act Section 401 Water Quality Standards Certification (pending); California Dept Fish & Game Streambed Alteration Agreement Notification No. 1600-2007-0093-R5

**SUBSTANTIVE FILE DOCUMENTS:** City of San Clemente Certified Land Use Plan (LUP), Geotechnical Investigation, Avenida de la Riviera Storm Drain Reconstruction Project No. 15003, San Clemente, CA prepared by Southern California Soil and Testing, Inc. dated May 1, 2006; Biological Resources Letter Report, Storm Drain Reconstruction Project No. 15003, San Clemente, CA prepared by Michael Brandman Associates, March 15, 2007

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project with five (5) special conditions, which require 1) compliance with construction-related best management practices (BMPs), 2) cement slurry BMPs; 3) submittal of final plans; 4) conformance with geotechnical recommendations; 5) invasive plant removal plan; 6) re-vegetation; and 7) maintenance of structural and/or treatment

control BMPs. The primary issues associated with this development are water quality and canyon habitat.

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**LIST OF EXHIBITS:**

1. Location Map
2. Assessors Parcel Map
3. Coastal Access Points Map
4. Coastal Canyons 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. 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.
- E. Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
- F. Staging and storage of construction machinery and storage of debris shall not take place on the toe of the canyon slope or within the drainage.

2. Cement Slurry Best Management Practices

Prior to the commencement of construction, the applicant shall submit to the Executive Director, a Best Management Plan that effectively assures no cement slurry or other construction byproduct will be allowed to enter into coastal waters. During cement slurry application specifically, the Plan shall at a minimum provide for all cement slurry to be contained through the use of tarps or similar barriers that completely enclose the application area and that prevent cement slurry contact with coastal waters. All cement slurry and other construction byproduct shall be properly collected and disposed of off-site.

3. Submittal of Final Revised Plans

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of Final Revised Project Plans (i.e. design and construction plans, erosion control, grading, drainage, etc.). These final project plans shall substantially conform

to the preliminary plans received June 6, 2007 and identify all vegetation removal within the work area limits, including but not limited to invasive plant removal required pursuant to Special Condition No. 5.

- 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.

#### 4. Conformance of 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 *Geotechnical Investigation Avenida de la Riviera Storm Drain Reconstruction Project No. 15003, San Clemente, CA* report prepared by Southern California Soil & Testing, Inc. dated May 1, 2006. **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.

#### 5. Invasive Plant Removal Plan

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit an invasive plant removal plan prepared by a licensed biologist or licensed landscape architect. The plan shall indicate the removal procedures of non-native invasive plants that may be found in the impacted work area. All plant removal shall be performed in a manner that minimizes potential erosion hazards such as removal by hand or, if necessary, herbicide treatment. Any herbicide to be used shall be limited to those which are non toxic to wetland organisms (e.g. Rodeo® Herbicide).

#### 6. Re-vegetation

In the event that existing vegetation is disturbed during implementation of the project authorized by CDP 5-07-194 and/or there are areas which must be replanted due to required invasive plant removal, the applicant shall replant the affected area with native, drought-tolerant, non-invasive plant species appropriate to the habitat type. Native plants shall be from local stock wherever possible. **PRIOR TO COMMENCEMENT OF ANY RE-VEGETATION**, the applicant shall submit to the Executive Director for review and approval a re-vegetation plan prepared by a licensed landscape architect that includes, at minimum, a map showing the type, size, and location of all plant materials, any irrigation system (which, if any, shall be temporary and above-ground), topography of the site, and all other landscape features, and a schedule for installation of plants. The plan shall demonstrate provisions to ensure that no plant species listed as problematic and/or invasive by the California Native Plant Society, the California

Invasive 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. The plan shall also demonstrate provisions to ensure that 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 within the disturbed area that doesn't meet the above requirements shall be removed. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. Water Quality - Maintenance of Structural and/or Treatment Control BMPs

The permittee shall comply with the following requirements related to proposed structural and/or treatment control Best Management Practices (BMPs):

- A. All structural and/or treatment control BMPs shall be designed, installed, and maintained for the life of the project in accordance with well-recognized and accepted design principles and guidelines, such as those contained in the California Stormwater Quality Association Best Management Practice Manuals;
- B. All BMP traps/separators and/or filters shall be, at a minimum, inspected and cleaned/repared or otherwise maintained in accordance with the following schedule: (1) prior to the start of the winter storm season, no later than October 15th each year, (2) inspected monthly thereafter for the duration of the rainy season (October 15th -April 30), and cleaned/maintained as necessary based on inspection and, (3) inspected and maintained where needed throughout the dry season;
- C. Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner;
- D. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

Location

The project site consists of an existing 150 foot long culvert encompassing an existing storm drain pipe located at the south end of the Avenida Riviera cul-de-sac within an existing easement and along the common boundary of the residential properties of 506 Avenida de la Riviera to the west and 2400 Calle Capri to the east and terminating to the south at an unnamed drainage course at the bottom of Riviera Canyon in the City of San Clemente, Orange County (Exhibits 1 & 2). The storm drain system supports dry and wet weather flows from Avenida de la Riviera and surrounding low density single-family residences. The site descends at a near vertical angle from higher elevations to the north of the residential properties to the lower elevations within Riviera Canyon with an elevation difference of approximately 60 feet along the pipe alignment. The City has designated all coastal canyons, including the Riviera Canyon as environmentally sensitive habitat areas (ESHA),

as depicted in Exhibit 4. The drainage at the bottom of the canyon is considered a jurisdictional wetland by the Commission's single element criteria.

The site is designated as Residential Low (7 dwelling units per acre) in the certified Land Use Plan. The proposed project is within a City owned drainage easement. The nearest public beach access is available at the Riviera access point, approximately 250 yards northwest of the subject site (Exhibit 3); this access point primarily serves adjacent residential areas.

### Description

The existing storm drain system includes a catch basin at the south end of the Avenida de la Riviera cul-de-sac, an underground junction structure at the street level, a subsurface 10" PVC pipe connecting to an above ground 18" corrugated metal pipe (CMP) which extends down the canyon face to an outfall structure with rip rap near the base of Riviera Canyon. Originally, the CMP was mounted on the face of the slope, however, due to erosion, the CMP has become exposed and unstable from lack of support. Project plans are included as Exhibit 5. The submitted plans are 75% progress prints, **Special Condition #3** requires submittal of final plans prior to the issuance of permit.

The project requires the removal or abandonment of various components of the existing storm drain system. The subsurface 10" PVC pipe will be abandoned in place; but the catch basin on the Avenida de la Riviera cul-de-sac, the existing junction structure at the top of the canyon slope and the exposed 18" CMP on the slope face will all be removed. The existing catch basin will be replaced with a new catch basin of equal size that will be centered on the easement and fitted with a new low flow filter insert to remove silt, debris and hydrocarbons from runoff entering the catch basin. **Special Condition #7** requires the applicant to maintain this proposed structural Best Management Practice (BMP) for water quality protection. The abandoned 10" PVC pipe buried within the easement will be plugged and sealed at both ends. The existing above-ground 18" CMP will be entirely removed by crane. A new 18" HDPE storm drain pipe encased in a 30" steel pipe will be directionally bored within the easement from the cul-de-sac and will outlet near the bottom of the canyon. The pipe outlet structure will be constructed of rebar-reinforced concrete and measure approximately 7.5' wide x 4' high on its face and 24" in depth; approximately located above and adjacent to the existing structure. New 3' thick rip rap will be installed, extending 3' on both sides of the outlet structure (13.5' total width) and extending down to the high water mark approximately 4' above the drainage at the bottom of the canyon.

Although, the proposed storm drain replacement project does not result in an addition or expansion of an existing public works structure, it is not exempt from coastal development permit requirements as the project is located in a coastal canyon and the City has designated all coastal canyons, including the Riviera Canyon as environmentally sensitive habitat areas (ESHA).

The applicant has applied for an Army Corps of Engineers Nationwide Permit 3, Regional Water Quality Board Clean Water Act Section 401 Water Quality Standards Certification and received a Notification of Lake or Streambed Alteration, No. 1600-2007-0093-R5 in place of an actual agreement from the California Department of Fish & Game.

### Geotechnical Recommendations

The geologic stability of the site was evaluated in an investigation by Southern California Soil & Testing, Inc., dated May 1, 2006. Three exploratory test pits were excavated with hand tools and one test boring was drilled to a depth of approximately 20 feet. Materials encountered consist of loose fill, marine terrace deposits and formational material. The surficial material on the slope is characterized as loose and unstable. The proposed alignment of the new storm drain is on a slope

with portions that are near vertical. The study concludes that the most feasible option to minimize slope disturbance is trenchless, directional drill boring for subsurface installation of the new storm drain pipe. The alignment of the new pipe is expected to pass through the marine terrace deposits and into hard siltstone and sandstones of the formational material.

Due to the geology of the site and access constraints, the existing CMP pipe will be removed by a crane positioned at the top of the slope. Temporary work spaces will be limited to two areas; one temporary work space on the top of the slope and immediately adjacent to the existing storm drain easement; and the other temporary work space down at the base of the canyon immediately adjacent to the pipe outfall. **Special Condition #4** requires final design and construction plans be certified for consistency with all of the recommendations specified in the above-referenced geologic evaluation.

#### Drainage/Jurisdictional Wetland

The drainage located at the bottom of Riviera Canyon with yearlong flows is approximately 4' wide and conducts storm water and runoff within a defined bed and bank to the Pacific Ocean approximately 300 yards away. The water course is a jurisdictional wetland under the Coastal Act one parameter definition. Varying water levels, heavy scouring and low sediment deposit in most upstream portions of the drainage have resulted in a lack of vegetation within the drainage. Hydrophytic plant species were not observed. Vegetation at the base of the slope at the proposed outlet area contains a dominance of non-native species including ice plant and the invasive pampas grass. Noxious and invasive species giant reed, castor bean and pampas grass were observed in the near vicinity.

Portions of the existing outlet structure (rip rap) occur within the drainage at the bottom of the canyon. Vegetation has grown over the rip rap. The existing cemented-in rip rap will be left in place and the proposed new rip-rap will be installed along the same footprint, extending from the border of the drainage channel scour line and upslope vegetated area. Permanent impacts are estimated to include an area up to 4' upslope of the drainage on either side of the outlet to the ordinary high water mark (OHWM) and extend 13.5' wide (12 sq. ft). A temporary workspace is proposed that will not extensively encroach beyond the existing pipe outfall and riprap footprint. Temporary impacts beyond the existing footprint will be minimal and not expected to exceed 160 sq. ft. based on a temporary work space anticipated to extend 20' in each direction beyond the outlet (40' total length along the 4' wide drainage channel). No wetland fill impacts are anticipated.

During construction, the applicant proposes and will be required to implement best management practices (BMPs) designed to minimize erosion and prevent debris from entering coastal waters.

#### Coastal Canyon Habitat

The City has designated all coastal canyons, including the Riviera Canyon as environmentally sensitive habitat areas (ESHA) as coastal canyons act as open space and are potential wildlife habitat, as well as potential corridors for native fauna. However, 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 portion that is part of the City's 10' drainage easement between 506 Avenida de la Riviera and 2400 Calle Capri property lots is degraded due to the presence of non-native plant species, ice plant primarily. Within the canyon, the site is dominated by non-native plant and grass species with intermixed native lemonade berry. No portion of the site contains resources that rise to the level of ESHA. The project site is not likely to be considered a significant wildlife movement corridor on a regional basis and the proposed project will not impact the migration of wildlife species.

The applicant has not submitted a re-vegetation plan. As noted above, the existing vegetation within the right of way is primarily non-native species and invasive. Vegetation at the base of the slope at the proposed outlet area consists of a dominance of non-native species including ice plant and the invasive pampas grass. The project as proposed will have minimal disturbance to the canyon slope, as the repair work will be confined to the existing 10' wide drainage easement and is not anticipated to adversely impact the canyon vegetation. However, there will be a temporary impact area anticipated to extend 20' in each direction beyond the pipe outlet near the bottom of the canyon (40' total length along the drainage). The existing rip rap at the pipe outlet is currently covered in mostly invasive vegetation. Limited invasive vegetation removal will be required for the installation of new rip rap. As the San Clemente certified LUP advocates the preservation of native vegetation and discourages the introduction of non-native vegetation in coastal canyons, the Commission finds that the applicant, must submit an invasive vegetation removal plan, at a minimum, for the impacted work area, to improve the habitat value of the canyon through the selective removal and/or herbicide treatment of non-native vegetation. **Special Conditions #3, #5 and #6** requires the applicant to submit final plans depicting the area for invasive vegetation removal and submittal of a vegetation removal plan indicating use of a plant removal method appropriate to the canyon habitat, and a re-vegetation plan if one is deemed necessary to address, for instance, erosion issues, related to vegetation removal (either planned or inadvertent).

**B. HABITAT**

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.

**C. DEVELOPMENT**

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 cannot be allowed due to the adverse impacts such devices have upon, among other things, public access and visual resources. To minimize risks to life and property the development has been conditioned to require one or more of the following: adherence to geotechnical recommendations, require an appropriate setback from the top of slope, to prohibit construction of protective devices (such as a retaining wall) in the future, for a drainage and runoff control plan to minimize percolation of water into the slope, for a landscaping plan, and to require that the landowner or and any successor-in-interest assume the risk of undertaking the development. 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.

**D. WATER QUALITY**

The proposed development has 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. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, 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 with Sections 30230 and 30231 of the Coastal Act.



**E. PUBLIC ACCESS**

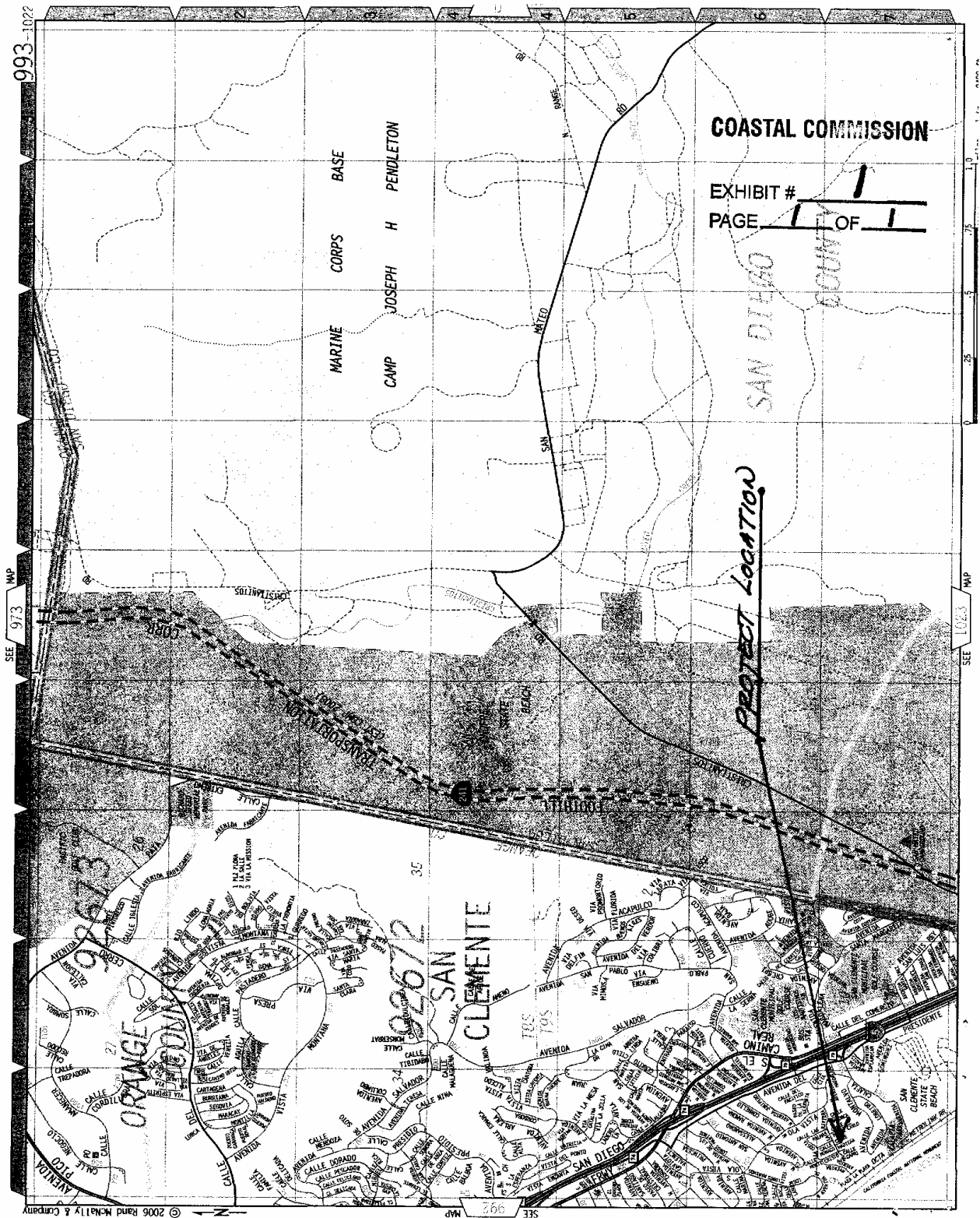
Public access to the beach is available at the Riviera beach access point approximately 250 yards northwest of the site. Therefore, construction of the proposed project will not adversely affect the public's ability to access the coast and/or to use the coast and nearby recreational facilities. As proposed, 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 of the Coastal Act.

**G. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

As conditioned, there are no feasible alternatives or additional 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.



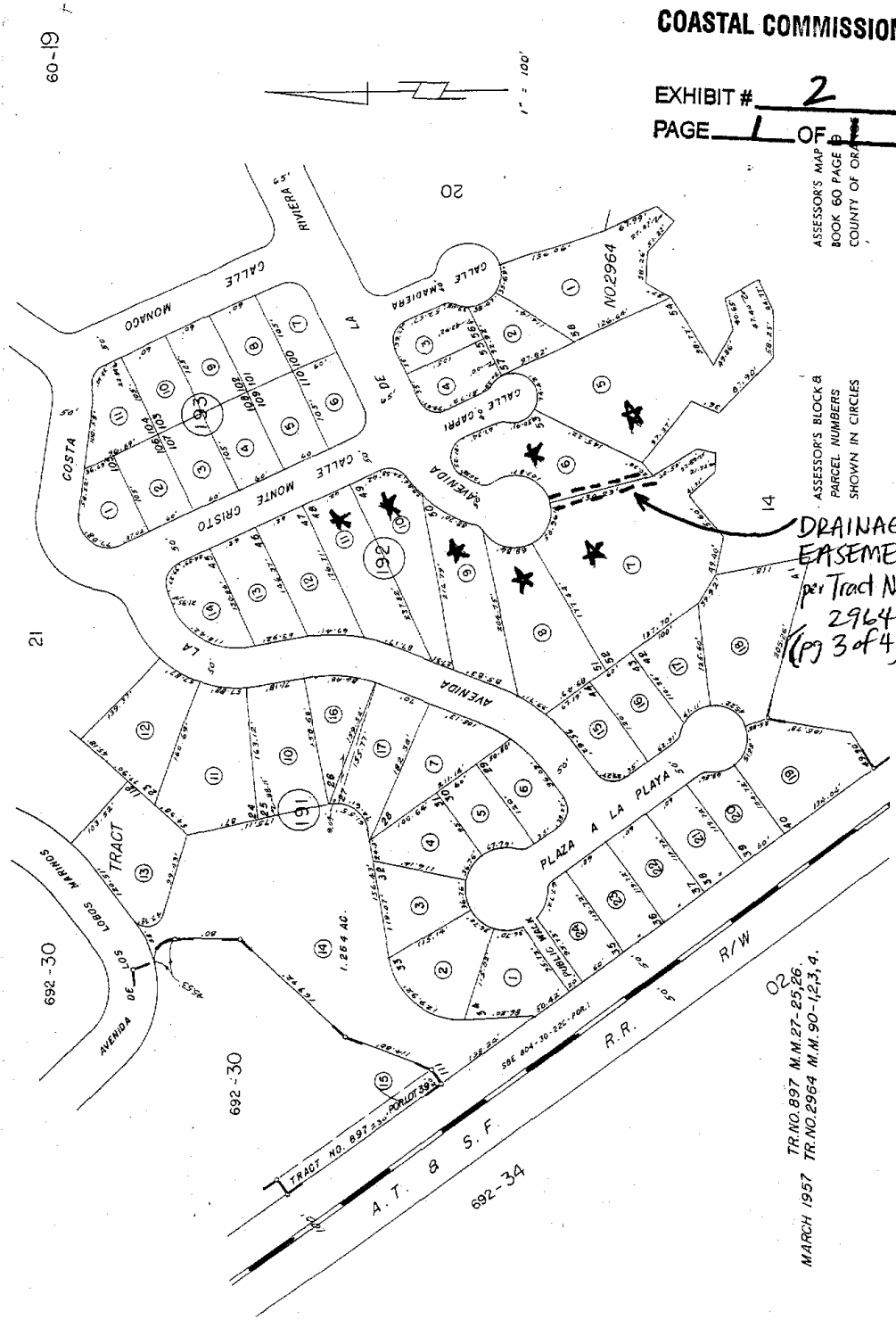
COASTAL COMMISSION

EXHIBIT # 2  
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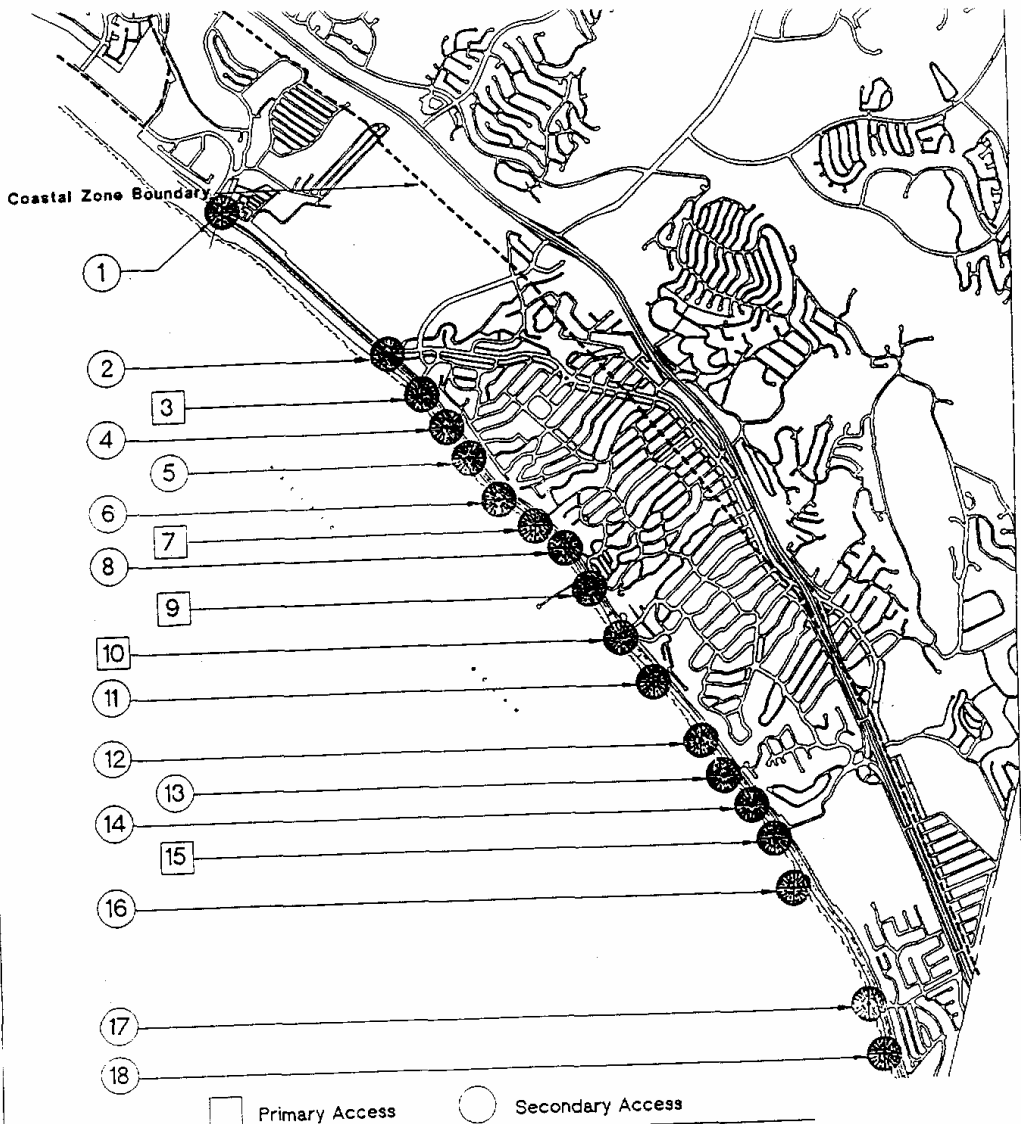
ASSESSOR'S MAP  
 BOOK 60 PAGE  
 COUNTY OF ORA

ASSESSOR'S BLOCK &  
 PARCEL NUMBERS  
 SHOWN IN CIRCLES

DRAINAGE  
 EASEMENT  
 per Tract No.  
 2964  
 (Pg 3 of 4)



OR  
 TR. NO. 897 M.M. 27-25, 26,  
 MARCH 1957 TR. NO. 2964 M.M. 90-12, 3, 4.



	□ Primary Access	○ Secondary Access
ESTRELLA-NORTH	1 - POICHE	PRESIDIO-CENTRAL
	2 - CAJSTRANO SHORES	10 - T-STREET
	3 - NORTH BEACH	11 - BOCA DEL CANON
PICO-PALIZADA	4 - DUE COURT	12 - LOST WINGS
	5 - EL PORTAL	13 - RIVERA
	6 - MARIPOSA	14 - MONTALVO
	7 - LINDA LANE PARK	15 - AVE. CALAFIA
PRESIDIO-CENTRAL	8 - CORTO LANE	16 - SAN CLEMENTE STATE PARK
	9 - MUNICIPAL PIER	17 - AVE. DE LAS PALMERAS
		18 - CALLE ARIANA

**COASTAL COMMISSION**

EXHIBIT # 3  
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FIGURE 2-5

**CITY OF SAN CLEMENTE  
 COASTAL ACCESS POINTS**



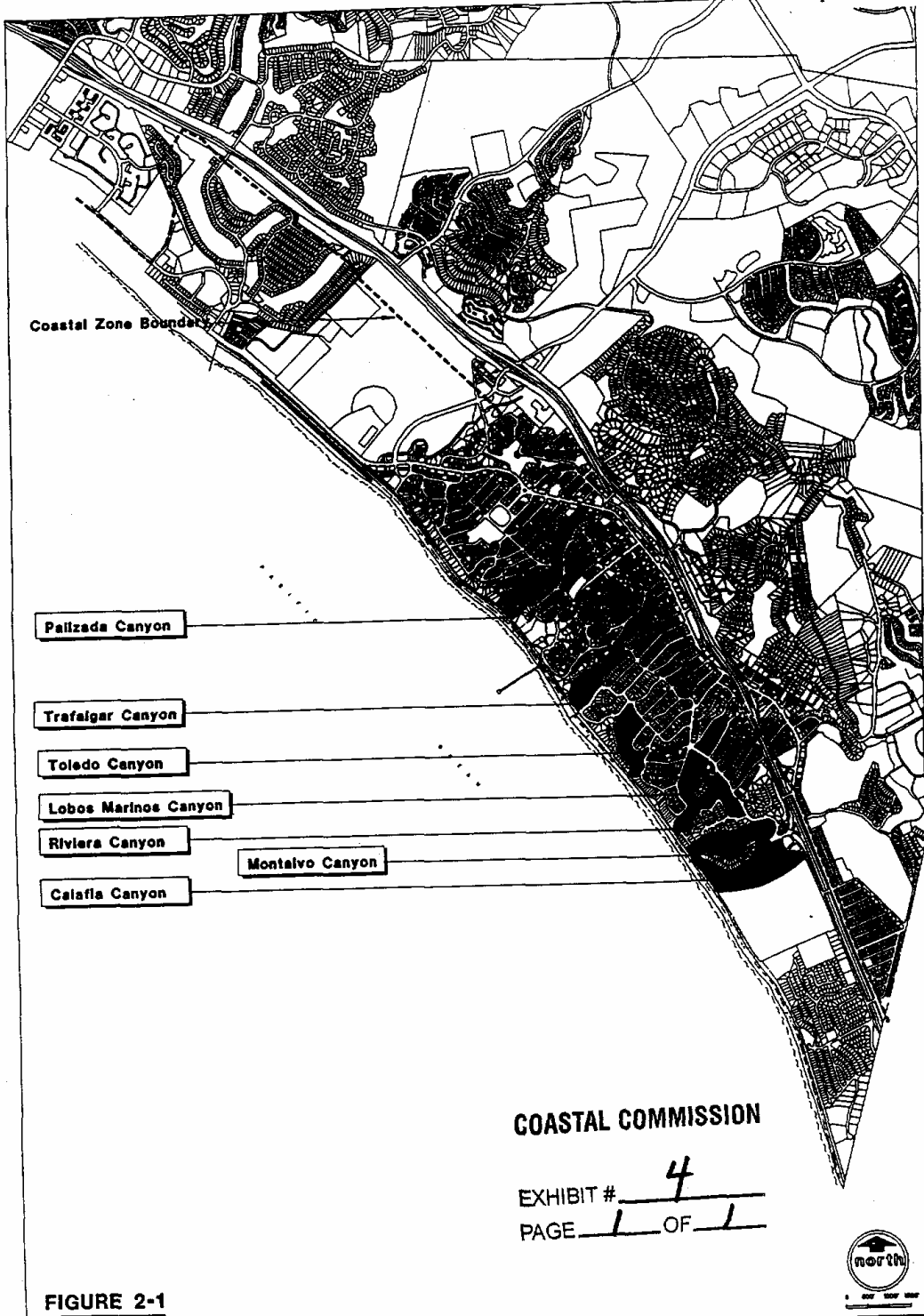


FIGURE 2-1



**CITY OF SAN CLEMENTE**  
COASTAL CANYONS/ ENVIRONMENTALLY SENSITIVE HABITAT AREAS

